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Executive Orders

EXECUTIVE ORDER KBB 06-41

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 and installation of two additional blown film lines (together with supporting facilities and equipment) for the manufacture of polyethylene sheeting at its manufacturing facility located in the city of Monroe, parish of 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
\$5,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Mid South Extrusion, Inc.

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, 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 2nd day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#034

EXECUTIVE ORDER KBB 06-42

Bond Allocation—Lake Charles Housing 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 Lake Charles Housing Authority has requested an allocation from the 2006 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 2006 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$12,500,000	Lake Charles Housing Authority	Chateau Affordable, 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 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 2nd day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#035

EXECUTIVE ORDER KBB 06-43

Bond Allocation—Calcasieu Parish Public Trust 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 Calcasieu Parish Public Trust Authority has requested an allocation from the 2006 Ceiling to be used with a program of financing mortgage loans for single family, owner-occupied residences for low and moderate income families throughout the Imperial Calcasieu Parish Area which includes the parishes of Calcasieu, Cameron, Beauregard, Allen, and Jefferson Davis, 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
\$15,000,000	Calcasieu Parish Public Trust Authority	Single Family Mortgage Revenue Bonds

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, 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 2nd day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#036

EXECUTIVE ORDER KBB 06-44

Bond Allocation—Louisiana Public Facilities 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 Public Facilities Authority has requested an allocation from the 2006 Ceiling to be used to finance the acquisition, construction and installation of a hydrogen production facility and other facilities for use as solid waste disposal facilities, recycling facilities, resource recovery facilities or industrial sewage and wastewater facilities in connection with the Motiva Enterprises Refinery in Convent, Louisiana and/or the nearby Marathon Ashland Refinery, and the Company's pipeline system, located in the parish of St. James, 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
\$13,000,000	Louisiana Public Facilities Authority	Air Products and Chemicals, Inc.

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, 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 2nd day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#037

EXECUTIVE ORDER KBB 06-45

Bond Allocation—Louisiana Public Facilities 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 Public Facilities Authority has requested an allocation from the 2006 Ceiling to be used to finance the acquisition and construction of new forced draft aerators and a solids contract clarifier which replaces existing mechanical equipment for Louisiana Water Company's water system located in and around the city of New Iberia, parish of Iberia, 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
\$3,500,000	Louisiana Public Facilities Authority	Louisiana Water Company

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, 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.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#038

EXECUTIVE ORDER KBB 06-46

Bond Allocation—Louisiana Public Facilities 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 Public Facilities Authority has requested an allocation from the 2006 Ceiling to finance student loans which, if the student meets certain timely payment requirements, will have interest rates below the interest rates established by the United States Department of Education, 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
\$90,450,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

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, 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 2nd day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#039

EXECUTIVE ORDER KBB 06-47

Bond Allocation—Louisiana Public Facilities 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 Public Facilities Authority has requested an allocation from the 2006 Ceiling to be used to finance additions and improvements to the Ascension Water Company's facilities located in the parish

of Ascension, 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
\$5,000,000	Louisiana Public Facilities Authority	Ascension Water Company

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, 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.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#040

EXECUTIVE ORDER KBB 06-48

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 and installation of two additional blown film lines (together with supporting facilities and equipment) for the manufacture of polyethylene sheeting at its manufacturing facility located in the city of Monroe, parish of 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
\$5,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Mid South Extrusion, Inc.

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, 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 2nd day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0611#041

Emergency Rules

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Construction and Demolition Debris Tonnage Fee
(LAC 33:VII.529)(SW041E1)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary to secure additional funding to support the department's continued surveillance and oversight activities to prevent improper disposal of solid waste in order to protect the public health and the environment. This is a renewal of Emergency Rule SW041E, which was effective on July 10, 2006, and published in the *Louisiana Register* on July 20, 2006.

Hurricanes Katrina and Rita of 2005 produced an extraordinary amount of waste that is being handled as construction or demolition debris. This has enlarged a pre-existing lack of adequate funding for surveillance of landfills permitted to accept construction or demolition debris collected from these facilities. Prior to Act 718 of the 2006 Regular Session of the Louisiana Legislature, there was no source of funding for the department to finance the additional surveillance and oversight necessary to assure the proper cleanup and disposal of this waste. This Emergency Rule implements the provisions of Act 718 of the 2006 Regular Session of the Louisiana Legislature regarding the imposition of a \$0.20 per ton fee assessed on construction or demolition debris deposited in a facility permitted as a construction or demolition debris landfill. Permitted, as defined in the regulations (LAC 33:VII.115), in brief, is any written authorization issued by the administrative authority. Written authorizations include, but are not limited to, standard permits, temporary disposal site authorizations, orders to upgrade, or orders to close. This fee will apply to construction or demolition debris which is subject to a fee imposed by the facility. Submittal of the fee is not due to the department until the invoicing for Fiscal Year 2007-2008. Recordkeeping of data on which invoicing will be based begins on July 1, 2006. The department has begun rulemaking to promulgate this regulation change.

This Emergency Rule is effective on November 7, 2006, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning SW041E1 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe,

LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§529. Annual Monitoring and Maintenance Fee

A. - B.2.b. ...

c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;

d. for surface impoundments, no tonnage fee;

e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and

f. for Type I-A, II-A, III (except for construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq and specifically 2014(D)(5).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Mike D. McDaniel, Ph.D.
Secretary

0611#010

DECLARATION OF EMERGENCY

Department of Environmental Quality

Office of the Secretary

Legal Affairs Division

Expedited Penalty Agreement

(LAC 33:I.801, 803, 805, and 807)(OS054E11)

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

necessary in order to implement expedited penalty agreements.

This is a renewal of Emergency Rule OS054E10, which was effective on July 18, 2006, and published in the *Louisiana Register* on August 20, 2006. Minor grammatical edits are made in this renewal of the Emergency Rule.

The Emergency Rule will abate the delay in correcting minor and moderate violations of the Environmental Quality Act. Delays in enforcement reduce the effectiveness of the action, unnecessarily utilize resources, and slow down the enforcement process. In the past three years alone, the Enforcement Division has received 8,139 referrals and has issued 4,259 actions. Currently strained budget and resource issues pose imminent impairment to addressing minor and moderate violations. This Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality recommended this action as a pilot program. The legislature approved the report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. This Emergency Rule allows the operation of the pilot program to commence immediately, without the delay and inflexibility of a permanent rule. The department has begun rulemaking to promulgate these regulations.

This Emergency Rule is effective on November 15, 2006, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS054E11 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 8. Expedited Penalty Agreement

§801. Definitions

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

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

LPDES General Permit—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, LAG750000, LAR050000, or LAR100000 series.

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

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

§803. Purpose

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

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

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

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

§805. Applicability

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

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

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

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

E. **Nine Factors for Consideration.** An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration listed in R.S. 30:2025(E)(3)(a) are satisfied.

1. **The History of Previous Violations or Repeated Noncompliance.** The violation identified in the expedited penalty agreement is not the same as or similar to a violation that occurred within the previous two years at the facility under the same agency interest number, and that was identified in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued

to the respondent by the department. Site-specific enforcement history considerations will only apply to expedited penalty agreements.

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

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

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

c. The violation is easily identifiable and corrected.

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

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

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

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

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

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

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

identified and corrected. Damages caused by any violation identified are expected to be nonexistent or minimal.

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

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

G. Extensions. If the department determines that compliance with the cited violation is technically infeasible or impracticable within the initial 30-day period for compliance, the department, at its discretion, may grant additional time in order for the respondent to correct the violation cited in the expedited penalty agreement.

H. Additional Rights of the Department

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

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

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

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

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

L. Date of Issuance. When an expedited penalty agreement is issued in conjunction with a Notice of Potential Penalty, the issuance date shall be the date on the document of initial signature by the administrative authority.

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

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

§807. Types of Violations and Expedited Penalty Amounts

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

Expedited Penalties			
Violation	Citation	Amount	Frequency
ALL MEDIA			
Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3917.A	\$500	Per occurrence
Failure to provide prompt notification of any unauthorized discharge that results in the contamination of the groundwaters of the state or that otherwise moves in, into, within, or on any saturated subsurface strata in accordance with LAC 33:I.3923.	LAC 33:I.3919.A	\$500	Per occurrence
Failure to provide timely written notification of the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3925.A	\$500	Per occurrence
AIR QUALITY			
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly reports.	LAC 33:III.501.C.4	\$500	Per occurrence
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence
Failure to provide notice of change of ownership within 45 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/emission point
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.F.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit a perchloroethylene usage report by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence
Stage II Vapor Recovery			
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$300	Per compliance inspection

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$100	Per occurrence
HAZARDOUS WASTE			
Used Oil			
Failure of a used oil generator to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4013.E	\$500	Per occurrence
Failure of a used oil transfer facility to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4035.H	\$500	Per occurrence
Failure of a used oil processor or re-refiner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4049.G	\$500	Per occurrence
Failure of a used oil burner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4069.G	\$500	Per occurrence
SOLID WASTE			
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.K	\$500	Per occurrence
Waste Tires			
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$200	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G	\$200	Per occurrence
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D	\$100	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to post required notifications to the public.	LAC 33:VII.10519.E	\$100	Per occurrence
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H	\$200	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence
Failure to collect appropriate waste tire fee for each new tire sold.	LAC 33:VII.10519.C, 10535.B	\$200	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$300	Per occurrence
Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence
Failure by a collector or collection center to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence
Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
Failure of recycler to provide notification of its existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
WATER QUALITY			
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to develop and/or implement a Spill Prevention and Control Plan (SPC):			
1. Failing to develop an SPC plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
2. Failing to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence
Failure to submit certain reports as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:1.801, including noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:1.801.	LAC 33:IX.2701.A	\$500	Per occurrence
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
UNDERGROUND STORAGE TANKS			
Failure to register an existing or new UST containing a regulated substance.	LAC 33:XI.301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$300	Per inspection
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XI.301.C.1-3	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$250 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$100 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overflow prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to upgrade an existing UST system to new system standards as specified.	LAC 33:XI.303.C	\$500 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection
Failure to report, investigate, and/or clean up any spill and overflow.	LAC 33:XI.501.C	\$1,500	Per inspection
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to follow reporting requirements, maintain required information, and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to satisfy the additional requirements for petroleum UST systems as specified.	LAC 33:XI.703.B	\$350 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.2 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection

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

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

Mike D. McDaniel, Ph.D.
Secretary

0611#009

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

Remediation of Sites with Contaminated Media
(LAC 33:V.109)(HW084E10)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish Rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary in order to implement Rules to address the remediation of sites with contaminated environmental media.

This is a renewal of Emergency Rule HW084E9, which was effective July 25, 2006, and published in the *Louisiana Register* on August 20, 2006. The department begun rulemaking to promulgate these regulation changes.

Current regulation causes contaminated environmental media to retain the description of having RCRA-listed waste "contained-in," therefore slowing the remediation of the site or possibly halting it completely due to administration and disposal issues. This Rule will remove a regulatory hurdle that deters site remediation. The incentive to remediate pollution stems from the resulting substantially reduced disposal and transportation costs for contaminated environmental media that are not required to be managed in the same manner as hazardous waste. Language has been added to further define the management of contaminated media as nonhazardous. The Rule will also result in simplification of the waste handling process by reducing administrative requirements and providing greater consistency with non-RCRA waste handling requirements and practices. This will provide strong motivation to initiate and accelerate voluntary remediation of contaminated sites without increasing risks to human health or the environment. Any person claiming this exclusion shall have records supporting the exclusion.

This Emergency Rule is effective on November 22, 2006, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning HW084E10 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

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

* * *

Hazardous Waste—a solid waste, as defined in this Section, is a hazardous waste if:

1. - 2.c.vii. ...

d. it consists of environmental media (soil, sediments, surface water, or groundwater) that contain one or more hazardous wastes listed in LAC 33:V.4901 (unless excluded by one of the exclusions contained in this definition) or that exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. Environmental media no longer contain a hazardous waste when concentrations of the hazardous constituents that serve as the basis for the hazardous waste being listed (as shown in LAC 33:V.4901.Table 6, Table of Constituents that Serve as a Basis for Listing Hazardous Waste, or if constituents are

not listed in Table 6 refer to LAC 33:V.2299 for appropriate constituents, or if not listed in either of these locations shall be determined by the department on a case-by-case basis) remaining in the media are below applicable RECAP Screening Standards (LAC 33:I.Chapter 13) and the media no longer exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. Land disposal treatment standards (LAC 33:V.2299) apply prior to placing such environmental media into a land disposal unit even though the media may no longer contain a hazardous waste. Any person claiming this exclusion shall have records supporting the exclusion.

e. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. - 6.b. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary,

Mike D. McDaniel, Ph.D.
Secretary

0611#008

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Protective Helmets and Safety Vests (LAC 35:I.309)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective October 20, 2006, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this Rule to require safety vests for all persons while riding a horse on the racetrack proper. The practice is currently in place but the requirement for wearing a safety vest is only applicable to jockeys. The amendment makes the requirement applicable to all persons riding a horse, including exercise riders.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 3. General Rules

§309. Protective Helmets and Safety Vests

A. All persons exercising or schooling horses are compelled to wear protective helmets recommended by the stewards and approved by the commission, and a safety vest designed to provide shock-absorbing protection to the upper body, as evidenced by a label with a rating of 5, by the British Equestrian Trade Association. This shall also apply to association outriders and pony riders in post parade. Anyone failing to comply with this requirement may be fined or suspended.

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:423 (December 1976), amended LR 3:19 (January 1977), LR 4:271 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

Charles A. Gardiner III
Executive Director

0611#006

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Total Dissolved Carbon Dioxide Testing (LAC 35:I.1720)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective October 20, 2006, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this Rule to correct the penalty phase of the current Rule. Currently, penalties for violations of the Total Dissolved Carbon Dioxide Rule are applicable only for positive tests discovered through post-race analysis. The amendment allows for violators to be sanctioned where analysis reveals a positive, both from post- and pre-race analysis. Additionally, this action adds the penalty of a redistributed purse to a second offense.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1720. Total Dissolved Carbon Dioxide Testing

A. – B.3. ...

4. In the event a-sample drawn from a horse contains an amount of TCO₂ which exceeds the levels described above, the following penalties shall apply.

a. ...

b. The second time the laboratory reports an excessive TCO₂ level, the stewards shall suspend the trainer for the duration of the race meeting plus ten days or for a period not to exceed six months, whichever is greater, the purse shall be redistributed and the case referred to the commission.

B.4.c. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission LR 26:1992 (September 2000), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:1221 (July 2006), LR 33:

Charles A. Gardiner III
Executive Director

0611#007

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment
Dental Program—Reimbursement Rate Increase
(LAC 50:XV.6901, 6903 and 6905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.6903 and to adopt §6905 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 dental services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay (*Louisiana Register*, Volume 29, Number 2). Additional funds were allocated by the Legislature during the 2003 and 2004 Regular Sessions and the bureau subsequently increased the reimbursement rate for certain dental procedures and established coverage for additional procedures (*Louisiana Register*, Volume 30, Number 2; Volume 31, Number 3). 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 certain dental procedures and establish coverage for additional procedures.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT dental services by encouraging the continued participation of dental providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT dental services by approximately \$13,563,937 for state fiscal year 2006-2007

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis and Treatment

Chapter 69. Dental

§6901. General Provisions

A. Medicaid recipients who are under 21 years of age are eligible to receive services covered by the EPSDT Dental Program.

B. Provider Participation is limited to those dentists who are duly licensed and authorized to practice dentistry in the state of Louisiana and who are enrolled in the Medicaid Program as a dental provider.

C. Prior authorization is required for certain dental services covered in the EPSDT Dental Program. Services requiring prior authorization are identified in the Dental Services Manual, EPSDT Dental Program Fee Schedule.

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

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

§6903. Covered Services

A. Effective November 1, 2006, the following dental procedures are reimbursed at the state's established fee schedule:

1. prefabricated stainless steel crown with resin window; and
2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

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 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:

§6905. Reimbursement

A. Services covered in the EPSDT Dental Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or
2. the state's established schedule of fees minus any third party coverage.

B. The EPSDT Program Dental Fee Schedule is available in the Dental Services Manual.

C. Effective for dates of service on and after November 1, 2006, the reimbursement fees for:

1. comprehensive orthodontic treatment services shall be increased to the 2006 National Dental Advisory Service Comprehensive Fee Report 70th Percentile rate; and
2. all other dental services are increased by 25 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006 unless otherwise stated in this Chapter.

D. The following dental services will be excluded from the rate increase:

1. Complete Denture, Maxillary;
2. Complete Denture, Mandibular;
3. Immediate Denture, Maxillary;
4. Immediate Denture, Mandibular;
5. Maxillary Partial Denture, Resin Base (including clasps);
6. Mandibular Partial Denture, Resin Base (including clasps);
7. Reline Complete Maxillary Denture (Laboratory);
8. Reline Complete Mandibular Denture (Laboratory);
9. Reline Maxillary Partial Denture (Laboratory);
10. Reline Mandibular Partial Denture (Laboratory);
11. Hospital Call; and
12. Behavior Management, By Report.

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:

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

0611#005

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Private Hospitals Reimbursement Rate Increase

Editor's Note: This Emergency Rule refers to an August 1, 2006 Emergency Rule, which was not submitted in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B)(1).

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5). The May 20, 1999 Rule was later amended to reduce the reimbursement paid to private (non-state) acute hospitals for inpatient services (*Louisiana Register*, Volume 30, Number 6).

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 private providers for inpatient and outpatient hospital services. In compliance with the directives of Act 17, the department by Emergency Rule amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals. (*Louisiana Register*, Volume 32, Number 10). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2006 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services.

Emergency Rule

Effective for dates of service on or after November 30, 2006, the Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing increases the prospective per diem rate paid to private (non-state) hospitals, including long term hospitals and hospital intensive neurological rehabilitation care units, for inpatient services by 3.85 percent of the rate on file for July 31, 2006.

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

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

0611#068

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services—Private Hospitals Reimbursement Rate Increase

Editor's Note: This Emergency Rule refers to an August 1, 2006 Emergency Rule, which was not submitted in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B)(1).

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). The June 20, 1993 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The May 1999 Rule was subsequently amended to increase the reimbursement rates for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average costs reported on the cost report ending in SFY 2002 (*Louisiana Register*, Volume 30, Number 11).

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 private providers for hospital inpatient and outpatient services. In compliance with the directives of Act 17, the Department by Emergency Rule amended the reimbursement methodology for inpatient psychiatric services to increase the Medicaid reimbursement rates paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals. (Louisiana Register, Volume 32, Number 10). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2006 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program for the provision of inpatient psychiatric services and recipient access to providers of these medically necessary services.

Emergency Rule

Effective for dates of service on or after November 30, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the prospective per diem rate paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals for inpatient services by 3.85 percent of the rate on file for July 31, 2006.

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

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

0611#070

DECLARATION OF EMERGENCY

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

Medical Assistance—Pharmacy
(LAC 50:XXIX.971)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal LAC 50:XXIX.971 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 a Rule to reduce the estimated acquisition cost reimbursement rate for Antihemophilia drugs, Factor product (*Louisiana Register*, Volume 32, Number 2). The bureau subsequently repromulgated all rules governing Medicaid covered pharmacy services under the *Louisiana*

Administrative Code (Louisiana Register, Volume 32, Number 6). The bureau by Emergency Rule repealed the provisions of the June 20, 2006 Rule governing reimbursement for Antihemophilia drugs. (*Louisiana Register*, Volume 32, Number 8. This Emergency Rule is being promulgated to continue the provisions of the August 20, 2006 Emergency Rule.)

This action is being taken to avoid federal sanctions.

Effective December 18, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the provisions contained in the June 20, 2006 Rule governing the estimated acquisition cost reimbursement rate for Antihemophilia drugs, Factor product.

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:

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

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

0611#067

DECLARATION OF EMERGENCY

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

Outpatient Hospital Services—Private Hospitals
Reimbursement Rate Increase

Editor's Note: This Emergency Rule refers to an August 1, 2006 Emergency Rule, which was not submitted in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B)(1).

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in January of 1996 which established the

reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare fee schedule, outpatient rehabilitation and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to reduce the reimbursement paid for outpatient services (*Louisiana Register*, Volume 26, Number 12). Rules were later promulgated to increase the reimbursement paid for outpatient hospital rehabilitation services rendered to Medicaid recipients who are age 3 and older, outpatient clinic services, and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7).

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 private providers for hospital inpatient and outpatient services. In compliance with the directives of Act 17, the department by Emergency Rule has amended the reimbursement methodology for outpatient services to increase the Medicaid reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals. (*Louisiana Register*, Volume 32, Number 10). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2006 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services.

Emergency Rule

Effective for dates of service on or after November 30, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate paid to private (non-state) hospitals for cost-based outpatient services by 3.85 percent of the rate on file for July 31, 2006. Final reimbursement shall be 86.2 percent of allowable cost through the cost report settlement process. This change does not include the fee schedule amounts for outpatient laboratory services, outpatient rehabilitation services, outpatient surgery, and outpatient clinic (facility fees).

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

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

0611#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities Division of Long Term Supports and Services

Home and Community Based Services Waivers
Termination of Services for Displaced Recipients
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts LAC 50.XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being 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 adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective December 18, 2006, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts the following provisions governing the eligibility for home and community-based waiver services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 1. General Provisions

Chapter 3. Eligibility

§301. Termination of Coverage for Displaced Recipients

A. Effective July 1, 2006, waiver recipients who have been displaced by Hurricanes Katrina or Rita and are currently residing in other states will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in the following home and community-based waivers:

1. the New Opportunities Waiver;
2. Children's Choice;
3. the Elderly and Disabled Adult Waiver; and
4. the Adult Day Health Care Waiver.

C. If the individual returns to live in Louisiana on or before June 2008, he/she must contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other hurricane evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first come, first served basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services, LR 33:

Implementation of this Emergency Rule is contingent upon approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P. O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services, P.O. Box 3767, Baton Rouge, LA 70821-3767. They are 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

0611#066

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Earned Income Tax Credit and Tax Assistance Program
for Filers Without Children (LAC 67:III.Chapter 58)

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 adopt LAC 67:III, Subpart 17, Chapter 58, the Earned Income Tax Credit and Tax Assistance Program for Filers Without Children. This rule shall remain in effect for a period of 120 days.

Pursuant to Executive Order KBB 2005-17, Section 2C, the agency shall 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 EITC filers who are not TANF-eligible.

The authorization for emergency action in this matter is by the Solutions to Poverty Network Council, created by

Executive Order KBB 2005-17. The federal Earned Income Tax Credit (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. The program meets the Solutions to Poverty Executive Order's stated objective to encourage family and individual self-sufficiency.

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:

Ann Silverberg Williamson
Secretary

0611#016

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives—Earned Income Tax Credit (EITC) Program (LAC 67:III.5581)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III, Subpart 15, Chapter 55 TANF Initiatives, §5581, Earned Income Tax Credit (EITC) Program. This Emergency Rule effective November 1, 2006, will remain in effect for a period of 120 days.

Pursuant to the authority granted to the Department by Louisiana's TANF Block Grant, the agency is amending language in §5581 so that financial literacy will be provided to families receiving services through the Earned Income Tax Credit (EITC) Program. Additionally, the agency is amending the TANF goal being met by the services provided as well as restricting eligibility factors. The authorization for emergency action in this matter is contained in Act 16 of the 2005 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to 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 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 to end dependence of needy parents by promoting job preparation, work, and marriage.

C. 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:

Ann Silverberg Williamson
Secretary

0611#015

DECLARATION OF EMERGENCY

Department of Transportation and Development Office of Public Works

Hurricane Flood Control Protection Program (LAC 56:III.901)

The Department of Transportation and Development, Office of Public Works, Hurricane Flood Protection and Intermodal Transportation, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to enact LAC 70:XV, Chapter 3, effective November 20, 2006. This Rule shall remain in effect for a period of 120 days, during which time a permanent Rule will be promulgated.

The Rule, entitled "Hurricane Flood Control Protection Program", is promulgated in accordance with the provisions of R.S. 38:241-248. This body of statutory law recognizes the statewide concern with coastal protection which was made more urgent by Hurricanes Katrina and Rita. This law recognizes the need for development of a single coast-wide plan for both coastal restoration and hurricane flood protection, both vital to the public welfare and both issues which require immediate attention. This department has been charged by law with oversight of the design, construction, extension, improvement, repair and regulation of hurricane flood protection projects in the coastal zone and these rules are necessary in order to achieve that goal. This Rule addresses the responsibility of the Department of Transportation and Development to enact immediate rules for those applicants which will be applying for funding to erect hurricane flood control structures which must be begun immediately in order to minimize risk to life and property during the upcoming storm seasons. Without immediate implementation of this Rule, projects which could save lives and reduce damage from hurricane flooding will be delayed.

Title 56

PUBLIC WORKS

Part III. Flood Control and Water Management

Chapter 9. Hurricane Flood Control Protection Program Rules

§901. Framework for Receipt and Evaluations of Funding Applications

A. Applications are to be prepared in accordance with the provisions of R.S. 38:244.

B. Applications may be submitted beginning November 1, 2006, to Hurricane Flood Protection Program, 8900 Jimmy Wedell Drive, Baton Rouge, LA 70807.

C. The Office of Public Works, Hurricane Flood Protection and Intermodal Transportation shall evaluate the applications in accordance with the provisions of R.S. 38:244 with points established as follows.

1. Documentation of flood problem—20 points maximum

2. Local support—5 points maximum
3. Technical feasibility—45 points maximum
4. Prevention of loss of life and improved public safety—5 points maximum
5. Environmental effects and impact on development—15 points maximum
6. Projects recommended but not funded—10 points maximum

D. The following guidelines will be used by the Evaluation Committee to rate applications to the program. This scoring procedure pertains to projects which meet the legislative intent of the program. Projects that are engineeringly unsound, cause unreasonable flooding in other areas, cause unacceptable or unmitigable environmental damages or otherwise do not meet the objectives of the program will not be scored.

1. Documentation of the Flood Problem category takes into consideration the adequacy of documentation which demonstrates the existence and severity of risk of flood damages from hurricanes.

2. Local Support category takes into consideration the following:

- a. letters of support on file from the respective legislative delegation;
- b. no letters of objection from public officials, neighboring authorities, citizens groups, etc.; and
- c. multiple sponsorship.

3. Technical Feasibility category takes into consideration the following:

- a. completeness of project design;
- b. due consideration of alternatives (structural and non-structural);
- c. compatibility of the project to other Federal, state and local projects; and
- d. impact on flooding in areas upstream, downstream and adjacent to the benefitted area.

4. Prevention of Loss of Life category takes into consideration the following:

- a. historical losses of life that may have been prevented by the project; and
- b. the degree of success of the project at maintaining access to vital services such as hospitals, and protection of evacuation routes.

5. Environmental Effects and Impact on Development category takes into consideration the following:

- a. no letters of objection from public agencies;
- b. no impact on special historical, archeological, geological features, or environmentally sensitive areas; and
- c. effectiveness of the project in relation to encroachment into flood prone area (i.e., 100 year floodplain).

6. In the Projects Recommended but not Funded category, points may be added for each year (up to a four year maximum) that the proposed project has been on the list of recommended projects but has not received funding.

E. Procedure for Application Evaluation Form—Part B

1. Ratings are computed on the basis of potential damage reductions associated with the design flood and do not include efforts to annualize benefits and costs.

$$\text{Part B Score} = \frac{\text{Total Damages}^*}{\text{Total Construction Cost}} \times \frac{90}{90 - (\text{PLM } 10)}$$

PLM = percent local match

*Total damages are any damages from the design storm which will be prevented by the project including agricultural crop and land damages, agricultural building damages, damages to residential, commercial, public and other buildings; damages to roads, damages to buildings, and damages to industries.

F. Application Evaluation Form—Total Score

1. The score from Paragraph C is multiplied by the score in Paragraph E to obtain a total score. This score is an absolute score and not a score relative to when the application was submitted.

G. A recommended list of projects shall be submitted to the Coastal Protection and Restoration Authority and public hearings will be held as required.

H. Upon funding by the Legislature, the Office of Public Works, Hurricane Flood Protection and Intermodal Transportation will enter into funding agreements with the sponsors establishing the duties and responsibilities of each and providing program funds not to exceed the amount made available by the Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:241-248.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 33:

Johnny B. Bradberry
Secretary

0611#060

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District and State Accountability System—School Performance Score (LAC 28:LXXXIII.301 and 303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28 Number LXXXIII). The changes define/ outline/clarify the following: The table in §301.L, School Performance Score Goal, was revised to reflect the use of two years of data as is defined in the text of the policy. The edits to §303.J and K, Calculating the SPS, allow School Performance Scores to be calculated very much as they have been in the past until the Graduation Index is implemented in 2007. Both revisions should allow a more efficient transition to the new system that includes *i*LEAP and a Graduation Index.

Title 28

EDUCATION

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

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - K. ...

L. 2005-2007 High School Transition

2005-2007 High School Transition			
2005			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2005	GEE(60%), Iowa (30%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2005
Baseline SPS	2004 & 2005	GEE(60%), Iowa (30%), Attendance (5%), Drop (5%)	Performance Label, SI Status, SPS AYP for 2005
Transition Baseline SPS	2004 & 2005	GEE(90%), Attendance (5%), Drop (5%)	Growth Target, Growth Goal for 2006

2006			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2006	GEE(90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2006
Baseline SPS	2005 & 2006	2006 GEE/ <i>i</i> LEAP (90%), 2005 & 2006 Attendance (5%), 2005 & 2006 Drop (5%)	Performance Label, SI Status refer to H.3 a. above), SPS AYP for 2006; Growth Target and Goal for 2007

2007			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2007	GEE/ <i>i</i> LEAP (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2007
Baseline SPS	2006 & 2007	2006 & 2007 GEE/ <i>i</i> LEAP (70%), 2007 Graduation Index (30%)	Performance Label, SI Status, SPS AYP for 2007; Growth Target and Goal for 2008 (refer to I.5.a. above)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034 (November 2006).

§303. Calculating the SPS Component

A. - I. ...

J. Beginning with the 2007 baseline SPS, a combination school (a school with a grade configuration that includes a combination from both categories of schools, K-8 and 9-12,) will receive a score from a weighted average of the SPS from the K-8 grades and the SPS from the 9-12 grades.

1. The K-8 SPS will be weighted by the number of students eligible to test during the spring test administration.

2. The 9-12 SPS will be weighted by the sum of:

a. the students eligible to test during the spring test administration; and

b. the number of members of the cohort used as the denominator in the graduation index calculation.

K. For combination schools in 2006, for the baseline SPS only, the 3 accountability indicators shall be combined as follows.

1. The K-8 Assessment Index and the 9-12 Assessment Index shall be combined using a weighted average based on testing units.

2. Attendance and Dropout Indices shall be combined as defined in §511 and §513.

3. The 2007 growth SPS shall be calculated using the same procedures as the 2006 baseline SPS.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2738 (December 2003), amended LR 31:763 (April 2004), LR 32:1020 (June 2006), LR 32:2034 (November 2006).

Weegie Peabody
Executive Director

0611#004

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—School Performance Score Goal and Disaster Considerations for the School and District Subgroup Component (LAC 28:LXXXIII.301 and 4527)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28, Part Number LXXXIII). The changes occur in §§301 and 4527. The purpose of these revisions is to adjust accountability policy to more effectively address conditions created by the hurricanes of 2005 and the implementation of a new testing program. The revisions made to §301 require a preliminary accountability release during 2006. As proposed, the preliminary accountability release will only include the subgroup component and only for those schools that failed the subgroup component in 2005. Implications for schools identified for school improvement are also detailed. The revision to §4527 adjusts the threshold at which schools could qualify for a waiver offered by the USDE in the wake of the hurricanes of 2005. This change is based upon feedback Louisiana Department of Education staff has received from USDE officials.

Title 28

EDUCATION

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

Chapter 3. School Performance Score Component §301. School Performance Score Goal

A. - D. ...

E. Beginning in 2004, preliminary accountability results issued each summer shall include both preliminary school performance scores and subgroup component analyses for those schools on the academic watch list, or in school improvement 2 or higher, or who have failed the subgroup component the prior year. Beginning in 2007, preliminary accountability results each summer shall include any schools determined to be entering into or remaining in School Improvement 2 or higher, exiting School Improvement 2 or higher, and who have failed the Subgroup Component the prior year. Final accountability results shall be issued during the fall semester of each year.

1. In 2006, the preliminary accountability results shall include only the subgroup component (calculated using LEAP/GEE scores only) and only for those schools that failed the subgroup component in 2005.

a. Schools identified as entering SI2 as a result of their second year of subgroup component failure must offer school choice prior to the first day of school of the 2006-07 academic year.

b. School Improvement status from the fall release of the 2005 final accountability results shall continue to apply through the first semester of academic year 2006-2007.

c. Schools identified as entering SI2 at the release of the 2006 final accountability results must offer school choice beginning in January and continuing for the remainder of the academic year.

F. - L. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2035 (November 2006).

Chapter 45. Disaster Considerations for School and District Accountability

§4527. Disaster Considerations for the School and District Subgroup Component

A. Schools and districts shall receive a one year exclusion from the subgroup component in accountability if they:

1. reside within the boundaries of parishes declared natural disaster areas by the President of the United States; and

2. were closed due to the declared disaster for 18 consecutive school days.

B. Any school or district with displaced students comprising 10 percent or more of its eligible Subgroup Component testing population on the days of testing in a given academic year, and that fails the Subgroup Component, shall receive a one year exclusion from accountability decisions (refer to §3103) based on the Subgroup Component during the academic year in which the disaster occurred.

C. Any school or district that fails the subgroup component because of the failure of any subgroup that includes displaced students shall be re-evaluated with the displaced students comprising a separate subgroup and excluded from all other subgroups.

1. If, after re-evaluation, no subgroups fail or only the displaced students subgroup fails the subgroup component, the school or district shall:

a. submit a plan for approval to the LDE addressing the needs of displaced students; and

b. implement the plan after receiving LDE approval.

2. The school or district shall not be labeled as failing subgroup AYP, nor enter or advance in school improvement.

3. Schools or districts that, at the beginning of the following academic year, enroll fewer than 50 percent of the students who comprised the displaced students subgroup may request a one year exclusion from the subgroup component.

4. The displaced students shall not be considered a separate subgroup the following academic year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006), amended LR 32:2035 (November 2006).

Weegie Peabody
Executive Director

0611#003

RULE

Board of Elementary and Secondary Education

Bulletin 123—Adult Education Content Standards (LAC 28:CXXIX.Chapters 1-11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 123—Adult Education Content Standards*. Bulletin 123 will be printed in codified format as LAC 28, Part CXXIX of the Louisiana Administrative Code. The Louisiana Adult Education Content Standards have been developed to raise accountability levels among adult education programs and ensure that similar concepts are taught at appropriate educational levels throughout the state. The intent of the content standards is to provide a resource that will ease the process of developing curriculum frameworks and planning instruction for adult educators throughout Louisiana in both Adult Basic Education (ABE) and Adult Secondary Education (ASE) class settings. The Louisiana Adult Education Content Standards were developed based upon a directive from the U.S. Department of Education, Office of Vocational and Adult Education. The standards will assist the state in complying with the requirements of the Workforce Investment Act of 1998.

Title 28

EDUCATION

Part CXXIX. Bulletin 123—Adult Education Content Standards

Chapter 1. General Provisions

§101. Introduction

A. The Workforce Investment Act of 1998, Title II, authorizes adult education in Louisiana. The Adult Education program provides instruction to adults who are 16 years of age and older, not enrolled in the K-12 system, and have less than a high school education. The purposes of adult education programs are to assist adults to:

1. become literate;
2. obtain knowledge and skills for employment and self-sufficiency;
3. obtain the educational skills necessary to become full partners in their children's educational development; or
4. complete their secondary school education.

B. The standards were designed to raise accountability levels among adult education programs and ensure that similar concepts are taught at an educational functioning level throughout the state. The intent of the content standards document is to provide a tool that will ease the processes of developing curriculum frameworks and planning instruction for adult educators throughout Louisiana.

C. The Louisiana Adult Education Content Standards may be used by programs in providing Adult Basic Education (ABE) and Adult Secondary Education (ASE) instruction to adults. These educational functioning levels (EFLs) of adults were considered in developing the standards. The current educational functioning levels, as approved by the National Reporting System for Adult Education, include:

1. Adult Basic Education

Educational Functioning Level	Grade Level Equivalent
Beginning ABE Literacy	0 to 1.9
Beginning Basic Education	2 to 3.9
Low-Intermediate Basic Education	4 to 5.9
High-Intermediate Basic Education	6 to 8.9

2. Adult Secondary Education

Educational Functioning Level	Grade Level Equivalent
Low Adult Secondary Education	9 to 10.9
High Adult Secondary Education	11 to 12.9

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2036 (November 2006).

§103. Content Standards Foundation Skills*

A. The following foundation skills have been identified as essential competencies needed to meet the demands of the classroom and the world beyond. These skills apply to all students in all disciplines. These foundation skills were used throughout the development of the Louisiana Adult Education Content Standards and are embedded throughout the standards.

1. Communication. Communication is a process by which information is exchanged and a concept of "meaning" is being created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. Problem Solving. Problem solving is the identifying of an obstacle or challenge and the application of knowledge and thinking processes which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. Resource Access and Utilization. Resource access and utilization is the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include:

- a. pen;
- b. pencil;
- c. paper;
- d. audio/video material;
- e. word processors;

- f. computers;
- g. interactive devices;
- h. telecommunication; and
- i. other emerging technologies.

4. **Linking and Generating Knowledge.** This is the effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. **Citizenship.** Citizenship involves the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's choices and actions and understanding their impact on oneself and others;
- c. knowing one's civil, constitutional, and statutory rights; and
- d. mentoring others to be productive citizens and lifelong learners.

*Developed by the Louisiana Department of Education, Louisiana Content Standards and Assessment Development Project, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2036 (November 2006).

§105. Interpreting and Using the Adult Education Content Standards

A. This §105 provides definitions for standards-related terms used throughout this Part CXXIX. Following is a hierarchy of the standards-related terms used in this Part.

1. *Strand*—the subject area that is to be taught. There are five strands incorporated in the Louisiana Adult Education Content Standards. The strands include:

- a. language arts—reading;
- b. language arts—writing;
- c. mathematics;
- d. science; and
- e. social studies.

Strand Example: *Social Studies*

2. *Standard*—the overall goal, end result of a learning experience.

- a. A *standard* determines the purpose, aim and rationale of class instruction.
- b. A *standard* is often not immediately measurable; rather, it sets the framework by preparing students for future activities and further knowledge acquisition.
- c. A *standard* expresses a purpose for instruction but does not designate the specific abilities that the learner must possess.

Standard Example: Adult learners use and apply social studies concepts in a variety of situations.

3. *Benchmark*—supports the standard. It defines what a learner must know and be able to do in the lesson. A *benchmark* is brief and written to the point so that it is easy to understand and may be achieved over a well defined time period.

Benchmark Example: Adult learners apply the behavioral science concepts of psychology, sociology and anthropology to personal and community situations.

Describe different family structures and role of moods, emotions, and relationships in a family.

Define bias, prejudice and personal values, and give examples of each.

Explain and give examples of social stratification, race, ethnicity and gender and their effect on individual beliefs, attitudes, and behavior.

Describe the impact of values, and beliefs on specific group behaviors.

Describe selected group values and beliefs and how they influence society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2037 (November 2006).

Chapter 3. English Language Arts—Reading

§301. Standard

A. Adult learners develop and apply reading strategies for the understanding of written material for different purposes.

B. The four components of teaching reading to adult learners include alphabetic (phonemic awareness and word analysis), fluency, vocabulary, and comprehension. The range for introducing, instructing, reinforcing, and mastering each of the four components is:

- 1. Alphabetic—Beginning Literacy to Beginning Basic (0 to 3.9);
- 2. Fluency—Beginning Basic to High Intermediate (2.0 to 8.9);
- 3. Vocabulary—Beginning Basic to High Adult Secondary (2.0 to 12.9);
- 4. Comprehension—Beginning Basic to High Adult Secondary (2.0 to 12.9).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2037 (November 2006).

§303. Benchmark 1—Phonemic Awareness and Word Analysis

A. Adult learners apply phonemic awareness and word analysis skills to make connections between written letters and sounds.

1. Mastery should be evidenced upon completion of the Beginning Basic (2.0-3.9).

B. Phonemic Awareness

1. Apply phonemic awareness skills:

- a. isolation;
- b. identity (written and oral letter recognition);
- c. categorization;
- d. blending;
- e. segmentation;
- f. deletion;
- g. addition;
- h. substitution;
- i. syllabication.

C. Word Analysis

- 1. Apply word analysis (phonetic awareness) skills:
 - a. context clues (i.e., picture clues and sentence clues);
 - b. basic sight words;

- c. spelling patterns and rules;
- d. meaning of root words, suffixes and prefixes;
- e. decoding of unfamiliar or new words.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2037 (November 2006).

§305. Benchmark 2—Fluency

A. Adult learners apply fast and accurate decoding skills to read with the proper rhythm, intonation, and expression in order to increase comprehension.

1. Mastery should be evidenced by completion of High Intermediate (6.0-8.9).

a. Group words appropriately into meaningful grammatical units for interpretation.

b. Use punctuation to determine where to place emphasis or pause in order to make sense from written print and non-print text during oral reading.

c. Apply context clues to interpret written print and non-print text.

d. Read at an appropriate pace based upon the level of materials and the purpose for reading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2038 (November 2006).

§307. Benchmark 3—Vocabulary

A. Adult learners apply spoken, oral and written vocabulary skills in order to comprehend and communicate in a variety of contexts.

1. Vocabulary is a skill that is developed through a continuous process at all educational functioning levels.

a. Use context clues to derive meanings of words from spoken, oral, written print and non-print text.

b. Apply the meaning of root words, suffixes and prefixes to derive meaning from new and unfamiliar vocabulary words from a variety of print and non-print texts.

c. Recognize the meaning of word origins (i.e., Greek, Anglo-Saxon, Latin) to understand content area vocabulary words.

d. Recognize basic word patterns, antonyms, and synonyms.

e. Identify and use idioms and the literal and figurative meanings of words in spoken, oral and written language.

f. Identify multiple meanings of words, denotative and connotative meanings of words, and multiple meanings of related words.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2038 (November 2006).

§309. Benchmark 4—Comprehension

A. Adult learners apply reading skills (Alphabetics, Fluency, Vocabulary) and strategies to interpret meaning from spoken, oral and written language in a variety of contexts.

1. Comprehension is a skill that is improved through a continuous process at all educational functioning levels.

a. Construct meaning from spoken, oral and written communication:

i. use the conventions of print (read from left to right directionality, from top to bottom, one-to-one matching, sentence framing);

ii. recognize the general structure of sentences and paragraphs;

iii. identify error detection while reading;

iv. locate information from print and non-print text, recalling information, and using information effectively;

v. listening comprehension;

vi. use skimming and scanning strategies.

b. Apply information and ideas from a passage:

i. organize thoughts and ideas according to order and sequence;

ii. summarize;

iii. retell;

iv. generate questions about print and non-print text;

v. state the main idea and supporting details;

vi. read and interpret charts and graphs.

c. Analyze content, style, and structure:

i. make inferences from print and non-print text;

ii. state points of view;

iii. state the author's purpose of print and non-print text;

iv. recognize the literary structure (i.e., cause and effect, compare and contrast, fact and opinion);

v. recognize and describe story elements (i.e., setting, plot, character, theme, point of view, beginnings, middles, endings);

vi. interpret figurative language;

vii. make predictions from print and non-print text.

d. Develop connections between separate sources of information:

i. write about print and non-print text;

ii. integrate information from long print and non-print text;

iii. make predictions from print and non-print text;

iv. describe multiple inferences from an entire passage;

v. integrate information from outside the passage (i.e., life experiences) to reach a new understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2038 (November 2006).

Chapter 5. English Language Arts—Writing

§501. Standard

A. Adult learners write competently using Standard American English for a variety of purposes and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2038 (November 2006).

§503. Benchmark 1—Spelling, Punctuation, and Capitalization

A. Adult learners apply correct spelling, punctuation, and capitalization rules to complete a variety of writing tasks in accordance with the learner's identified educational functional level.

1. Write (print and cursive) upper and lower-case letters of the alphabet.
2. Write and spell words correctly.
3. Apply capitalization rules.
4. Apply punctuation rules to all written text:
 - a. terminal punctuation;
 - b. commas;
 - c. colons and semi-colons;
 - d. apostrophes;
 - e. quotation marks.
5. Use a variety of resources to spell unfamiliar words.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2038 (November 2006).

§505. Benchmark 2—Grammar, Usage and Conventions of Sentence Structure

A. Adult learners identify and apply correct grammar and usage rules and the conventions of sentence structure to complete a variety of writing tasks in accordance with their identified educational functional level.

1. Identify and use basic parts of speech:
 - a. verbs;
 - b. nouns;
 - c. pronouns;
 - d. adjectives;
 - e. adverbs;
 - f. conjunctions;
 - g. prepositions; and
 - h. interjections.
2. Identify subject and predicate in sentences.
3. Apply standard grammar and usage to subject and verb agreement, simple past, present, and future continuous verb tense.
4. Identify and correct sentence fragments and run-on sentences.
5. Recognize the standard use of homonyms, homophones, and homographs.
6. Use a thesaurus.
7. Apply standard grammar and usage.
 - a. Combine simple sentences into compound and complex sentences.
 - b. Construct conditional clauses.
 - c. Develop parallel structures.
 - d. Use modifiers appropriately.
 - e. Use compound verbs appropriately.
 - f. Create possessive forms of nouns or pronouns with gerunds.
 - g. Use conjunctive adverbs appropriately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2039 (November 2006).

§507. Benchmark 3—Writing Process

A. Adult learners apply writing skills to complete a variety of practical writing tasks in accordance with their identified educational functional level.

1. Apply pre-writing tools to generate topics and/or plan writing tasks (e.g., brainstorming, clustering, outlining, listing, webbing).

2. Write a dialogue of sentences that uses descriptive words and phrases to develop ideas and advance characters.

3. Develop a paragraph on a topic of the learner's own choosing that includes a topic sentence followed by supporting details.

4. Write an essay/composition (i.e., expository, descriptive, persuasive, narrative, comparative) on a given topic that includes a well-developed thesis.

5. Write a letter for a variety of purposes that includes a heading, salutation, and closing.

6. Revise written work by identifying and correcting:

- a. spelling;
- b. punctuation;
- c. capitalization;
- d. sentence fragments;
- e. run-on sentences; and
- f. grammar and usage errors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2039 (November 2006).

Chapter 7. Mathematics

§701. Standard

A. Adult learners apply reasoning and problem-solving techniques, use numerical intuition to verify solutions, and make connections with life situations for communication of math ideas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2039 (November 2006).

§703. Benchmark 1—Number Sense

A. Adult learners develop and apply number sense to solve a variety of real-life problems and to determine if the results are reasonable.

1. Read, write, and orally express whole numbers as numerals and number words between 0 and 1,000,000.

2. Read, write, and locate whole numbers and fractions on a number line between 0 and 1,000.

3. Round whole numbers to a given place.

4. Round decimals to tenths, hundredths, and thousandths place.

5. Read, write, and orally express a decimal as a part of a whole, expressed in tenths, hundredths, thousandths, etc.

6. Read, write and express a fraction as the relationship between the part (numerator) and the whole (denominator).

7. Read, write and express numbers in their equivalent fractional, decimal, and percent form (e.g., $1/2 = 3/6 = 2/4$, and $0.5 = 50$ percent).

8. Read, write, and order integers.

9. Match whole numbers and fractions (e.g., $1/2$, $1/3$, $1/4$) to pictorial representations and identify these as commonly used fractions.

10. Identify coins and currency and recognize money (e.g., \$ and ¢) symbols.

11. Identify and construct equal relationships of coins and currency (e.g., a quarter equals 2 dimes and 1 nickel).

12. Make change using pennies, nickels, dimes, quarters, half-dollars, and bills up to \$100.

13. Add, subtract, multiply and divide by one, two, three, and four digit numbers.

14. Add, subtract, multiply and divide fractions, decimals, and percents.

15. Use computation and estimation to solve problems involving integers, exponents, and square roots.

16. Use estimation to check the reasonableness of results in word problems with calculator situation.

17. Solve multi-step word problems using whole numbers.

18. Solve word problems involving whole numbers, fractions, decimals, and percents.

19. Represent numbers in various ways:

- a. prime factors;
- b. square roots;
- c. exponents;
- d. absolute value; and
- e. scientific notation.

20. Use estimation to check the reasonableness of results using whole numbers, fractions, decimals, and percents in solving problems.

21. Solve and simplify expressions using order of operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2039 (November 2006).

§705. Benchmark 2—Data Analysis

A. Adult learners apply data collection, data analysis, and probability to interpret, predict, and/or solve real-life problems.

1. Gather data familiar to themselves and their surroundings.

2. Sort, classify, and organize data about objects.

3. Represent data using concrete objects.

4. Represent data using tables and graphs such as:

- a. line graphs;
- b. bar graphs;
- c. circle graphs; or
- d. pictorial graphs and maps.

5. Analyze tables, charts, graphs, diagrams, and maps.

6. Apply basic concepts of probability.

7. Create tables, charts, and diagrams using spreadsheets or other technology.

8. Calculate and interpret the mean, median, mode, and range of a data set.

9. Use data collection, data analysis, and probability to solve word problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2040 (November 2006).

§707. Benchmark 3—Algebra

A. Adult learners apply algebraic concepts and methods to explore, analyze or solve real-life problems.

1. Describe and extend a variety of patterns using manipulative or objects.

2. Describe and extend numerical patterns (e.g., 2, 4, 6, 8).

3. Identify the missing element in a number sentence involving:

- a. addition;
- b. subtraction;
- c. multiplication; and/or
- d. division with whole numbers.

4. Identify algebraic concepts such as:

- a. variable;
- b. constant;
- c. term;
- d. expression;
- e. equation; and
- f. inequality.

5. Solve one variable linear equation or inequality with one operation. Use substitution to check the answer.

6. Solve one variable linear equation with two or more operations. Use substitution to check the answer.

7. Solve word problems using one and two-step linear equations.

8. Solve proportion problems using algebraic methods.

9. Determine slope and intercept of a linear equation.

10. Create a table of values that satisfy a linear equation.

11. Create a graph using a table of values from a solved equation.

12. Use formulas to solve problems.

13. Write and solve equivalent forms of equations, inequalities, and systems of equations using:

- a. mental math;
- b. paper and pencil; or
- c. technology (e.g., calculator or computer).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2040 (November 2006).

§709. Benchmark 4—Geometry

A. Adult learners use geometric properties, relationships, and methods to identify, analyze and solve real-life problems.

1. Identify basic geometric shapes.

2. Describe basic geometric shapes by naming, building, drawing, comparing, and sorting two and three-dimensional shapes, i.e.,:

- a. cube;
- b. cylinder;
- c. prism;
- d. square;
- e. rhombus;
- f. hexagon;
- g. sphere.

3. Graph ordered pairs on rectangular coordinate plane.

4. Classify angles as right, acute, obtuse, straight, or reflex.

5. Describe geometric figures, e.g.,:

- a. symmetric;
- b. perpendicular;
- c. parallel.

6. Compare geometric figures using similarity or congruency.

7. Solve problems involving alternate interior, corresponding, complementary, or supplementary angles.

8. Classify triangles by their angles and sides as:
 - a. equilateral;
 - b. isosceles;
 - c. scalene;
 - d. acute;
 - e. obtuse; and
 - f. right.
9. Label and identify the characteristics, (i.e., radius, diameter, base, height) of a:
 - a. circle;
 - b. cylinder;
 - c. parallelogram;
 - d. pentagon;
 - e. hexagon;
 - f. octagon;
 - g. decagon;
 - h. rhombus;
 - i. trapezoid;
 - j. cube;
 - k. sphere; or
 - l. prism.

10. Use the appropriate geometric formula (i.e., area, perimeter, volume, Pythagorean relationship, distance between two points in a plane) to solve problems.

11. Solve problems using similarity and proportion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2040 (November 2006).

§711. Benchmark 5—Measurement

A. Adult learners apply knowledge of standard measurements to real-life situations.

1. Recognize the attributes of length, volume, weight, area, and time.

2. Measure using non-standard (e.g., string, paper clip, toothpicks) and standard (i.e., U.S. Customary and metric system) units.

3. Use common references (e.g., pitcher, paper clip, string) for measurements to make comparisons and estimates.

4. Recognize that units of measurements or approximations can affect differences in precision.

5. Select an appropriate unit and tool to measure an object or event, i.e.,:

- a. ruler;
- b. thermometer;
- c. measuring cup;
- d. scale; and
- e. stop watch.

6. Identify the appropriate U.S. customary units of measurement for an object or event, i.e.,:

- a. length;
- b. capacity;
- c. weight;
- d. area;
- e. volume;
- f. time; and
- g. temperature.

7. Solve real-life problems involving measurement using U.S. customary units.

8. Identify the appropriate metric units of measurement for an object or event, i.e.,:

- a. length;
- b. capacity;
- c. weight;
- d. area;
- e. volume;
- f. time; and
- g. temperature.

9. Solve real-life problems involving measurement using metric units.

10. Apply the appropriate tools and standard units to measure an object or event, i.e.,:

- a. length;
- b. capacity;
- c. weight;
- d. area;
- e. volume;
- f. time; and
- g. temperature.

11. Use appropriate tools and standard units to measure geometric figures, i.e.,:

- a. angles;
- b. circles;
- c. triangles;
- d. squares.

12. Convert measurements to equivalent units within a given system (i.e., U.S. customary or metric system).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2041 (November 2006).

Chapter 9. Science

§901. Standard

A. Adult learners understand the key concepts and principles of science and use this scientific knowledge and scientific ways of thinking for individual and social purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2041 (November 2006).

§903. Benchmark 1—History and Nature of Science

A. Adult learners understand the history and nature of science and illustrate different aspects of scientific inquiry and the human aspects of science.

1. Develop the ability to engage in scientific inquiry.
2. Develop an understanding of the nature of scientific knowledge.
3. Develop an understanding of the history of science.
4. Recognize the relationship between science and technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2041 (November 2006).

§905. Benchmark 2—Physical Science

A. Adult learners recognize the characteristics and interrelationships of matter and energy in the physical world.

1. Identify the different states of matter, recognizes that matter can be made of one or more materials, and that it can change and exist in one or more states.

2. Identify and describe physical properties of objects.
3. Identify and describe structure of atoms.
4. Identify and describe chemical reactions.
5. Identify and describe conservation of energy and matter.
6. Recognize the characteristics of forces and motion and evaluate their interaction.
7. Identify how energy is a property of many substances, occurs in many forms (e.g., heat, light, and electricity), and can be transferred in many ways.
8. Identify and describe interactions of energy and matter.
9. Interpret visual representations in science (e.g., diagrams, formulas).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2041 (November 2006).

§907. Benchmark 3—Life Science

A. Adult learners recognize the characteristics of living organisms, understand their relationship to each other and to their environment, and interpret related scientific data.

1. Recognize the characteristics and basic needs of living things.
2. Recognize and describe the differences between living and non-living things.
3. Describe life cycles.
4. Identify the various systems and functions of the human body.
5. Compare organisms to their environment, e.g.,:
 - a. predator/prey;
 - b. parasite/host;
 - c. food chains; and
 - d. webs.
6. Identify the basic characteristics of the cell.
7. Identify factors affecting heredity.
8. Recognize behavior of organisms.
9. Explore experimental evidence that supports the theory of the origin of life.
10. Interpret visual representations in science (e.g., diagrams, formulas).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2042 (November 2006).

§909. Benchmark 4—Earth and Space Science

A. Adult learners develop an understanding of the composition, processes, and interrelationships of Earth, the solar system, and the universe.

1. Identify the structure and composition of the Earth system.
2. Explain the Earth's relationship to other bodies in the solar system.
3. Recognize evidence for evolution.
4. Describe the energy in the Earth's system.
5. Describe geochemical cycles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2042 (November 2006).

§911. Benchmark 5—Science and Society

A. Adult learners develop an understanding of the importance of environmental quality in the world.

1. Identify ecological systems and their interactions (e.g., air, water, plants).
2. Describe how resources and resource management affect the environment.
3. Recognize the relationships between environmental protection and maintaining quality of life.
4. Recognize how personal choices and responsible actions impact the environment, e.g.,:
 - a. litter;
 - b. irrigation;
 - c. levees; and
 - d. offshore drilling.
5. Recognize personal and community health.
6. Recognize population growth.
7. Recognize risk and benefits.
8. Interpret visual representations of scientific data (i.e., diagrams, charts, and tables).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2042 (November 2006).

Chapter 11. Social Studies

§1101. Standard

A. Adult learners use and apply social studies concepts in a variety of situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2042 (November 2006).

§1103. Benchmark 1—Behavioral Sciences

A. Adult learners apply the behavioral science concepts of psychology, sociology and anthropology to personal and community situations.

1. Describe different family structures and role of moods, emotions, and relationships in a family.
2. Define *bias*, *prejudice* and *personal values*, and give examples of each.
3. Explain and give examples of social stratification, race, ethnicity and gender and their affect on individual beliefs, attitudes, and behavior.
4. Describe the impact of values, and beliefs on specific group behaviors.
5. Describe selected group values and beliefs and how they influence society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2042 (November 2006).

§1105. Benchmark 2—Economics

A. Adult learners employ basic economic concepts, evaluate problems, and make rational choices as a consumer, worker, and citizen.

1. Recognize that individuals and families with limited resources make economic choices.
2. Define and apply the concept of choice by balancing cost with benefits.

3. Recognize and explain the relationship between producers and consumers (supply and demand).
4. Understand that prices in a market economy are determined by the interaction of supply and demand.
5. Use concepts of money management, e.g., :
 - a. interest;
 - b. credit;
 - c. savings;
 - d. investment;
 - e. budget; and
 - f. debt.
6. Recognize and explain the role of banks and other financial institutions in the economy.
7. Recognize that consumers and producers make economic choices based on supply, demand, access to markets and actions of government.
8. Recognize how international trade links countries around the world.
9. Recognize how nations specialize and become interdependent through trade.
10. Recognize and describe how government policies create free or restricted trade.
11. Use tables, graphs, diagrams, and charts of economic information to explain economic trends and patterns at the local level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2042 (November 2006).

§1107. Benchmark 3—Geography

A. Adult learners demonstrate the use of geographic tools to locate and analyze information about people, places and environments.

1. Define and demonstrate knowledge of directions in their local community and state, as well as, on a world map and globe.
2. Draw simple maps to give directions.
3. Recite address including:
 - a. city;
 - b. state;
 - c. zip code;
 - d. parish; and
 - e. country.
4. Recognize that maps and globes represent different views of the world.
5. Describe and define natural features such as:
 - a. landforms;
 - b. bodies of water;
 - c. mountains;
 - d. deserts; and
 - e. natural resources.
6. Locate positions on a map or globe.
7. Interpret and use a map key.
8. Describe the characteristics of maps.
9. Interpret maps, charts, graphs and other geographic information.
10. Define and use longitude and latitude to locate positions on a map or globe.
11. Recognize and locate specific land masses and bodies of water.
12. Describe how people depend on the physical environment and its natural resources to satisfy basic needs.

13. Describe how people can conserve their natural and man-made resources.

14. Describe the purposes of, and differences among, maps, and how maps are both similar to and different from globes and aerial photographs.

15. Describe the cause and effect of selected migrations and world history, as well as, their family's migration history.

16. Describe how people have depended on the physical environment and its natural resources to satisfy their needs and how these needs have an impact on the natural environment.

17. Explain and interpret basic geo-political, population and cultural geography maps, charts, graphs and tables.

18. Describe natural and demographic characteristics of places and use this knowledge to define how regions relate to one another and undergo change.

19. Explain how geographic factors affect human activities.

20. Interpret thematic maps that depict various aspects of the United States and its world trade products, trade routes, and cross-cultural interactions.

21. Identify economic, political, and social patterns that have emerged over the last 50 years.

22. Use geographic knowledge to explain the past, interpret the present, and to anticipate future issues.

23. Explain policies and programs for resource management, including the relationship between environmental quality and economic growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2043 (November 2006).

§1109. Benchmark 4—History

A. Adult learners develop a historical time and perspective as they study the history of their community, state, nation, and world.

1. Sequence days, months, holidays and personal life events in chronological order.
2. Trace the history of a family (i.e., important events, documents, customs) using primary source materials, i.e.,:
 - a. photographs;
 - b. artifacts; and
 - c. interviews.
3. Describe personal family events from the past your family experienced. Consider cultural changes as well as core values and beliefs.
4. Describe how people lived in earlier centuries then explain how their lives would be different today.
5. Describe examples of honesty, courage, determination, and individual responsibility in United States and world history.
6. Sequence key eras in world history, United States history, and Louisiana history over the last millennium.
7. Describe the positive contributions of selected individuals from world history, United States history and Louisiana history.
8. Describe historical examples of architecture, music, art, religion and sports and how they are viewed in the present.
9. Describe the distinctive economy, symbols, customs and oral traditions of Louisiana.

10. Interpret historical data from graphs, tables, pictures, maps and political cartoons.

11. Recognize and understand the impact of key historical places, events, ideas, decisions, and cultures in United States and world history by describing selected cultures of the ancient and medieval world and identify their contributions to world history.

12. Recognize and understand the impact of historical events, ideas, decisions, and cultures in United States and world history by describing selected events from the fifteenth to the twenty-first century and their impact on world history.

13. Use key documents of United States history to analyze past and present issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2043 (November 2006).

§1111. Benchmark 5—Civics

A. Adult learners demonstrate knowledge of the structures, functions and symbols of government and apply these to citizenship.

1. Identify the rights and responsibilities of citizens and gives examples of how citizens use their rights and carry out their responsibilities.

2. Recognize that in order to select effective leaders, citizens have to become informed about candidates' qualifications and the issues they support.

3. Demonstrate how to follow the actions of elected officials and how to communicate with them while in office.

4. Identify the fundamental rights guaranteed in the Bill of Rights and can apply these protections to everyday life.

5. Explain that the United States government is divided into executive, legislative, and judicial branches with specific responsibilities and powers.

6. Demonstrate knowledge of federal, state, and local systems of government by explaining how each system affects their lives.

7. Identify and explain the impact of American democratic idea and actions in selected world events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2044 (November 2006).

Weegie Peabody
Executive Director

0611#002

RULE

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation—Foodservice Management Company Contracts (LAC 28:XLIX.111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX).

Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This bulletin was developed as a result of the necessity to incorporate all federal and state policy changes which have already been implemented by the sponsors. This revision is an update of state policies.

Title 28

EDUCATION

Part XLIX. Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 1. Administration

§111. Permanent Agreement between Sponsor and Louisiana State Department of Education

A. - C.26.a. ...

27. Foodservice Management Company Contracts

a. School food authorities eligible to contract with a for profit entity must use the state approved prototype Food Service Management Company (FSMC) contract if Child Nutrition Program funds are to be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2102 (December 2001), amended LR 29:2022 (October 2003), LR 32:1418 (August 2006), LR 32:2044 (November 2006).

Weegie Peabody
Executive Director

0611#001

RULE

Office of the Governor

Commission on Law Enforcement and Administration of Criminal Justice

General Subgrant Guidelines
(LAC 22:III.Chapter 63)

In accordance with the provision of R.S. 15:1204, R.S. 14:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby adopts rules and regulations relative to subgrants.

Title 22

CORRECTIONS, CRIMINAL JUSTICE, and LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 6. Program Operational Policies

Chapter 63. POST Equipment and Training Grants §6301. Adoption

A. The following operational policies are hereby adopted by the Peace Officer Standards and Training Council pursuant to LAC 22 Part III Subpart 3 Chapter 45, §4511 and shall be effective upon approval of the Louisiana Commission on Law Enforcement as provided therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2044 (November 2006).

§6303. Eligible Agencies

A. In addition to training, Act 562 of the 1986 Legislative Session provides for "assistance" to local law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2045 (November 2006).

§6305. Eligible Purchases

A. Assistance funds may be used to purchase law enforcement or criminal justice-related equipment. These purchases may include, but are not limited to, the following items: portable radios, computer equipment, monitors, printers, scanners, electronic word processors, target systems (no targets), audio-visual equipment, television, VCR, telefax machines, training equipment and supplies, textbooks and manuals, surveillance equipment/cameras (grants for surveillance equipment will require a special condition), body armor (bullet-proof vests), and metal detectors. Video cameras, laptop computers, radio equipment (not radar), and cellular telephones are allowable for police automobiles.

B. When funds are used for portable radios, computers, etc., POST will allow accessories to be purchased with grant funds when used in purchasing a whole package. Example: portable radio with microphone, battery pack and carrying case, etc. It is restricted to purchase a microphone without purchasing the whole package.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2045 (November 2006).

§6307. Funding Restrictions

A. There is a general restriction prohibiting the funding of the following items:

1. all mobile vehicles (automobiles, vans, airplanes, boats, etc.), gasoline, tires, automobile repair and maintenance, insurance, uniforms, leather and accessories, firearms, tazers, and ammunition;

2. all office equipment and furniture: desks, typewriters, file cabinets, chairs, tables, credenzas, lamps, copiers, etc. Certified training academies may purchase copiers, student desks and/or chairs and file cabinets for proper storage of training records;

3. equipment purchased solely for recreational purposes is ineligible for funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2045 (November 2006).

§6309. Renovation

A. Act 562 assistance funds may not be used for renovation. Exceptions to this prohibition may be made by the full commission, if renovations are needed for a locally-funded, accredited academy to maintain compliance with POST standards and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2045 (November 2006).

§6311. Training

A. In lieu of equipment purchases, a regional planning district may request funding to reimburse for in-service, specialized and advanced training costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2045 (November 2006).

§6313. Liquidation Period

A. The liquidation period for all Act 562 assistance grants shall be June 1 of each fiscal year. Use of residual funds during the year-end liquidation period is limited to those agencies who submit revenues on a regular basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:2045 (November 2006).

Michael A. Ranatza
Executive Director

0611#017

RULE

**Office of the Governor
Division of Administration
Office of Community Development**

**Local Government Assistance Program
(LAC 4:VII.Chapter 23)**

Under authority of House Bill 2 (Act 27) of the 2006 Regular Legislative Session, and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Division of Administration, Office of Community Development has adopted LAC 4:VII.Chapter 23.

The Rule will serve as guidelines for units of local government to apply for grants from the Office of Community Development for infrastructure related projects. The Rule addresses the following areas of purpose, application process, payments and reimbursements, and programmatic assurances.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 23. Local Government Assistance Program

§2301. Purpose

A. The Local Government Assistance Program (LGAP) provides financial assistance to local units of government in rural areas. The LGAP program will be administered by the Office of Community Development (OCD).

B. All municipalities and parishes within the state of Louisiana are eligible to apply for assistance except the following HUD (Housing and Urban Development) entitlement cities: Alexandria, Baton Rouge, Bossier City, Kenner, Lafayette, Lake Charles, Monroe, New Orleans and Shreveport.

C. Local government classifications are defined as: Villages (pop. 1-999), Towns (pop. 1,000-4,999), Cities (pop. 5,000-35,000) and Parish governments.

D. OCD shall develop an application procedure satisfying the purposes and intentions of the LGAP.

E. The Office of Community Development applies the following guidelines to any project or activity funded.

1. At the start of each fiscal year, the executive director of OCD shall determine the equal funding level for all eligible parishes based on the total amount budgeted as aid to local governments for LGAP grants.

2. Applications will only be accepted for the following eligible activities; fire protection, sewer, water, renovations to essential governmental buildings, police protection, land acquisition, demolition, equipment, roads, drainage, and reasonable engineering costs (if associated with construction).

3. In some cases, an exception may be made to the eligible activities. In those instances, an overwhelming case must be made for the need for the project and documentation must be included which supports that the project will alleviate the identified health, safety, or quality of life concerns of the citizens of the locality.

4. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party. Also, funds cannot be used to pay for previously incurred debt, improvements to private property, overtime for government employees, administration, engineering only or planning only projects. LGAP funds are not intended for salary only projects or ongoing salaried positions.

5. Parish governments may request funding for projects that serve a parish-wide area or an unincorporated area within the parish.

6. Applicants may not exceed stated funding levels as outlined in the LGAP application guidelines for any fiscal year, except in those circumstances where other eligible applicants within each parish agree by resolution to allow funding levels to be exceeded.

7. Two-year contracts shall be issued for LGAP grants by OCD. Contract extensions and changes to the project must be requested in writing by the grantee and approved in writing by the executive director of OCD.

AUTHORITY NOTE: Promulgated in accordance with Act 27 of the 2006 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 32:2045 (November 2006).

§2303. Application Process

A. LGAP applications are available from the Office of Community Development to all municipalities and parishes that request them. All requests for information may be submitted via mail to the Office of Community Development, P.O. Box 94095, Baton Rouge, LA 70804-9095.

B. Applications will be rated by OCD staff and award amounts will be based upon predetermined internal rating criteria.

C. All applicants must be authorized by law to perform governmental functions, and must be subject to state audit.

D. The most recent available population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature (the funding is outlined in OCD application guidelines for LGAP funds).

E. There will be a level of funding set aside for applications that are determined to be of an emergency nature. Any unused emergency funds will be reallocated through the regular program.

AUTHORITY NOTE: Promulgated in accordance with Act 27 of the 2006 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 32:2046 (November 2006).

§2305. Payments and Reimbursement

A. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the stated purpose identified in the approved application.

B. Payment shall be made to the grantee upon production of invoices and approval of the grantee's request for payment by OCD, according to the contract.

C. Use of grant funds for any project other than that described in the contract will be grounds for OCD to terminate the contract and revoke the funds for the project.

D. All invoices related to the project are the responsibility of the grantee, and must be submitted to and approved by OCD before the funds will be released to the grantee. The grantee remains responsible for payments to its vendors.

AUTHORITY NOTE: Promulgated in accordance with Act 27 of the 2006 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 32:2046 (November 2006).

§2307. Programmatic Assurances

A. The grantee will hold harmless the State of Louisiana, Division of Administration, Office of the Governor, and Office of Community Development as a term and condition of the contract.

B. OCD will de-obligate funds from any unexpended amount; whether by failure to start a project in the agreed upon time frame in the contract or by unexpended funds in an officially closed project, or from revoked grant awards. All de-obligated funds will be reallocated through the regular program.

C. Failure of the grantee to abide by any article of the local agency assurances section of the grant application or the contract, including state audit procedures, federal and state laws, state ethics rules and policy guidelines of OCD, shall result in revocation of the grant award and the grantee will be required to repay the project funds to OCD.

D. No grantee will be allowed more than two open LGAP grants.

E. The grantee will assure that it will comply with R.S. 24:513 (State Audit Law), and state of Louisiana public bidding procedures, as well as comply with all other relevant federal and state laws, executive orders, and/or regulations. Failure to comply with any part of this contract will result in termination of this grant and will require that all funds paid be returned to the Office of Community Development.

AUTHORITY NOTE: Promulgated in accordance with Act 27 of the 2006 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 32:2046 (November 2006).

Michael Taylor
Director

0611#054

RULE

Office of the Governor Division of Administration Office of Facility Planning and Control

Capital Improvements Projects Procedure Manual (LAC 34:III.101, 105, 107, 109 and 113)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, The Division of Administration, Facility Planning and Control has amended Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control, Chapter 1, Capital Improvement Projects, Subchapter A., Procedure Manual. These rule changes are the result of a review by Facility Planning and Control of the potential liability assumed by the state of Louisiana by taking responsibility for geotechnical investigation, topographic surveys and other site surveys by having them prepared and providing them to the designer. The increasing use of these surveys to make design decisions that are properly part of the designer's responsibility has increased the potential liability for the state and prompted this change. The change will make geotechnical investigation, topographic surveys and other site surveys part the designer's contract and make him fully responsible for them. He will be reimbursed by the owner for the direct cost.

This review also indicated the need to clarify the language regarding how the designer's compensation is affected by changes in the construction cost estimate and change orders. The changes will reduce the potential for unwarranted charges.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§101. Condition of the Contract

A. The Louisiana Capital Improvement Projects Procedure Manual for Design and Construction, 2006 Edition, herein referred to as the "procedure manual" or the "manual" and any amendments thereto, as published by Facility Planning and Control, shall be a part and condition of the contract between owner and designer, herein referred to as the "contract."

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

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

(September 1985), LR 31:1076 (May 2005), LR 32:2047 (November 2006).

§105. Owner-User Agency Responsibilities

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

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

D. - F. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 31:1076 (May 2005), LR 32:2047 (November 2006).

§107. Construction Budget (AFC)

A. - B. ...

C.1. At the completion of the program completion phase, as stated hereinafter in §113, the designer shall determine whether the funds available for construction are realistic for the project when compared with the completed program. At this point, or at any other submissions of probable construction cost by the designer, if such probable construction cost is in excess of funds Available for Construction (AFC), the owner shall have the option to:

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

b. provide additional funds to increase the funds available for construction (AFC); or

c. abandon or suspend the project.

2. Any adjustment in the funds available for construction during design shall include an appropriate adjustment in the fee.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1076 (May 2005), LR 32:2047 (November 2006).

§109. Compensation

A. - B.1. ...

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

B.3. - E. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:474 (September 1982), amended LR 11:850 (September 1985), LR 31:1077 (May 2005), LR 32:2047 (November 2006).

§113. Designer's Services

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

d. The designer shall, as part of this contract, provide all geotechnical investigations, topographic surveys and other site related information necessary for the design of the project. The designer shall obtain one or more proposals from registered land surveyors and geotechnical engineers when required for the project and recommend to the owner for his approval. The owner will contract directly for such services or may, with the agreement of the designer, include them in the designer's contract to be paid separately from the fee.

A.1.e. - C.5. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:475 (September 1982), amended LR 11:851 (September 1985), LR 31:1079 (May 2005), LR 32:2048 (November 2006).

Jerry Jones
Director

0611#013

RULE

Office of the Governor Division of Administration Office of Facility Planning and Control

Demolition or Disposing of State-Owned Buildings (LAC 34:III.701)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of R.S. 39:121, the Division of Administration, Office of Facility Planning and Control has amended LAC 34:III.701, Demolition or Disposing of State-Owned Buildings. This rule change is the result of Act 13, 2006 which gives the Director of Facility Planning and Control the authority to approve immediate demolition of buildings under emergency conditions. Three typographic errors have also been corrected.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 7. Demolition or Disposing of State-Owned Buildings

§701. Preface

A. Act 537 of 1982 enacted R.S. 38:2212.2 to provide for the demolition of state buildings. The statute prohibits the demolition of state buildings unless the appropriate legislators have been notified and unless disposition has been approved by the Office of Facility Planning and

Control (FPC). Following are the procedures adopted and promulgated pursuant to this statute.

1. - 3. ...

4. Copies of the field engineer inspection report are sent to the user agency and to the Louisiana Property Assistance Agency. Contents of the report may require a response from the agency.

5. If it is determined by the office of facility planning and control that a building or structure has been damaged as a result of fire, hurricane, or natural disaster and imminent danger is presented to life or property, the director of facility planning and control, division of administration, may approve a request to raze or demolish a building or structure immediately after legislative notification has been issued.

6. If capital outlay funds are to be used for demolition, Facility Planning and Control will authorize contracts to be awarded for the demolition. When the demolition has been completed, Facility Planning and Control will notify the State Land Office and Office of Risk Management so the building can be removed from the statewide building inventory and insurance coverage will be deleted.

7. If other than capital outlay funds are to be used, the user agency will be responsible for demolition of the structure in accordance with state purchasing laws and regulations. When the demolition has been completed the user agency must notify the State Land Office and the Office of Risk Management so the building can be removed from the statewide building inventory and insurance coverage will be deleted.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 20:47 (January 1994), amended LR 32:2048 (November 2006).

Jerry W. Jones
Director

0611#014

RULE

Office of the Governor Division of Administration Office of Facility Planning and Control

Performance Based Energy Efficiency Contracting (LAC 34:V.105)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of R.S. 39:1490(B), the Division of Administration, Office of Facility Planning and Control hereby amends Title 34, Government Contracts, Procurement and Property Control, Part V, Procurement of Professional, Personal, Consulting and Social Services, Chapter 1, Procurement and Property Control, Part V, Procurement of Professional, Personal, Consulting and Social Services, Subchapter A, General Provisions. This Rule change amends the previous Rule so as to comply with Act 604 of the 2006 Regular Session of the Louisiana Legislature. The effect of this Rule change is to remove the Department of Natural Resources from the process of review and evaluation of performance based

energy efficiency contracts and removes the requirement that the commissioner of administration consult with the DNR to adopt rules and regulations to implement the performance-based energy efficiency contract process.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part V. Procurement of Professional, Personal, Consulting and Social Services

Chapter 1. Procurement of Professional, Personal, Consulting and Social Services

Subchapter A. General Provisions

§105. Performance-Based Energy Efficiency Contracting

A. Preparation of Requests for Proposals

1. Performance contracts shall be considered to be consulting services contracts under the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and shall be awarded in accordance with the provisions of that Chapter, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section.

2. Prior to its preparation of an RFP, a state agency, as defined in R.S. 39:2 (hereinafter, "user agency") shall perform a needs analysis in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and the rules and regulations promulgated by the Division of Administration, through its Office of Contractual Review ("OCR") pursuant to that Chapter. Such needs analysis shall be in a form approved by the Commissioner of the Division of Administration or his designated agent and shall include a detailed audit of energy use.

3. Prior to its preparation of an RFP, a user agency shall submit its needs analysis to the Commissioner of the Division of Administration or his designated agent for approval.

4. Upon approval of a user agency's needs analysis pursuant to this Section, such user agency shall prepare an RFP in a form approved by OCR, which form shall require proposers to separately itemize the costs and savings associated with each proposed energy cost savings measure ("ECSM"). In accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and the rules and regulations promulgated by OCR pursuant to that Chapter, every RFP shall indicate the relative importance of price and other evaluation factors, shall clearly define the tasks to be performed under the performance contract, the criteria to be used in evaluating the proposals and the time frames within which the work must be completed. Prior to advertising its RFP, a user agency shall submit it to the Commissioner of Administration or his designated agent and obtain his written consent to the advertisement of the RFP.

5. Upon approval of a user agency's RFP, such user agency shall advertise its RFP in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and the rules and regulations promulgated by OCR pursuant to that Chapter.

B. Evaluation of Submitted Proposals

1. A user agency shall review any proposals it timely receives in response to its RFP and shall submit to the Office of Facility Planning and Control ("FPC") the results of its review, along with each proposal that is responsive and responsible and otherwise in accordance with the provisions

of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section. A user agency shall not make a final selection from among the proposals it submits to FPC.

2. Prior to the award of any performance contract, FPC shall evaluate all proposals submitted by a user agency for that performance contract. In its evaluation, FPC shall include suggestions, if appropriate, for the resolution of any unique issues arising in connection with a particular proposed performance contract. FPC's evaluation shall also include, but not be limited to, a consideration of the following:

a. whether proposed ECSMs are in compliance with the provisions of R.S. 39:1496.1;

b. whether proposed ECSMs will generate net savings, as those terms are defined in Subsection E of this Section; and

c. whether the proposed protocol for measuring and verifying the energy savings guaranteed in the contract conforms to the latest standards set forth by the International Performance Measurement and Verification Protocol.

3. FPC shall, within 60 days of the receipt of the submitted proposals, forward to the Commissioner of Administration or his designated agent its written evaluation of the submitted proposals, along with the results of the review of the submitted proposals by the user agency. FPC shall not make a final selection from among the proposals it forwards to the Commissioner of the Division of Administration except if FPC has been designated as the Commissioner's agent for that specific purpose.

4. Prior to the award of any performance contract, the Commissioner of the Division of Administration or his designated agent may retain an independent consultant in accordance with this Section. Such independent third-party consultant shall evaluate all proposals and written evaluations submitted to the Commissioner of the Division of Administration or his designated agent. Such evaluation shall be in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section. After completing its evaluation, an independent consultant shall submit to the Commissioner of the Division of Administration or his designated agent the written results of such evaluation. An independent consultant shall not make a final selection from among the proposals it evaluates.

5. Prior to retaining an independent third-party consultant pursuant to this Section, the Commissioner of the Division of Administration or his designated agent shall require every proposed independent consultant to execute a written certification verifying that he or she has no direct conflict of interest as to the user agency that requested the proposals to be evaluated, the proposals themselves and/or those who submitted the proposals to the user agency. Such written certification shall be in a form approved by the legislative auditor. In order to assist the legislative auditor in verifying the independence of a proposed independent consultant, such proposed independent consultant shall provide to the legislative auditor any documentation or information the legislative auditor requests. A proposed independent consultant shall not be retained, unless the legislative auditor has determined that such proposed

independent consultant has no direct conflict of interest as to the user agency that requested the proposals to be evaluated, the proposals themselves and/or those who submitted the proposals to the user agency.

6. After completing his review of the submitted proposals and evaluations prepared by the independent consultant, if any, pursuant to this Section, the Commissioner of the Division of Administration or his designated agent shall provide written notification to a user agency that the Commissioner of the Division of Administration or his designated agent has consented to the award of a performance contract to a specified energy services company ("ESCO") or that he has not consented to the award of a performance contract. Pursuant to the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section, such consent shall be given to the responsible ESCO whose proposal is determined by the Commissioner of the Division of Administration or his designated agent to be the most advantageous to the state of Louisiana, taking into consideration all of the evaluation factors set forth in the RFP, as well as any evaluations or recommendations provided by the user agency, and the independent consultant, if any. In the event that the Commissioner of the Division of Administration or his designated agent determines that consent to the award of a performance contract would not be advantageous to the state of Louisiana, he shall provide the user agency with written reasons for his decision to withhold his consent.

7. Except as explicitly set forth in this Section, no party shall disclose information derived from submitted proposals prior to the consent by the Commissioner of the Division of Administration or his designated agent to the award of a performance contract to a specified ESCO.

C. Negotiation of Performance Contracts

1. A user agency shall negotiate with an approved ESCO a performance contract in a form approved by OCR. The process of such negotiation shall be in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section. The Commissioner of the Division of Administration or his designated agent may require that an independent consultant retained pursuant to this Section participate on behalf of a user agency in the negotiation of a performance contract with an approved ESCO.

a. Notwithstanding any other provisions of this Section, every performance contract negotiated pursuant to this Section shall set forth the total units of energy saved, the method, device or financial arrangement to be used to establish the amount of such savings, the cost per unit of energy and, if applicable, the basis for any adjustment in the cost per unit of energy during the term of the contract.

b. Notwithstanding any other provisions of this Section, every performance contract negotiated pursuant to this Section shall, with respect to each ECSM included in such performance contract and in addition to fulfilling any other requirements set forth in this Section, state the following:

i. the detailed scope of work to be performed pursuant to the performance contract;

- ii. the initial price to be paid by the user agency;
- iii. the annual energy cost savings guaranteed by the ESCO;
- iv. the annual maintenance savings guaranteed by the ESCO, including, but not limited to, services, parts, materials, labor and equipment;
- v. the annual new maintenance costs, including operating expenses added as a result of new equipment installed or service performed by the ESCO; and
- vi. the total annual savings guaranteed by the ESCO. *Total annual savings* means annual energy cost savings plus annual maintenance savings minus annual new maintenance costs.

c. Notwithstanding any other provisions of this Section, no payment shall be made to an ESCO pursuant to a performance contract unless such performance contract complies with Paragraph C.1.

2. The term of every performance contract negotiated pursuant to this Section and term of any obligation incurred by a user agency to fund a performance contract shall be for a period equal to the lesser of 20 years or the average life of the equipment installed by the ESCO and shall contain a guarantee of energy savings, which guarantee shall, at a minimum, ensure total annual savings sufficient to fully fund any financing arrangement entered into pursuant to such performance contract.

3. Every performance contract negotiated pursuant to this Section shall contain the following clause: "The continuation of this contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the contract. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, the contract shall terminate on the last day of the fiscal year for which funds have been appropriated. Such termination shall be without penalty or expense to the agency, board or commission except for payments which have been earned prior to the termination date."

4. A user agency shall submit a negotiated performance contract to OCR for its review and approval. A user agency's submission of a negotiated performance contract shall be in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section.

5. At the time a performance contract is executed, the contracting ESCO shall submit a certified or cashiers check, payable to the Commissioner of the Division of Administration or his designated agent, in a sum equal to no more than 2 1/2 percent of the total value of the proposed performance contract. The percentage of such total value and the means of calculating such total value shall be determined by the Commissioner of the Division of Administration or his designated agent and shall be set forth in the performance contract.

D. Audits of Performance Contracts

1. An ESCO that enters into a performance contract shall provide the user agency with all performance information and other reports required by the performance contract.

a. An ESCO's reports to the user agency shall conform with the standards of the International Performance Measurement and Verification Protocol.

b. An ESCO's reports to the user agency shall, in addition to fulfilling any other requirements set forth in its performance contract or in this Section, state the following:

- i. the name of the user agency;
- ii. the ESCO's name and address;
- iii. whether the payment obligation under the performance contract is either:

(a). set as a percentage of the annual energy cost savings attributable to the services or equipment under the performance contract; or

(b). guaranteed by the ESCO to be less than the annual energy cost savings attributable to the services or equipment under the performance contract;

iv. the total annual savings guaranteed by the ESCO;

v. the total amount the user agency is required to pay under the performance contract and the term of the contract;

vi. the total amount paid to date by the user agency and the amount paid each year to date under the performance contract;

vii. any costs paid by the user agency which were associated with the set-up or maintenance of the performance contract or with repair or maintenance of the equipment used under the performance contract;

viii. the annual cost to the user agency of energy or other utilities beginning two years prior to operation of the performance contract and during the operation of the performance contract; and

ix. the annual energy cost savings each year, shown also as a percentage of the annual amount to be paid by the user agency under the performance contract. When calculating annual energy cost savings, maintenance savings shall be included. *Maintenance savings* means operating expenses eliminated and future capital replacement expenditures avoided by the user agency as a result of new equipment installed or services performed by the ESCO.

2. Upon a request by a user agency, by the Commissioner of the Division of Administration or his designated agent or by the legislative auditor, an ESCO shall provide any working documents, accounting records or other materials relating to costs, pricing or any other aspect of the ESCOs performance pursuant to a performance contract. Documents, records and other materials provided by an ESCO in accordance with this Section shall be subject to review and verification by a user agency, by the Commissioner of the Division of Administration or his designated agent, by the legislative auditor, or by an independent third party selected by a user agency, by the Commissioner of the Division of Administration or by the legislative auditor.

3. User agencies shall provide to the legislative auditor copies of all performance information and other reports submitted by an ESCO pursuant to a performance contract or this Section. The legislative auditor shall conduct periodic audits of performance contracts, both during the term of such performance contracts and upon the completion of such performance contracts.

E. Retention by User Agencies of Net Savings Generated by Energy Cost Savings Measures

1. Pursuant to R.S. 39:254.B(1), a user agency that is able to demonstrate net savings from implementing an ECSM by means of a performance contract may retain its net savings relating to such ECSM, until the investment costs of implementing the ECSM are paid in full, and thereafter may retain one half of such net savings over the remaining useful life of the ECSM. Such retained net savings shall be from funds appropriated or allocated to the user agency for utility costs.

2. The Commissioner of the Division of Administration or his designated agent shall develop and promulgate such rules and regulations as are necessary to provide for the measurement and verification of net savings relating to ECSMs.

3. For the purposes of these rules, ECSM refers to a repair, equipment modification, procedure, course of action or other step taken which lowers energy costs.

4. For the purposes of these rules, *net savings* from the implementation of ECSMs shall be defined as measurable and verifiable energy cost savings that directly result from such implementation and shall be determined in accordance with the following provisions.

a. ESCOs shall employ energy savings measurement techniques that embody the best practical methods of determining net savings generated by the ECSMs to be evaluated. Such measurement techniques shall be fully defined and set forth in the RFP and performance contract that includes the ECSMs. In selecting a measurement technique, an ESCO shall consider the complexity of the ECSM to be evaluated and other factors that may affect energy use, such as changes in the mission of a facility, population, space utilization and weather.

b. Energy savings measurement may be based upon estimates, calculations or computer models, if metering is not practical.

c. Every RFP and performance contract shall set forth in detail the method to be used by an ESCO in order to determine the unit energy costs by which an energy baseline and energy savings are to be multiplied. For the purposes of these rules, an energy baseline shall be defined as the amount of energy that would be consumed annually without implementation of a given ECSM and shall be based upon historical metered data, engineering calculations, submetering of buildings or other energy-consuming systems, building load simulations, statistical regression analysis, or some combination of these methods.

d. The selection of every energy savings measurement technique and method of determining unit energy costs or energy baseline shall be subject to the approval of the Commissioner of the Division of Administration or his designated agent, who shall have the authority to modify such techniques and methods if he determines, in his sole discretion, that such modification is warranted by changed conditions or other circumstances affecting the accuracy or appropriateness of such techniques and methods.

e. Net savings must be real savings of money that the state of Louisiana either is currently spending or has budgeted to spend in the future. Such money must be available in the state's budget for payments against the performance contract involved. Net savings may be either recurring or one-time cost savings.

f. Examples of net savings shall include, but not be limited to, recurring operation, maintenance and repair tasks, which are currently performed by the state or its agents and which are directly related to the energy-consuming system affected by an ECSM. The savings associated with such tasks shall be net savings, if the ESCO assumes such tasks, reduces the burden of such tasks or eliminates such tasks. The Commissioner of the Division of Administration or his designated agent shall determine whether an ESCO's action with respect to a given recurring task generates net savings and shall determine the value of such net savings.

g. Net savings may also include one-time cost savings of money budgeted by the state and available to fund a project or task that is made unnecessary by the implementation of an ECSM. The Commissioner of the Division of Administration or his designated agent shall determine whether an ESCO's action with respect to a given one-time project or task generates net savings and shall determine the value of such net savings.

h. Any utility company rebates or other incentives arising in connection with the implementation of an ECSM shall be the property of the user agency. An ESCO shall provide any assistance necessary in order to permit a user agency to apply for and receive such rebates or other incentives.

F. Grandfathered Performance Contracts

1. Notwithstanding any other provision of this Section, where an RFP or a proposed performance contract is exempt from the application of Subparagraphs (a) through (d) of R.S. 39:1496.1.E(1), the selected ESCO shall, at the time a performance contract is executed, submit a certified or cashiers check, payable to the Commissioner of the Division of Administration or his designated agent, in a sum equal to no more than 1 percent of the total value of the proposed performance contract. The percentage of such total value and the means of calculating such total value shall be determined by the Commissioner of the Division of Administration or his designated agent and shall be set forth in the performance contract.

2. Where an RFP or a proposed performance contract is exempt from the application of Subparagraphs (a) through (d) of R.S. 39:1496.1.E(1), such RFP or proposed performance contract shall not be subject to the application of Subsection A or B of this Section but shall be subject to the remaining provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office Facility Planning and Control, LR 31:640 (March 2005), amended LR 32:2049 (November 2006).

Jerry W. Jones
Director

0611#047

RULE

Office of the Governor Division of Administration Office of Information Technology

Submitting and Receiving Electronic Bids (LAC 4:XV.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and in order to comply with the legislative mandates of Act 831 of the 2003 Regular Session and Act 203 of the 2006 Regular Session of the Louisiana Legislature, the Office of the Governor, Division of Administration, Office of Information Technology (OIT), has adopted standards relative to submitting and receiving electronic bids.

Title 4

ADMINISTRATION

Part XV. Information Technology

Chapter 7. Submitting and Receiving Electronic Bids for Public Works Contracts and for the Purchase of Materials and Supplies by Political Subdivisions

§701. General Provisions

A. Electronic bid is to be an alternative, rather than exclusive, method to a paper bid.

B. In addition to including the information required for paper bidding, when accepting bids electronically, the advertisement must:

1. specify any special condition or requirement for the submission;

2. contain the electronic address of the public entity.

C. Online Service Provider Minimum Requirements

1. Compliance with applicable law and rules:

a. Public Works contract law—R.S. 38:2212;

b. materials and supplies contract law—R.S. 38:2212.1;

c. the Louisiana Uniform Electronic Transaction Act—R.S. 9:2601-2619, particularly R.S. 9:2619(A) which provides that the commissioner of administration shall encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this state, other states, federal government, and nongovernmental persons interacting with governmental agencies of this state [R.S. 9:2619(A)] while recognizing that, if appropriate, standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing most appropriate standard for particular application. [R.S. 9:2619(B)];

d. Louisiana Administrative Code, Title 4, Part XV, Chapter 7—"Implementation of Electronic Signatures in Global and National Commerce Act—P.L. 106-229";

e. security standards promulgated by the Office of Information Technology of the state's Division of Administration.

2. Be accessible over Internet via a modem or a network connection.

3. Be available daily, 7 days a week, 24 hours daily, except for maintenance, and be reliable with better than 99.95 percent uptime with backup.

4. Provide two-way service—publishes on the Internet public works bid-related information from the political subdivision to the contracting community, and allows online, secure public works bid submission from the contracting community to the political subdivision.

5. Automatically send bid receipt to bidder whenever a bid is submitted to the provider, with the receipt digitally signed by the provider and using the same technology used by the bidder to sign the bid.

6. Have accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

7. Ensure that bid cannot be read by anyone until the public bid opening. When bid is submitted to the provider, bid must be encrypted before sending using the political subdivision's key. Encryption level must ensure security.

8. Ensure that if a bidder requests that an electronic bid be withdrawn before the bid deadline, it will not be passed on, or be accessible, to the political subdivision.

9. Ensure that only the last electronic bid submission from a person is kept and passed on, or made accessible, to the political subdivision.

10. Ensure that bid is not passed on, or accessible, to political subdivision until the public bid opening.

11. Enable electronic bid bond submission and verification with at least two participating surety agencies.

12. Ensure secure digital signature.

13. Uses public/private key pair technology for encrypting and digitally signing documents.

14. Provide telephone support desk, at a minimum, from 8 a.m. to 7 p.m., Monday through Friday, except for legal holidays. Provides voice mail after business hours with messages being addressed the next business day. E-mail and fax support addresses are available 24 hours a day and be answered the next business day.

AUTHORITY NOTE: Promulgated in accordance with Act 831 of the 2003 Regular Session of the Louisiana Legislature and Act 203 of the 2006 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 32:2052 (November 2006).

Rizwan Ahmed
Chief Information Officer

0611#055

RULE

Office of the Governor Louisiana Recovery Authority

Policies of Operation
(LAC 4:VII.Chapter 25)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Louisiana Recovery Authority, pursuant to authority vested in the Louisiana Recovery Authority by R.S. 49:220.1 et seq., adopted Rules governing the Louisiana Recovery Authority Board, LAC 4:VII (Chapter 25), to provide for the operation and governance of the Louisiana Recovery Authority Board and task forces and committees of the board.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 25. Louisiana Recovery Authority

§2501. Board Members, Terms of Office, Expense Reimbursement

A. The Louisiana Recovery Authority Board shall provide leadership and oversight for the activities of the Louisiana Recovery Authority. The board shall consist of 33 members. Twenty-nine members shall be appointed by and serve at the pleasure of the governor subject to Senate confirmation with no less than two members appointed from each congressional district. In addition to the appointed members, the speaker and speaker pro tempore of the House of Representatives and the president and president pro tempore of the Senate, or their designees who shall be members of the Louisiana Legislature, shall be members of the board.

B. Appointed board members shall serve six year staggered terms. Of the initial members appointed, no more than nine members shall serve terms of two years, no more than 10 members shall serve terms of four years and no more than 10 members shall serve terms of six years, as designated by the governor.

C. Vacancies in the office of an appointed board member shall be filled in the manner of the original appointment for the remainder of such term.

D. Appointed members of the board shall serve without compensation, but may be reimbursed for reasonable and necessary travel expenses upon the approval of the chairman in accordance with the State General Travel Regulations, PPM 49. Ex officio members of the board may seek per diem and mileage reimbursement in accordance with the rules of his respective house of the legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2053 (November 2006).

§2503. Selection of Chairman and Vice Chairman, Election of Other Officers

A. The chairman and vice chairman of the board shall be selected by the governor. The board may elect other officers as it deems necessary to provide functions required as assigned by the board.

B. The chairman of the board shall be the principal executive officer of the board and shall, in general, supervise and control all of the business and affairs of the board. The chairman shall, when present, preside at all meetings and shall perform duties incident to the office of the chairman and other such duties as may be prescribed by the members of the board from time to time.

C. The vice chairman shall perform the duties of the chairman in the absence of the chairman or in the event of his death, inability, or refusal to act. When acting as the chairman, the vice chairman shall have all the powers of and be subject to all the restrictions placed upon the chairman. The vice chairman shall perform such other duties as from time to time may be assigned to him by the chairman or members of the board.

D. In the event the board creates the office of secretary, the secretary shall keep the minutes of the meetings in one or more books provided for that purpose, see that all notices are

duly given in accordance with the provisions of state law, be custodian of the board records and keep a register of the post office address of each member which shall be furnished to the secretary by such member, and, in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the chairman or by the members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2053 (November 2006).

§2505. Meetings

A. The board shall meet according to a schedule established by the board, at the call of the chairman, and as otherwise provided by the board.

B. Notice of meetings shall be given to board members and to the general public in accordance with R.S. 42:7.

C. All meetings of the board shall be open, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2054 (November 2006).

§2507. Committees and Task Forces

A. The board shall appoint an audit committee to ensure best practices and procedures in the management of any funds received, expended, or disbursed by the Louisiana Recovery Authority. The audit committee shall receive and review all reports produced by the inspector general, the legislative auditor, the independent accounting firm or firms engaged by the state or any agency of the state, and by any audit firm or firms retained by the Louisiana Recovery Authority. The audit committee shall present all findings of such reports to the board and make recommendations to the board as appropriate.

B.1. In addition to the audit committee, the board may also create task forces and committees as appropriate which may include members of the board and other stakeholders and conduct work through the use of such task forces and committees, provided that all final decisions shall be by a vote of the board.

2. Task forces and committees shall include, but not be limited to, the following subject areas:

- a. Economic and Workforce Development;
- b. Public Safety;
- c. Infrastructure and Transportation;
- d. Housing;
- e. Environmental;
- f. Public Health and Healthcare;
- g. Human Services;
- h. Education;
- i. Long Term Community Planning;
- j. Federal Legislation;
- k. State and Local Legislation;
- l. Coastal Protection.

C. The chairman of the board shall appoint the chairman, vice chairman, and members of each task force and committee and shall also appoint members to fill vacancies

created on task forces and committees, unless otherwise provided by law or these rules.

D. Task forces and committees shall meet at the call of their respective chairman and as otherwise provided by the board.

E. Notice of meetings shall be given to task force and committee members and to the general public in accordance with R.S. 42:7.

F. All meetings of the task forces and committees shall be open, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2054 (November 2006).

§2509. Rules of Order

A. All meetings of the board, committees, and task forces shall be conducted in accordance with *Robert's Rules of Order*, unless otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2054 (November 2006).

§2511. Manner of Acting

A. The act of the majority of the members present at a meeting at which a quorum is present shall be the act of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2054 (November 2006).

§2513. Voting

A. Each member of the board entitled to vote as provided by law shall be entitled to one vote, which he must be present to cast. The vote for officers and upon any question before the meeting shall be by viva-voce and shall be recorded in the meeting minutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2054 (November 2006).

§2515. Order of Business, Public Comments

A. The order of business for all meetings shall be as follows:

1. roll call;
2. reading and approval of minutes of preceding meeting;
3. reports of officers;
4. reports of committees or task forces;
5. unfinished business;
6. public comment;
7. new business;

B. The board shall receive public comments from interested individuals who have submitted cards requesting time to speak regarding an agenda item before the board, prior to taking a vote on such item. The board may also allow for public comments at other times during a board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:220.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Recovery Authority, LR 32:2054 (November 2006).

Andy Kopplin
Executive Director

0611#059

RULE

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

Corporate Title
(LAC 10:I.1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions promulgates the following Rule to implement the parity provisions of R.S. 6:902(B) to provide state chartered savings and loan associations with the same authority consistent with federal associations in furtherance of an incidental to the exercise of the powers of associations chartered by this office.

Title 10

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

Part I. Financial Institutions

**Chapter 13. Powers of Homesteads and Building and
Loan Associations**

§1301. Corporate Title

A. A federal savings association may use the word "bank" in its title since this word is not considered to misrepresent the nature of this institution or the services it offers. Similarly, R.S. 6:712(A) states that "an association shall not adopt a corporate name which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation." Since savings associations are chartered to conduct the "business of banking," as defined in R.S. 6:2(3), the commissioner deems it necessary and in the best interest of state-chartered associations to grant parity with federal savings associations and allow the inclusion of the word "bank" in their corporate names.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by Office of Governor, Office of Financial Institutions, LR 32:2055 (November 2006).

John Ducrest
Commissioner

0611#043

RULE

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

Investment Adviser Registration Procedure
(LAC 10:XIII.1301-1311)

The Office of the Governor, Office of Financial Institutions, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and specifically with R.S. 51:703(D) as amended, of the Louisiana Securities Law, (hereinafter referred to as "LSL"), hereby adopts LAC 10:XIII.1301-1311, Investment Adviser Registration Procedure. This text has been adopted to place a requirement on Louisiana state-registered investment adviser firms that in order for such firms to be registered with the commissioner, all of their investment adviser representatives must either satisfy the examination criteria set out in Section 1303 or qualify for one of the waivers set out in Section 1305. This Rule has been adopted to ensure that all investment adviser representatives are properly qualified to provide investment advice to Louisiana citizens. This Rule shall become effective on January 1, 2007.

Title 10

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

Part XIII. Investment Securities

Subpart 1. Securities

**Chapter 13. Investment Adviser Registration
Procedure**

§1301. Definitions

A. *Federal Covered Adviser*—an investment adviser firm required to be registered with the U.S. Securities and Exchange Commission pursuant to Section 203 of the Investment Advisers Act of 1940.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2055 (November 2006), effective January 1, 2007.

§1303. Examination Requirements

A. Any investment adviser firm applying for registration under R.S. 51:703(D), or renewal of any such registration, shall provide the commissioner with proof that each of its investment adviser representatives has met one of the two following examination requirements:

1. successfully passed the Uniform Investment Adviser Law Examination (Series 65 examination); or

2. successfully passed the General Securities Representative Examination (Series 7 examination) and the Uniform Combined State Law Examination (Series 66 examination).

AUTHORITY NOTE: Promulgated in accordance with R.S.51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2055 (November 2006), effective January 1, 2007.

§1305. Waivers

A. The examination requirement set out in §1303 above, shall not apply to any individual who holds one of the following professional certifications:

1. Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.;
2. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania;
3. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;
4. Chartered Financial Analyst (CFA) awarded by the CFA Institute;
5. Chartered Investment Counselor (CIC) awarded by the Investment Adviser Association; or
6. such other professional certifications as the commissioner may approve upon written request from an applicant for registration. Such request shall include sufficient information regarding the certifying organization and its requirements, as determined by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007.

§1307. Continuing Education

A. Investment adviser representatives subject to this rule shall complete the continuing education and/or recertification requirements necessary to maintain such examination or professional certification standards.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007.

§1309. Grandfather Provision

A. Investment adviser representatives of any investment adviser firm registered under R.S. 703(D) on the effective date of this rule need not satisfy the examination or professional certification criteria for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007.

§1311. Exemption

A. The requirements of this rule shall not apply to investment adviser representatives employed by a federal covered adviser.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007.

John Ducrest, CPA
Commissioner

0611#031

RULE

**Department of Health and Hospitals
Board of Dentistry**

Dental Hygienist/Anesthesia
(LAC 46:XXXIII.701 and 1507)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.701 and 1507.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 7. Dental Hygienist

§701. Authorized Duties

A. - D. ...

E. In accordance with Act 744 of the regular session of the Louisiana Legislature, effective June 29, 2006, dental hygienists may work under the general supervision of dentists licensed to practice in the state of Louisiana.

F. Under general supervision, a dental hygienist may provide to patients of record, for not more than five consecutive business days, all dental hygiene services (except local anesthesia and root planning which must be under direct supervision) if all of the following conditions are satisfied:

1. the dental hygienist has at least three years, or an equivalent amount of experience, in the practice of dental hygiene;
2. the dental hygienist has current CPR certification and complies with the established protocols for emergencies which the supervising dentist has established;
3. the supervising dentist has examined the patient of record not more than nine months prior to the date that the dental hygienist provides the dental hygiene services;
4. the dental hygienist provides dental hygiene services to the patient of record in accordance with a written treatment protocol prescribed by the supervising dentist for the patient;
5. the patient of record is notified in advance of the appointment that the supervising dentist will be absent from the location;
6. no licensed dental hygienist, under general supervision, may delegate or supervise any dental hygiene duties for an expanded duty dental assistant; and
7. the dentist is responsible for all actions of the dental hygienist during treatment of patients under general supervision.

G. The following limitations also apply to the practice of dental hygiene under general supervision.

1. No entity other than a public institution or school supervised by a Louisiana licensed dentist, or an office owned by a dentist or group of dentists licensed in Louisiana, may employ dental hygienists to provide treatment for patients of record under general supervision.

RULE

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

Acupuncturists' Assistants; Licensing and Certification
(LAC 46:XLV.2131)

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, and the Acupuncturists' Assistants Practice Act, R.S. 37:1360, the Louisiana State Board of Medical Examiners has adopted LAC Title 46:XLV, Subpart 2, Chapter 21, Subchapter F, §2131, to facilitate issuance of a temporary permit allowing the provision of specified voluntary, gratuitous health care services during and following a state declared emergency.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

**Chapter 21. Acupuncturists and Acupuncturists'
Assistants**

Subchapter F. Restricted Licensure, Permits

§2131. Temporary Permit

A. The board may issue a temporary permit to an acupuncturist's assistant, valid for a period of not more than 60 days, to provide voluntary, gratuitous acupuncture services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health and Hospitals ("DHH") shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board.

B. To be eligible for issuance of such a permit an individual shall:

1. hold a current, unrestricted license in good standing issued by the licensing authority of any state to practice as an acupuncturist's assistant;

2. prior to providing such services present or cause to be presented to the board:

a. indisputable personal identification;

b. a copy of his or her license to practice as an acupuncturist's assistant or such other information as may be deemed satisfactory to the board by which to verify state licensure;

c. a completed application containing such information as may be required by the board; and

d. notification of intent to practice on a form provided by the board, signed by a physician licensed to practice medicine in this state who will fulfill the functions of a supervising physician as described in this Section. An individual is responsible for updating the board should any of the information required and submitted on the applicant's notice of intent change after a temporary permit has been issued under this Section.

2. No duly licensed and registered dentist shall supervise more than two dental hygienists under general supervision at any one time.

3. No duly licensed and registered dentist shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in any calendar year.

4. No patient can be seen twice consecutively under general supervision.

5. An examination fee must not be charged if a patient is seen under general supervision.

6. No person shall practice dental hygiene in a manner which is separate or independent from a supervising dentist, or establish or maintain an office or a practice that is primarily devoted to providing dental hygiene services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006).

**Chapter 15. Anesthesia/Analgesia Administration
§1507. General Anesthesia/Deep Sedation**

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

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

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

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

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

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

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

C. Barry Ogden
Executive Director

0611#058

C. To be eligible for approval as a supervising physician under this Section a physician shall:

1. possess a current, unrestricted license to practice medicine in Louisiana; and
2. submit a completed application containing such information as may be required by the board.

D. Although a physician must notify the board each time the physician intends to undertake the supervision of an acupuncturist's assistant under this Section, registration with the board is only required once. Notification of supervision of new or additional acupuncturist's assistants by a registered supervising physician shall be deemed given to the board upon the acupuncturist's assistant's filing with the board a notice of intent to practice in accordance with §2131.B of this Section.

E. The board shall maintain a list of physicians who are registered to supervise acupuncturists' assistants under this Section. Each registered physician is responsible for updating the board should any of the information required and submitted on the physician's application change after the physician has become registered.

F. An acupuncturist's assistant holding a permit under this Section shall practice in this state only on a voluntary, gratuitous basis, shall perform only those acupuncture services authorized by this Section, and shall practice only at sites specified by DHH or approved by the board.

G. Acupuncture services performed by an individual issued a permit under this Section shall be limited to auricular acupuncture (insertion of disposable needles at a specified combination of points on the surface of the outer ear) utilizing the five-point protocol adopted by the National Acupuncture Detoxification Association and approved by the supervising physician. Such services may be performed under the general direction and supervision, rather than patient-specific order, of the supervising physician. All services shall be documented in written form by the acupuncturist's assistant and available for review by the supervising physician but need not be countersigned. The supervising physician shall be available during normal working hours by telephonic or other means of communication to address any questions or concerns that may arise from the provision of acupuncture services under this Section.

H. A 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. The board may, in addition, waive or modify any of the requirements of Chapters 21 and 51 of these rules, applicable to certification as an acupuncturist's assistant, that it may deem necessary or appropriate to effectuate the purposes of this Section.

I. An acupuncturist's assistant 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.

J. A temporary permit creates no right or entitlement to certification as an acupuncturist's assistant or renewal of the permit after its expiration. A temporary permit 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;

3. the date the acupuncturist's assistant's term of voluntary, gratuitous service is terminated; or

4. the date on which the acupuncturist's assistant's relationship with the supervising physician, identified in the notice of intent, terminates.

K. The board may, in its discretion, extend or renew for one or two additional 60-day periods a permit that has expired provided that all conditions prerequisite to original issuance are satisfied.

L. Following termination of a declaration of emergency the board may issue, extend or renew a 60-day permit under this Section during such period as DHH shall deem the need for emergency services to continue to exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:2057 (November 2006).

Robert Marier, M.D.
Executive Director

0611#057

RULE

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

Direct Service Worker Registry
(LAC 48:I.Chapter 92)

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).

§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:

and

- i. abuse;
- ii. neglect;
- iii. extortion;
- iv. exploitation and misappropriation of property;

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).

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).

§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).

§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).

§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).

§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.3.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).

§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).

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).

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).

§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).

§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).

§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).

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).

§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 witnesses; and

5. 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).

§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).

§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).

§9293. Failure to Appear at Administrative Hearings

A. If a direct service worker fails to appear at an administrative hearing, a decision may be issued by the Bureau of Appeals dismissing the hearing. A copy of the decision 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).

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

0611#080

RULE

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
New Opportunities Waiver
(LAC 50:XXI.13901 and 13915)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities adopts LAC 50:XXI.13901 and 13915 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 139. Covered Services

§13901. Individualized and Family Support Services

A. - A.1.a. ...

2. Individual and Family Supports-Night (IFS-Nights) is direct support and assistance provided during the recipient's sleeping "night" hours. Night hours are

considered to be the period of time when the recipient is asleep and there is a reduced frequency and intensity of required assistance. IFS-Night services are not limited to traditional nighttime hours. The IFS-Night worker must be immediately available and in the same residence as the recipient to be able to respond to the recipient's immediate needs. Documentation of the level of support needed, based on the frequency and intensity of needs, shall be included in the CPOC with supporting documentation in the provider's services plan. Supporting documentation shall outline the recipient's safety, communication, and response methodology planned for and agreed to by the recipient and/or their authorized representative identified in their circle of support. The IFS-Night worker is expected to remain awake and alert unless otherwise authorized under the procedures noted below.

a. Recipients who are able during sleeping hours to notify direct support workers of their need for assistance may choose the option of IFS-Night services where staff is not required to remain awake.

b. The recipient's support team shall assess the recipient's ability to awaken staff. If it is determined that the recipient is able to awaken staff and requests that the IFS-Night worker be allowed to sleep, the CPOC shall reflect the recipient's request.

c. Support teams should consider the use of technological devices that would enable the recipient to notify/awaken IFS-Night staff. (Examples of devices include wireless pagers, alerting devices such as a buzzer, a bell or a monitoring system.) If the method of awakening the IFS-Night worker utilizes technological device(s), the service provider will document competency in use of devices by both the recipient and IFS-Night staff prior to implementation. The support coordinator will require a demonstration of effectiveness of this service no less than quarterly.

d. A review shall include review of log notes indicating instances when IFS-Night staff was awakened to attend to the recipient. Also included in the review is acknowledgement by the recipient that IFS-Night staff responded to their need for assistance timely and appropriately. Instances when staff did not respond appropriately will immediately be brought to the support team for discontinuation of allowance of the staff to sleep. The service will continue to be provided by awake and alert staff.

e. Any allegation of abuse/neglect during sleeping hours will result in the discontinuation of allowance of the staff to sleep until investigation is complete. Valid findings of abuse/neglect during night hours will require immediate revision to the CPOC.

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1202 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:2063 (November 2006).

§13915. Transportation for Day Habilitation and Supported Employment Models

A. Transportation provided for the recipient to the site of the day habilitation or supported employment model, or between the day habilitation and supported employment model site (if the recipient receives services in more than one place) is reimbursable when day habilitation or supported employment model has been provided. Reimbursement may be made for a one-way trip if reason is documented in provider's transportation log. There is a maximum fee per day that can be charged for transportation regardless of the number of trips per day.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:2064 (November 2006).

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

0611#081

RULE

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

Mental Health Rehabilitation Program (LAC 50:XV.Chapters 1-7)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.Chapters 1-7 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 1. General Provisions

§101. Introduction

A. - C. ...

D. Mental Health Rehabilitation services shall be covered and reimbursed for any eligible Medicaid recipient who meets the medical necessity criteria for services. The department will not reimburse claims determined through the prior authorization or monitoring process to be a duplicated service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1082 (May 2005), amended LR 32:2064 (November 2006).

§103. Definitions and Acronyms

BHSF—Bureau of Health Services Financing

CPRP—Certified Psychosocial Rehabilitation Practitioner as designated by the Commission for Psychiatric Rehabilitation Certification through the United States Psychiatric Rehabilitation Services Association (USPRA).

ISRP—Individualized Service and Recovery Plan.

Off-Site Service Delivery Location—locations of service that are publicly available for, and commonly used by, members of the community other than the MHR provider and sites or locations that are directly related to the recipient's usual environment, or those sites or locations that are utilized in a non-routine manner. This can also include a location used solely for the provision of allowable off-site service delivery by a certified MHR provider.

Provider Contract—an agreement between DHH and a provider of MHR services.

QMP—Quality Management Program.

Recoupment—the authority of BHSF to recover payments made for services that are subsequently determined, for any reason, not to qualify for reimbursement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1082 (May 2005), amended LR 32:2065 (November 2006).

§105. Prior Authorization

A. Every mental health rehabilitation service shall be prior authorized by the bureau or its designee. Services provided without prior authorization will not be considered for reimbursement. There shall be no exceptions to the prior authorization requirement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 32:2065 (November 2006).

Chapter 3. Covered Services and Staffing Requirements

Subchapter A. Service Delivery

§301. Introduction

A. ...

B. Service Package. Each MHR provider shall have a policy wherein they agree to identify and either provide or contract services as identified in every Individualized Service and Recovery Plan (ISRP). The provider shall be qualified to provide services, and the recipient shall be eligible to receive the services. The services for each individual shall be included in the ISRP.

C. Children's Services. There shall be family and/or legal guardian involvement throughout the planning and delivery of MHR services for children and adolescents. The agency or individual who has the decision making authority for children and adolescents in state custody must request and approve the provision of MHR services to the recipient. The

case manager or person legally authorized to consent to medical care must be involved throughout the planning and delivery of all MHR services and such involvement must be documented in the recipient's record maintained by the MHR agency.

1. The child or adolescent shall be served within the context of the family and not as an isolated unit. Services shall be appropriate for:

- a. age;
- b. development;
- c. education; and
- d. culture.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 32:2065 (November 2006).

Subchapter B. Mandatory Services

§311. Assessment

A. An assessment is an integrated series of diagnostic and evaluation procedures conducted with the recipient and his/her significant other(s) to provide the basis for the development of an effective, comprehensive and individualized service and recovery plan. It is an intensive clinical, psychosocial evaluation of a recipient's mental health conditions which results in an ISRP for the recipient. It may also be used to determine the recipient's level of care and medical necessity. An initial assessment shall be completed when an individual is determined to potentially qualify for the MHR Program and a reassessment shall be completed at the end of each prior authorization period or as deemed necessary by the bureau.

B. Initial assessments and reassessments shall include developing the recipient's ISRP, reviewing progress toward the goals of the ISRP and modifying the ISRP as indicated. The ISRP is an individualized, structured, goal-oriented schedule of services developed in conjunction with and agreed upon by the adult recipient or the child recipient and his/her family and the treatment team. Recipients must be actively involved in the process and have a major role in determining the direction of their ISRP. The ISRP must identify the goals, objectives, interventions, and services which are based on the results of the assessment/reassessment.

C. Staffing Requirements

1. Initial assessments and reassessments must be completed by practitioners operating within the scope of their licenses as required by the respective Louisiana Practice Acts.

2. A licensed mental health professional (LMHP) shall:

- a. have a face-to-face contact with the recipient for the purpose of completing the assessment;
- b. score the LOCUS/CALOCUS if he/she has been approved to be a clinical evaluator by the Office of Mental Health (OMH); and
- c. sign and date the assessment/reassessment and the ISRP.

3. A psychiatrist shall:

- a. have a face-to-face interview with the recipient at initial assessment;

- b. review and sign the Medical History Questionnaire section of the initial assessment;
- c. review and sign the ISRP at initial assessment/reassessment; and
- d. review and sign the Electronic Case Data Inquiry (eCDI) screen print, if data is available.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 32:2065 (November 2006).

§313. Service Planning

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), repealed LR 32:2066 (November 2006).

§317. Community Support

A. Community support services is the provision of mental health rehabilitation services and supports necessary to assist the recipient in achieving and maintaining rehabilitative, resiliency and recovery goals. The service is designed to meet the educational, vocational, residential, mental health treatment, financial, social and other treatment support needs of the recipient. Community support is the foundation of the recovery-oriented ISRP and is essential to all MHR recipients. Its goal is to increase and maintain competence in normal life activities and to gain the skills necessary to allow recipients to remain in or return to naturally occurring supports. This service includes the following specific goals:

1. achieving the restoration, reinforcement, and enhancement of skills and/or knowledge necessary for the recipient to achieve maximum reduction of his/her psychiatric symptoms;
2. minimizing the effect of mental illness;
3. maximizing the recipient's strengths with regard to the mental illness;
4. increasing the level of the recipient's age-appropriate behavior;
5. increasing the recipient's independent functioning to an appropriate level;
6. enhancing social skills;
7. increasing adaptive behaviors in family, peer relations, school and community settings;
8. maximizing linkage and engagement with other community services, including natural supports and resources;
9. applying decision-making methods in a variety of skill building applications; and
10. training caregivers to address the needs identified in the ISRP using preventive, developmental and therapeutic interventions designed for direct individual activities.

B. - B.3. ...

C. Service Exclusions. Community support is an individualized service and is not billable if delivered in a group setting or with more than one recipient per staff per contact.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 32:2066 (November 2006).

§319. Group Counseling

A. Group counseling is a treatment modality using face-to-face verbal interaction between two to eight recipients. It is a professional therapeutic intervention utilizing psychotherapy theory and techniques. The service is directed to the goals on the approved ISRP.

B. - B.2. ...

C. Clinical Exclusion. The MHR provider shall not admit any recipient into this service whose presence would pose a documented health and safety risk to the recipient or to other recipients and for whom the provider cannot provide the necessary care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 32:2066 (November 2006).

§321. Individual Intervention

A. Individual intervention is a verbal interaction between the counselor therapist and the recipient receiving services that is brief, face-to-face, and structured. Individual intervention is a service provided to eliminate the psychosocial barriers that impede the skills necessary to function in the community. It includes services provided to eliminate psychosocial barriers that impede the skills necessary to function in the community.

1. Individual intervention is a range of professionally delivered therapeutic strategies provided individually and face-to-face to the recipient for the purpose of rehabilitating and restoring him/her to an optimal level of functioning and to reduce the risk of a more restrictive treatment intervention. It includes services provided to eliminate psychosocial barriers that impede the development/enhancement of skills necessary to function in the community.

2. Repealed.

B. Staffing Requirements. Individual intervention must be provided by a:

1. LMHP; or
2. MHP under the supervision of a LMHP.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 32:2066 (November 2006).

§323. Parent/Family Intervention (Counseling)

A. - B.2. ...

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 32:2066 (November 2006).

§325. Psychosocial Skills Training—Group (Youth)

A. Psychosocial Skills Training—Group (Youth) is a therapeutic, rehabilitative, skill building service for children and adolescents to increase and maintain competence in

normal life activities and gain the skills necessary to allow them to remain in or return to their community. It is an organized service based on models incorporating psychosocial interventions.

B. - B.2. ...

C. Clinical Exclusion. The MHR provider shall not admit any recipient into this service whose presence would pose a documented health and safety risk to the recipient or to other recipients and for whom the provider cannot provide the necessary care.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 32:2066 (November 2006).

Subchapter C. Optional Services

§335. Parent/Family Intervention (Intensive)

A. Parent/Family Intervention (Intensive) is a structured service involving the recipient and one or more of his/her family members. It is an intensive family preservation intervention intended to stabilize the living arrangement, promote reunification, or prevent utilization of out of home therapeutic placement (i.e., psychiatric hospitalization, therapeutic foster care) for the recipient. These services focus on the family and are delivered to children and adolescents primarily in their homes. Therefore, Parent/Family Intervention (Intensive) is not appropriate for recipients whose families refuse to participate or to allow services in the home.

1. This service is comprehensive and inclusive of all other rehabilitative services, with the exception of assessment/reassessment and medication management which may be provided and billed for a recipient receiving Parent/Family Intervention (Intensive) services.

B. - B.3. ...

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 32:2067 (November 2006).

§337. Psychosocial Skills Training—Group (Adult)

A. Psychosocial Skills Training—Group (Adult) is a therapeutic, rehabilitative, skill building service for individuals to increase and maintain competence in normal life activities and gain the skills necessary to allow them to remain in or return to their community. It is designed to increase the recipient's independent functioning in his/her living environment through the integration of recovery and rehabilitation principles into the daily activities of the recipient. It is an organized program based on a psychosocial rehabilitation philosophy to assist persons with significant psychiatric disabilities, to increase their functioning to live successfully in the natural environments of their choice.

B. Staffing Requirements

1. All staff providing direct services shall have documented orientation to the psychosocial rehabilitation model being used in the program. This service shall be furnished under the supervision of a LMHP who is on site a minimum of 50 percent of the service operating hours. The

supervising LMHP shall be a Certified Psychosocial Rehabilitation Practitioner (CPRP) as designated by the Commission for Psychiatric Rehabilitation Certification through the USPRA or eligible for certification with a written plan for achieving CPRP certification within 12 months of certification as a Psychosocial Skills Group (Adult) provider or within 12 months of being hired.

2. Psychosocial skills training (group) shall be provided by a:

- a. LMHP;
- b. MHP; or
- c. MHS.

3. There must be a minimum staffing ratio of one direct service staff person for eight recipients at all times of active program participation.

4. Group size may not exceed 15 recipients for any single skill training activity.

C. Clinical Exclusion. The MHR provider shall not admit any recipient into psychosocial skills training-group (adult) whose presence would pose a documented health and safety risk to the recipient or to other recipients and for whom the provider cannot provide the necessary care.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 32:2067 (November 2006).

Chapter 5. Medical Necessity Criteria

§501. General Provisions

A. When a recipient requests MHR services, an initial screening must be completed to determine whether the recipient potentially meets the medical necessity criteria for MHR services. If it is determined that the recipient potentially meets the criteria for services, an initial assessment shall be completed and fully documented in the recipient's record no later than 30 days after the request for services. Information in an initial assessment shall be based on current circumstances (within 30 days) and face-to-face interviews with the recipient, taking pertinent historical data into consideration. If the recipient is a minor, the information shall be obtained from a parent, legal guardian or other person legally authorized to consent to medical care. Reassessments shall be based on current circumstances (within 30 days) and face-to-face interview with the recipient. If the recipient is a minor, the information shall be obtained from a parent, legal guardian or other person legally authorized to consent to medical care.

B. If it is determined at the initial screening or assessment that a recipient does not meet the medical necessity criteria for services, the provider shall refer the recipient to his/her primary care physician, the nearest community mental health clinic, or other appropriate services with copies of all available medical and social information.

C. In order to qualify for MHR services, a recipient must meet the medical necessity criteria for services outlined in §503 or §505. These medical necessity criteria shall be utilized for authorization and reauthorization requests received on or after August 1, 2005.

D. Initially all recipients must meet the medical necessity criteria for diagnosis, disability, duration and level of care.

MHR providers shall rate recipients on the CALOCUS/LOCUS at 90 day intervals, and these scores and supporting documentation must be submitted to the bureau or its designee upon request. Ongoing services must be requested every 90 days based on progress towards goals, individual needs, and level of care requirements which are consistent with the medical necessity criteria.

E. The bureau or its designee reserves the right to require a second opinion evaluation by a licensed mental health professional that is not associated with the MHR provider that is seeking authorization or reauthorization of services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2067 (November 2006).

§503. Adult Criteria for Services

A. In order to qualify for MHR services, Medicaid recipients age 18 or older must meet all the following criteria.

1. **Diagnosis.** The recipient must currently have or, at any time during the past year, had a diagnosable mental behavioral or emotional disorder of sufficient duration to meet the diagnostic criteria specified within the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV-TR) or the *International Classification of Diseases*, Ninth Revision, Clinical Modification (ICD-9-CM) or subsequent revisions of these documents. The diagnostic criteria specified under DSM-IV-TR "V" codes for substance use disorders and developmental disorders are excluded unless these disorders co-occur with another diagnosable serious mental illness.

2. **Disability.** In order to meet the criteria for disability, the recipient must exhibit emotional, cognitive or behavioral functioning which is so impaired, as a result of mental illness, as to substantially interfere with role, occupational and social functioning as indicated by a score within levels four or five on the LOCUS that can be verified by the bureau or its designee.

3. **Duration.** The recipient must have a documented history of severe psychiatric disability which is expected to persist for at least a year and requires intensive mental health services, as indicated by one of the following:

- a. psychiatric hospitalizations of at least six months duration in the last five years (cumulative total); or
- b. two or more hospitalizations for mental disorders in the last 12-month period; or
- c. structured residential care, other than hospitalization, for a duration of at least six months in the last five years; or
- d. documentation indicating a previous history of severe psychiatric disability of at least six months duration in the past year.

NOTE: Recipients who are age 18 and up to 21 and who have been determined not to meet the adult medical necessity criteria for MHR services, initial or continued care, shall be reassessed by the bureau or its designee using the children/adolescent medical necessity criteria for services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2068 (November 2006).

§505. Child/Adolescent Criteria for Services

A. In order to qualify for MHR services, Medicaid recipients age 17 or younger must meet all the following criteria.

1. **Diagnosis.** The recipient must currently have or, at any time during the past year, had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet the diagnostic criteria specified within the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV-TR) or the *International Classification of Diseases*, Ninth Revision, Clinical Modification (ICD-9-CM), or subsequent revisions of these documents. The diagnostic criteria specified under DSM-IV-TR "V" codes for substance use disorders and developmental disorders are excluded unless these disorders co-occur with another diagnosable serious mental illness.

2. **Disability.** In order to meet the criteria for disability, the recipient must exhibit emotional, cognitive or behavioral functioning which is so impaired, as a result of mental illness, as to substantially interfere with role, educational, and social functioning as indicated by a score within levels four or five on the CALOCUS that can be verified by the bureau or its designee.

NOTE: Youth returning to community living from structured residential settings or group homes under the authority of the Office of Community Services or the Office of Youth Services may be considered to meet the disability criteria for admission with a level three on the LOCUS or CALOCUS.

3. **Duration.** The recipient must have a documented history of severe psychiatric disability that is expected to persist for at least six months and requires intensive mental health services, as indicated by at least one of the following:

- a. past psychiatric hospitalization(s);
- b. past supported residential care for emotional/behavioral disorder;
- c. past structured day program treatment for emotional/behavioral disorder; or
- d. documentation indicating that an impairment or pattern of inappropriate behaviors has persisted for at least three months and is expected to persist for at least six months.

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 32:2068 (November 2006).

§507. Exclusionary Criteria

A. Mental health rehabilitation services are not considered to be appropriate for recipients whose diagnosis is mental retardation, developmental disability or substance abuse unless they have a co-occurring diagnosis of severe mental illness or emotional/behavioral disorder as specified within DSM-IV-TR or ICD-9-CM, or its subsequent revisions of these documents.

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 32:2068 (November 2006).

§509. Discharge Criteria

A. Discharge planning must be initiated and documented for all recipients at time of admission to MHR services. The written discharge plan must include a plan for the

arrangement of services required to transition the recipient to a lower level of care within the community. Discharge from mental health rehabilitation services for current and new recipients shall be initiated if at least one of the following situations occurs:

1. the recipient's treatment plan/ISRP goals and objectives have been substantially met;
2. the recipient meets criteria for higher level of treatment, care, or services;
3. the recipient, family, guardian, and/or custodian are not engaging in treatment or not following program rules and regulations, despite attempts to address barriers to treatment;
4. consent for treatment has been withdrawn; or
5. supportive systems that allow the recipient to be maintained in a less restrictive treatment environment have been arranged.

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 32:2068 (November 2006).

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§701. Provider Enrollment Moratorium

A. A moratorium is implemented on the enrollment of mental health rehabilitation (MHR) providers to participate in the Medicaid Program. The department shall not approve enrollment for any new MHR provider office regardless of the status of the application.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:668 (March 2005), amended LR 32:2069 (November 2006).

§703. Application

A. To be certified or recertified as an enrolled mental health rehabilitation provider requires that the provisions of this Subpart 1, the provider manual and the appropriate statutes are met. A prospective provider who elects to enroll with the department to provide MHR services shall apply to the Bureau of Health Services Financing or its designee for certification. The prospective provider shall create and maintain documents to substantiate that the provider meets all prerequisites in order to enroll as a Medicaid provider of MHR services.

B. A prospective MHR provider shall submit the following documents for certification:

1. a completed Form PE 50 and addendum;
2. a completed disclosure of ownership form;
3. direct deposit authorization form;
4. nonrefundable application fee of \$500 paid by certified check to the State of Louisiana, Department of Health and Hospitals;
5. proof of a request for accreditation and a copy of the completed application with a national accrediting body approved by the bureau and proof of payment to the accrediting body. Proof of full accreditation is required within nine months of issuance of a Medicaid provider enrollment number;
6. an affidavit that identifies the applicant's licensed mental health professional and psychiatrist, including

verification of current licensure. The LMHP identified must be an employee of the prospective MHR provider;

7. proof of the establishment and maintenance of a line of credit from a federally insured, licensed lending institution in an amount equal to three months of current operating expenses as proof of adequate finances. It is the MHR provider's responsibility to notify the bureau in the event that the financial institution cancels or reduces the upper credit limit:

a. nonprofit agencies that have operated for five years or more and have an unqualified audit report for the most recent fiscal year prepared by a licensed certified public accountant, which reflects financial soundness of the nonprofit provider, are not required to meet this standard;

b. governmental entities or organizations are exempt from this requirement;

8. a statement identifying the population to be served:

NOTE: A change in the population group to be served cannot be made without prior written approval by the bureau.

a. adults with serious mental illness; or

b. children with an emotional/behavior disorder;

9. proof of the establishment and maintenance of a general liability and a professional liability insurance policy with at least \$1,000,000 coverage under each policy. The certificates of insurance for these policies shall be in the name of the MHR provider and certificate holder shall be the Department of Health and Hospitals. The provider shall notify the bureau when coverage is terminated for any reason. Coverage shall be maintained continuously throughout the time services are provided and thereafter for a period of one year:

a. governmental entities or organizations are exempt from this requirement;

10. identification of all the MHR provider's office locations and off-site service delivery locations;

11. proof that all owner and staff have attended mandatory training as required by the bureau;

12. proof that all equipment and technology requirements have been met as established by the bureau;

13. corporations must provide current proof of business registration with the Secretary of State;

14. proof of clinical competence as defined and required by the bureau;

15. a notarized report of any and all settled convictions and/or pending charges of malpractice and felonies for the business itself (in this or any other name), the owners, principals, partners and/or governing bodies, Board of Directors and the executive/managing director;

16. proof of current inspection and approval by the Office of State Fire Marshal;

17. proof of current inspection and approval by the Office of Public Health;

18. a comprehensive administrative policy and procedure manual that describes an administrative structure to provide MHR services including:

a. the names, addresses, composition, duties and responsibilities of the governing body;

b. policy governing creation and retention of administrative and personnel records;

c. a policy to utilize the current MHR SIS (or its successor) system that includes accurate MHR provider staff and client information;

- d. written procedures for maintaining the security and the confidentiality of recipient records;
 - e. written emergency preparedness plan reviewed and approved by the bureau;
 - f. initial and annual recipient orientation policy.
- The MHR provider shall adopt a procedure that requires each recipient to sign an acknowledgment form that verifies that the recipient was fully and completely informed of his/her rights, orally and in writing and received a copy of the signed form. The policy shall include:

- i. a mission statement;
- ii. recipients' rights, including freedom of choice to select their MHR provider and right to confidentiality;
- iii. the array and types of treatment services offered by the MHR provider;
- iv. staff qualifications;
- v. a statement of after hours access to services;
- vi. crisis management procedures;
- vii. complaint resolution procedures; and
- viii. discharge planning procedures;

19. comprehensive training policy for all owners, employees, volunteers and students; and

20. an operations policy manual that includes a mission statement, program philosophy and goals for the MHR provider.

C. The MHR provider shall have a separate Medicaid provider number for each location where it routinely conducts business and provides scheduled services. This does not include those sites or locations that meet the definition of an off-site service delivery location.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1086 (May 2005), amended LR 32:2069 (November 2006).

§705. Application and Site Reviews

A. A prospective MHR provider shall undergo one or more reviews by the department or its designee before certification to ensure compliance with provider enrollment and operational requirements:

- 1. an application review;
- 2. a first site review; and if necessary
- 3. a second site review.

B. The bureau or its designee may conduct a review of all application documents for compliance with MHR requirements. If the documentation is approved, the applicant will be notified and an appointment may be scheduled for a first site review of the prospective MHR provider's physical location. If the first site review is successful, the certification request may be approved and forwarded to provider enrollment for further processing.

C. If the application documentation furnished by the prospective MHR provider is not acceptable, the provider will be notified of the deficiencies. The applicant has 30 days to correct the documentation deficiencies and to request a site visit at their physical location.

1. If the prospective MHR provider requests a site visit in a timely manner, a site review of their physical location may be scheduled. At the onsite review, the bureau or its designee may review the corrected documents and make an assessment of the physical location. If the prospective provider has corrected the application document

deficiencies and the physical location is deemed acceptable and sufficient to operate as a mental health rehabilitation provider, the bureau or its designee may approve the certification request and forward the necessary paperwork to Provider Enrollment for further processing.

2. If the prospective provider does not request a site visit within 30 days, the application may be rejected and the provider may not reapply for certification for one year from the date of the initial application review.

D. A second site review is necessary when a provider fails the first site review. The prospective provider will have 30 days from failure of the first site review to correct any deficiencies and to request the second site review.

1. If the prospective provider requests the second site review in a timely manner and the site review verifies that the applicant has corrected the deficiencies and the location is deemed acceptable and sufficient to operate as a mental health rehabilitation provider, the certification request may be approved and sent to provider enrollment for further processing.

2. If the prospective provider has not corrected all deficiencies, they may be denied certification and may not reapply for certification for one year from the date of the application review.

3. If the prospective provider does not request and schedule a second site review within 30 days, the application may be rejected and the provider may not reapply for certification for one year from the date of the application review.

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 30:802 (April 2004), amended LR 31:1087 (May 2005), LR 32:2070 (November 2006).

§707. Failure to Achieve Certification/Recertification

A. If the prospective MHR provider fails to meet any application or certification requirements, they may not be enrolled as an MHR provider.

B. There may be an immediate loss of certification if at any time, the enrolled MHR provider fails to obtain or maintain certification requirements, recertification requirements or accreditation status. The provider may not reapply for certification for one year following the date of loss of certification.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1087 (May 2005), amended LR 32:2070 (November 2006).

§709. Certification and Recertification

A. Certification. The MHR provider may be enrolled when the bureau or its designee certifies compliance with all provider enrollment and operational requirements.

1. New providers must present proof of full accreditation by a bureau-approved national accrediting body within nine months following initial certification. Failure to comply may result in termination of the provider's certification.

B. Recertification. Certified providers shall apply for recertification annually. The application must be submitted

90 days prior to the expiration of the MHR provider's certification.

1. The bureau or its designee may conduct a recertification review to ensure continued compliance with all MHR regulations and policies.

C. Failure to Recertify. If a provider fails to meet all requirements for recertification, he/she will receive a written notice identifying the deficiencies. The MHR provider must correct these deficiencies within 60 days from the date of the notice of the deficiencies. If the deficiencies are not corrected within this 60-day period, the provider's certification may be terminated.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1087 (May 2005), amended LR 32:2070 (November 2006).

§711. Certification and Recertification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1087 (May 2005), repealed LR 32:2071 (November 2006).

Subchapter B. Accreditation

§719. Accreditation

A. Currently enrolled and prospective providers of mental health rehabilitation service shall be accredited by a national accreditation organization for any services for which Medicaid reimbursement will be requested. The department shall only accept accreditation from the following national organizations for the purposes of enrolling a provider into the Mental Health Rehabilitation (MHR) Program:

1. the Council on Accreditation (COA);
2. the Commission on Accreditation of Rehabilitation Facilities (CARF); or
3. the Joint commission on Accreditation of Healthcare Organizations (JCAHO).

B. All enrolled providers of mental health rehabilitation services shall maintain accreditation status. Denial or loss of accreditation status, or any negative change in accreditation status, shall be reported to the department in writing within five working days of receiving the notice from the national accreditation organization. The written notification shall include information detailing a copy of the accreditation report and any related correspondence from the accrediting body including, but not limited to:

1. the provider's denial or loss of accreditation status;
2. any negative change in accreditation status;
3. the steps and timeframes, if applicable, the accreditation organization is requiring from the provider to maintain accreditation.

C. If at any time, a MHR provider loses accreditation, an automatic loss of certification may occur.

D. Failure to notify the department of denial or loss of accreditation status, or any negative change in accreditation status may result in sanctions to the mental health rehabilitation agency.

E. - F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1088 (May 2005), amended LR 32:2071 (November 2006).

Subchapter C. Provider Responsibilities

§731. General Provisions

A. - A.1. ...

B. The MHR provider shall immediately report any suspected or known violations of any state or federal criminal law to the bureau.

C. Each MHR provider shall maintain written procedures and implement all required policies and procedures immediately upon acceptance of recipients for services.

1. - 3. Repealed.

D. The MHR provider shall develop a policy and procedure for hospitalization that is in conformity with the single point of entry (SPOE) policy and procedure.

E. The MHR provider shall request an expedited prior authorization review for any recipient whose discharge from a 24-hour care facility is dependent on follow-up mental health services.

F. The MHR provider shall develop a quality management plan (QMP) as outlined in the current MHR provider manual. It should address all aspects of the MHR provider operation.

G. If, as a result of a monitoring review, a written notice of deficiencies is given to the MHR provider, the provider may be required to submit a written corrective action plan to the bureau within 10 days of receipt of the notice from the department. If the MHR provider fails to submit a corrective action plan within 10 days from the receipt of the notice, sanctions may be imposed against the MHR provider.

H. The MHR provider must establish regular business office hours for all enrolled office locations. Business office locations must be fully operational at least eight hours a day, five days a week between the hours of 7 a.m. and 7 p.m. This requirement does not apply to off-site service delivery locations.

1. Each office shall contain office equipment and furnishings requisite to providing MHR services including, but not limited to:

- a. computers;
- b. facsimile machines;
- c. telephones; and
- d. lockable file cabinets.

2. Offices shall be located in areas separate and apart from areas of residential occupancy and be clearly identifiable as a separate office. The environment must be appropriate to the care and treatment of the recipient and ensure confidentiality and personal safety.

3. An office location is fully operational when the provider:

- a. has met all the requirements for and becomes certified to offer mental health rehabilitation services;
- b. has at least five active recipients at the time of any monitoring review, other than the initial application review;
- c. is capable of accepting referrals at any time during regular business hours;
- d. retains adequate staff to assess, process and manage the needs of current recipients;
- e. has the required designated staff on site (at each location) during business hours; and

f. is immediately available to its recipients and BHSF by telecommunications 24 hours per day.

4. MHR services may be delivered in off site service delivery locations that are:

a. publicly available for and commonly used by members of the community other than the provider (e.g., libraries, community centers, YMCA, church meeting rooms, etc.);

b. directly related to the recipient's usual environment (e.g., home, place of work, school); or

c. utilized in a non-routine manner (e.g., hospital emergency rooms or any other location in which a crisis intervention service is provided during the course of the crisis).

NOTE: Services may not be provided in the home(s) of the MHR provider's owner, employees or agents. Group counseling and psychosocial skills training (adult and youth) services may not be provided in a recipient's home or place of residence.

Services may not be provided in the professional practitioner's private office.

5. Every location where services are provided shall be established with the intent to promote growth and development, client confidentiality and safety.

6. The MHR provider accepts full responsibility to ensure that its office locations meet all applicable federal, state and local licensing requirements. The transferring of licenses and certifications to new locations is strictly prohibited. It is also the responsibility of the MHR provider to immediately notify the bureau of any office relocation or change of address and to obtain a new certification and license (if applicable).

I. As part of the reassessment process, when it is determined that MHR discharge criteria has been met, the MHR provider shall refer the recipient to his/her primary care physician or to the appropriate medically necessary services, and document the referral.

J. Emergency Preparedness Plan

1. The provider shall develop and implement an emergency preparedness plan for fire, natural or declared disasters. The plan shall include:

a. what measures will be taken to ensure the safety and security of employees and recipients;

b. provisions to protect business records, including employee and recipient records;

c. a means of communication with the bureau to report the status of the provider agency post-disaster.

2. If the provider must close its offices as a result of the disaster, the provider may not resume provision of reimbursable services until authorized to do so by the bureau.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1088 (May 2005), amended LR 32:2071 (November 2006).

§735. Orientation and Training

A. Orientation and training shall be provided to all employees, volunteers, interns and student workers. This orientation should be comprised of no less than five face-to-face hours and may be considered as part of the overall requirement of 16 hours orientation.

1 - 5. ...

B. Exception. The following medical staff may substitute review of a bureau-approved training packet in lieu of the required 16 hours of orientation:

1. the psychiatrist;

2. an advanced practice registered nurse;

3. registered nurse; and

4. licensed practical nurse.

NOTE: The RN and LPN are only allowed to make the substitution for the 16 hours of orientation if medication management is the only service they will provide.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1089(May 2005), amended LR 32:2072 (November 2006).

§737. Staffing Qualifications

A. MHR services shall be provided by individuals who meet the following education and experience requirements.

1. Licensed Mental Health Professional (LMHP). A LMHP is a person who has a graduate degree in a mental health-related field from an accredited institution and is licensed to practice in the state of Louisiana by the applicable professional board of examiners. All college degrees must be from a nationally accredited institution of higher education as defined in Section 102(b) of the Higher Education Act of 1965 as amended. In order to qualify as a mental health-related field, an academic program must have curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines. The following professionals are considered to be LMHPs.

a. Psychiatrist. Each MHR provider shall implement and maintain a contract with a psychiatrist(s) to provide consultation and/or services on site as medically necessary. The psychiatrist must be a licensed medical doctor (M.D. or D.O.) who is board-certified or board-eligible, authorized to practice psychiatry in Louisiana, and enrolled to participate in the Louisiana Medicaid Program. A board eligible psychiatrist may provide psychiatric services to MHR recipients if he/she meets all of the following requirements.

i. The physician must hold an unrestricted license to practice medicine in Louisiana and unrestricted DEA and state and federal controlled substance licenses. If licenses are held in more than one state or jurisdiction, all licenses held by the physician must be documented in the employment record and also be unrestricted.

ii. The physician must have satisfactorily completed a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If training was completed in child and adolescent psychiatry, the training director of the child and adolescent psychiatry program must document the child and adolescent psychiatry training.

NOTE: All documents must be maintained and readily retrieved for review by the Bureau or its designee.

b. Psychologist—an individual who is licensed as a practicing psychologist under the provisions of R.S. 37:2351-2367;

c. Registered Nurse—a nurse who is licensed as a registered nurse or an advanced practice registered nurse in the state of Louisiana by the Board of Nursing. An advanced practice registered nurse, who is a clinical nurse specialist in psychiatry, must operate under an OMH approved collaborative practice agreement with an OMH approved board-certified psychiatrist. A registered nurse must:

i. be a graduate of an accredited program in psychiatric nursing and have two years of post-master's supervised experience in the delivery of mental health services; or

ii. have a master's degree in nursing or a master's degree in a mental health-related field and two years of supervised post master's experience in the delivery of mental health services; and

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

iii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to MHR recipients.

NOTE: Every registered nurse providing MHR services shall have documented evidence of five CEUs annually that are specifically related to behavioral health and medication management issues.

d. Social Worker—an individual who has a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701-2723.

e. Licensed Professional Counselor—an individual who has a master's degree in a mental health related field, is licensed under the provisions of R.S. 37:1101-1115 and has two years post-masters experience in mental health.

2. Mental Health Professional (MHP). The MHP is an individual who has a master's degree in a mental health-related field, with a minimum of 15 hours of graduate-level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and mental disorders as a part of, or in addition to, the master's degree.

NOTE: The MHP must be an employee of the MHR provider and work under the supervision of a LMHP.

3. Mental Health Specialist (MHS). The MHS is an individual who meets one or more of the following criteria:

a. a bachelor's degree in a mental health related field; or

b. a bachelor's degree, enrolled in college and pursuing a graduate degree in a mental health-related field, and have completed at least two courses in that identified field; or

c. a high school diploma or a GED, and at least four years experience providing direct services in a mental health, physical health, social services, education or corrections setting.

NOTE: The MHS must be an employee of the MHR provider and work under the supervision of a LMHP.

4. Nurse. A registered nurse who is licensed by the Louisiana Board of Nursing or a licensed practical nurse who is licensed by the Louisiana Board of Practical Nurse Examiners may provide designated components of medication management services if he/she meets the following requirements.

a. A registered nurse must have:

i. a bachelor's degree in nursing and one year of supervised experience as a psychiatric nurse which must have occurred no more than five years from the date of employment or contract with the MHR provider; or

ii. an associate degree in nursing and two years of supervised experience as a psychiatric nurse which must have occurred no more than five years from the date of employment or contract with the MHR provider; and

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

iii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to MHR recipients.

b. A licensed practical nurse may perform medication administration if he/she has:

i. one year of experience as a psychiatric nurse which must have occurred no more than five years from the date of employment/contract with the MHR provider; and

ii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to any recipient.

NOTE: Every registered nurse and licensed practical nurse providing MHR services shall have documented evidence of five CEUs annually that are specifically related to behavioral health and medication management issues.

c. Repealed.

5. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1089 (May 2005), amended LR 32:2072 (November 2006).

Subchapter D. Records

§755. Recipient Records

A. ...

B. This record, at a minimum, shall contain:

1. the target population eligibility;

2. the initial recipient assessment;

3. the proposed ISRP;

4. documentation of prior authorization for each service;

5. the discharge plan; and

6. clinical documentation sufficient to substantiate any and all claim(s) for reimbursement.

C. - 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 31:1090 (May 2005), amended LR 32:2073 (November 2006).

§757. Personnel Records

A. A complete personnel records creation and retention policy shall be developed, implemented and maintained by the MHR provider. The MHR provider shall maintain documentation and verification of all relevant information necessary to assess qualifications for all staff, volunteers and consultants. All required licenses as well as professional, educational and work experience must be verified and

documented in the employee's or agent's personnel record prior to the individual providing billable Medicaid services. The MHR provider's personnel records shall include the following documentation.

1. Employment Verification. Verification of previous employment shall be obtained and maintained in accordance with the criteria specified in the MHR Provider Manual.

2. Educational Verification. Educational documents, including diplomas, degrees and certified transcripts shall be maintained in the records. Résumés and documentation of qualifications for the psychiatrist and LMHPs, including verification of current licensure and malpractice insurance, must also be maintained in the records.

3. Criminal Background Checks. There shall be documentation verifying that a criminal background check through the Louisiana Department of Public Safety (State Police) was conducted on all employees prior to employment. If the MHR provider offers services to children and adolescents, it shall have background checks performed as required by R.S. 15:587.1 and R.S. 15:587.3. The MHR provider shall not hire an individual with a record as a sex offender or permit these individuals to work for the provider.

4. Drug Testing. All prospective employees who apply to work shall be subject to a drug test for illegal drug use. The drug test shall be administered after the date of the employment interview and before an offer of employment is made. If a prospective employee tests positive for illegal drug use, the MHR provider shall not hire the individual. The MHR provider shall have a drug testing policy that provides for the random drug testing of employees and a written plan to handle employees who test positive for illegal drug use, whether the usage occurs at work or during off duty hours. This documentation shall be readily retrievable upon request by the bureau or its designee.

5. Tuberculosis Test. All persons, prior to or at the time of employment, shall be free of tuberculosis (TB) in a communicable state.

a. Any employee who has a negative Mantoux skin test for TB shall be retested annually in order to remain employed.

b. Any employee who has a positive Mantoux skin test must provide:

- i. evidence of a normal chest X-ray;
- ii. a statement from a physician certifying that the individual is noninfectious if the chest X-ray is other than normal; or
- iii. completion of an adequate course of therapy, as prescribed by a licensed physician if active TB is diagnosed.

c. Any employee who has a positive Mantoux skin test must provide an annual physician's statement that they are free of TB in a communicable state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1090 (May 2005), amended LR 32:2073 (November 2006).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services.

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

0611#082

RULE

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

Nursing Facilities—Licensing
Nurse Aide Training and Competency Evaluation Program
(LAC 48:I.10001-10079)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.10001-10079 as authorized by R.S. 36:254 and P.L. 100-203. 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. Licensing

Chapter 100. Nurse Aide Training and Competency Evaluation Program

Subchapter A. General Provisions

§10001. 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 resident's health, moral or emotional well-being 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.

Misappropriation—taking possession without the permission of the resident who owns the personal belongings, or the deliberate misplacement, exploitation or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent.

Neglect—the failure to provide goods and services to the resident that are necessary to avoid physical harm, mental anguish or mental illness.

Nursing Homes or Nursing Facilities—any entity or facility serving two or more persons, who are not related to the operator by blood or marriage, that undertakes to provide maintenance, personal care or nursing for persons who are unable to properly care for themselves by reason of illness, age or physical infirmity.

Trainee—an individual who is enrolled in a nurse aide training and competency evaluation program, whether at a nursing facility or educational facility, with a goal of becoming a certified nurse aide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2074 (November 2006).

Subchapter B. Training and Competency Requirements

§10011. General Provisions

A. All nurse aide training and competency evaluation programs must be approved by the department.

B. Training and competency evaluation programs may be provided by:

1. community colleges;
2. vocational-technical programs; and
3. other educational entities.

C. Nursing facilities may provide the classroom and clinical training portion of the program but the competency evaluation must be administered by an entity approved by the department.

D. Each training and competency evaluation program must:

1. maintain qualified, approved personnel for classroom and clinical instruction;
2. protect the integrity of the competency evaluations by keeping them secure;
3. utilize a pass rate of a least 70 percent for each individual student; and
4. assure the curriculum meets federal and state requirements.

E. Clinical instruction must be conducted in a nursing home or a hospital-based skilled nursing facility unit.

F. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for correcting deficiencies will be eliminated from participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006).

§10013. Trainee Responsibilities

A. Each nurse aide trainee should be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

B. Trainees must take the competency evaluation (through skills demonstration and either written or oral examination) within 30 days after completion of the training program and be certified within 4 months from the date they begin training.

1. Trainees will be provided with a maximum of three opportunities within one year following completion of the training program to successfully complete the competency evaluation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006).

§10015. Training Curriculum

A. Each nurse aide training program shall provide all trainees with a nursing facility orientation that is not included in the required 80 hours of core curriculum. The orientation program shall include, but is not limited to:

1. an explanation of the facility's organizational structure;
2. the facility's policies and procedures;
3. discussion of the facility's philosophy of care;
4. description of the resident population; and
5. employee rules.

B. Core Curriculum

1. The curriculum content for the Nurse Aide Training Program must include material which provides a basic level of knowledge and demonstrable skills for each individual completing the program. The content should include the needs of populations which may be served by an individual nursing facility.

a. The core curriculum must be a minimum of 80 hours in length and consist of 40 classroom hours and 40 clinical hours.

b. Each unit objective must be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

i. 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.

c. All facility-based nurse aide training programs must adapt the content and skills training application to the specific population being served.

C. Minimum Curriculum

1. The goal of the nurse aide training and competency evaluation program is the provision of quality services to residents by nurse aides who are able to:

a. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care;

b. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;

c. assist residents in attaining and maintaining functional independence;

d. exhibit behavior to support and promote the rights of residents; and

e. demonstrate proficiency in the skills needed to support the assessment of the health, physical condition and well-being of residents.

2. Non-facility based training programs must provide 32 hours of instruction prior to a trainee's direct involvement with a resident. Sixteen or more hours shall be devoted to supervised skills training and 16 hours shall be provided in the classroom and, at a minimum, shall include:

- a. communication and interpersonal skills;
- b. infection control;
- c. safety and emergency procedures;
- d. promoting residents' independence; and
- e. respecting residents' rights.

3. Facility-based training programs must provide at least 16 hours of instruction prior to a trainee's direct involvement with a nursing facility resident. The 16 hours of instruction shall be devoted to areas listed in Paragraph C of this §10015.

D. The training program must address the psychosocial, physical and environmental needs, as well as the medical needs of the residents being served by the nursing facility. It must also teach trainees about the attitudes and behaviors that make a positive impact on the emotional conditions of residents and focus on the restoration and maintenance of the resident's independence.

E. The training program must be developed and conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies in the following areas:

1. basic nursing skills including, but not limited to:
 - a. bed-making;
 - b. taking vital signs;
 - c. measuring height and weight;
 - d. caring for the resident's environment;
 - e. measuring fluid and nutrient intake and output;
 - f. assisting in the provision of proper nutritional care;
 - g. ambulating and transferring residents;
 - h. using body mechanics;
 - i. maintaining infection control and safety standards;
 - j. attaining and maintaining proficiency in cardiopulmonary resuscitation;
 - k. caring for residents when death is imminent;
 - l. recognizing abnormal signs and symptoms of common diseases and conditions; and
 - m. caring for residents suffering from Alzheimer's disease or dementia;
2. personal care skills including, but not limited to:
 - a. bathing, including mouth care;
 - b. grooming and dressing;
 - c. toileting;
 - d. assisting with eating and hydration; and
 - e. skin care;
3. mental health and social service needs including, but not limited to:
 - a. modifying his/her own behavior in response to a resident's behavior;
 - b. identifying developmental tasks associated with the aging process and using task analysis to increase independence;
 - c. providing training in and the opportunity for self-care according to a resident's capabilities;
 - d. demonstrating principles of behavior modification by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated;
 - e. demonstrating skills which support age-appropriate behavior by allowing the resident to make personal choices;
 - f. providing and reinforcing behavior consistent with maintaining a resident's dignity; and
 - g. utilizing a resident's family as a source of emotional support;
4. basic restorative services including, but not limited to:

- a. the use of assistive devices in ambulation, eating and dressing;
- b. maintenance of range of motion;
- c. proper turning and positioning in a bed and a chair;
- d. transferring a resident;
- e. bowel and bladder training; and
- f. care and use of prosthetic devices, such as hearing aids, artificial eyes or artificial limbs; and

5. maintaining a resident's rights including, but not limited to:

- a. assisting a resident to vote;
- b. providing privacy and maintaining confidentiality;
- c. allowing the resident to make personal choices to accommodate individual needs;
- d. giving assistance in resolving grievances;
- e. providing needed assistance in getting to, and participating in, resident and family groups and other activities;
- f. maintaining reasonable care of a resident's personal possessions;
- g. providing care which frees the resident from abuse, mistreatment or neglect and reporting any instances of poor care to appropriate facility staff; and
- h. maintaining the resident's environment and care so as to minimize the need for physical and chemical restraints.

F. Curriculum Approval

1. To get a nurse aide training program approved, the facility or school must submit the following items to the department:

- a. a copy of the curriculum and final exam;
- b. the name of the coordinator and instructors with:
 - i. a resume for each; and
 - ii. a copy of a train the trainer certificate or verification of competence to teach adult learners as defined by the state; and
- c. the time slots for each topic of classroom and clinical instruction.

2. If a school is applying for approval, it must identify the physical location used for classroom instruction and for clinical experience. A school must also submit clinical contracts and copies of final exams.

3. If a facility or school that has an approved curriculum ceases to provide a nurse aide training and competency evaluation program for a two year period, it must reapply and receive approval from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006).

§10017. Training Instructors

A. Program Coordinator. Every nurse aide training program must have a program coordinator who provides general supervision of the training received by the nurse aide trainees.

1. The program coordinator must be a registered nurse (RN) and must have the following experience and qualifications:

a. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:

- i. a nursing facility/unit;
- ii. a geriatrics department;
- iii. a chronic care hospital;
- iv. other long-term care setting; or
- v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education; and

b. completion of VTIE, CTTIE, "train-the-trainer" type program or a master's degree or higher.

2. The program coordinator may supervise no more than two nurse aide training programs and must be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

B. Program Trainers. Qualified resource personnel from the health field may participate as program trainers.

1. Qualified resource personnel must have a minimum of one year of experience in their field and must be licensed, registered and/or certified, if applicable, and may include:

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;
- d. dietitians;
- e. social workers;
- f. sanitarians;
- g. fire safety experts;
- h. nursing home administrators;
- i. gerontologists;
- j. psychologists;
- k. physical and occupational therapists;
- l. activities specialists; and
- m. speech/language/hearing therapists.

2. All program trainers must have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

C. Licensed practical (vocational) nurses, under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision if they have two years of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience is normally obtained through employment in:

- a. a nursing facility;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. other long-term care setting.

2. Experience in resident care, supervision and staff education is preferred.

D. The ratio of instructors to trainees in clinical training is 1:10 and the ratio of instructors to trainees in the classroom should not exceed 1:23.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2076 (November 2006).

§10019. Training Program Responsibilities

A. The facility/school shall not accept a nurse aide trainee into a training program until the facility or school determines that the nurse aide trainee:

1. has not been convicted or found guilty by a court of law of:

- a. abusing, neglecting or mistreating the elderly or infirm; or
- b. misappropriating a resident's property; or

2. has not had a finding of abuse, neglect, mistreatment or misappropriation of a resident's property placed on the Nurse Aide Registry or the Direct Service Worker Registry.

B. For facility-based training programs, the facility can permit trainees to provide only that care for which they have demonstrated competency.

C. Any entity responsible for the nurse aide training and competency evaluation program must report to the Nurse Aide Registry within 30 days the names of all individuals who have satisfactorily passed the competency evaluation.

D. When a nurse aide has successfully completed a training and competency evaluation program, in a non-facility based program, the entity must submit the appropriate form to the Louisiana Nurse Aide Registry so that the nurse aide can be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2077 (November 2006).

§10021. Competency Evaluation

A. Written or oral examinations will be provided by an entity or organization approved by the department. The examination will reflect the content and emphasis of the training program and will be developed in accordance with accepted educational principles.

B. The written evaluation component will be given in English unless the aide will be working in a facility in which the predominant language is something other than English. In this case, the examination may be taken in the written predominant language used in the facility, dependent upon the availability of a translator who will maintain the integrity of the examination.

C. A substitute examination, including an oral component, will be developed for those nurse aides with limited literacy skills. This examination must contain all of the content that is included in the written examination and must include a written reading comprehension portion that will determine competency to read job-related information.

D. The evaluation program must be developed and conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies listed in Paragraph E of §10015.

E. For the skills training component of the evaluation program, each nurse aide training program will develop a performance record of duties/skills taught which will verify proficiency attained.

1. The performance record will consist of, at a minimum:

a. a listing of the duties/skills expected to be learned in the program; and

b. space to note satisfactory or unsatisfactory performance of each task including:

i. the date of the performance; and

ii. the name of the instructor supervising the performance.

2. At the completion of the nurse aide training program, the nurse aide and his/her employer will receive a copy of this record. If the individual did not successfully perform all duties/skills on this performance record, he/she will receive training for all duties and skills not satisfactorily performed until satisfactory performance is confirmed.

F. The skills demonstration of the competency evaluation program will consist of a minimum performance of five tasks, all of which are included in the performance record. These five tasks will be selected for each aide from a pool of evaluation tasks which have been ranked according to degree of difficulty. A random selection of tasks will be made with at least one task from each degree of difficulty being selected. Such evaluation tasks may include, but are not limited to:

1. making an occupied bed;

2. taking and recording a resident's blood pressure, temperature, pulse and respirations;

3. orienting a new resident to the facility;

4. performing a range of motion exercises;

5. giving a bed bath;

6. positioning a resident on his/her side; and

7. responding to a demented resident who is calling out, yelling or indicating distress or anger.

G. Task-related evaluation items will be developed to evaluate the non-task oriented competency of the trainee, such as communication and psychosocial skills. The skills demonstration portion of the competency evaluation may be held in either a nursing facility or in a laboratory equipped for this purpose.

H. In the case of nursing facilities that provide their own training programs, the facility may contact an approved entity to provide competency evaluation. The clinical portion of the competency evaluation must be given in a nursing facility, but must be administered by personnel not associated with the facility. The competency evaluation may be proctored by facility personnel if the competency evaluation is:

1. secured from tampering;

2. standardized;

3. scored by a testing, educational or other organization approved by the state or scored by the state itself; and

4. requires no actual administration or scoring by facility personnel.

I. The examiner conducting the clinical competency evaluation for any individual trainee must be approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2077 (November 2006).

§10023. Compliance with Training and Competency Evaluation

A. The department shall review all components of a training and competency evaluation program for compliance with federal and state regulations.

1. For facility-based programs, after initial approval of a training and competency evaluation program, the department will conduct an initial one year post-approval review at the annual survey to determine the program's implementation of and compliance with the requirements.

2. For non-facility based programs, the department will conduct an initial one year post-approval review and thereafter will conduct a review every two years.

B. After the one year post-approval review, an on-site review of the program will be conducted at least every two years.

C. Programs not meeting minimum requirements may be terminated if the program does not provide an acceptable plan for correcting deficiencies.

D. Programs refusing to permit unannounced visits by the department will be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006).

§10025. Nurse Aide Responsibilities

A. A nurse aide must perform at least eight hours of nursing or nursing-related services in an approved setting during every consecutive 24-month period for pay after completion of a training and competency evaluation program to maintain certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006).

Subchapter C. Nurse Aide Registry

§10033. General Provisions

A. The Department of Health and Hospitals shall develop and maintain a registry for individuals who have successfully completed a nurse aide training and/or competency evaluation program. Each individual listed on the registry will have the following information maintained and retrievable:

1. name;

2. address;

3. Social Security number;

4. phone number;

5. place of employment;

6. date of employment;

7. date employment ceased;

8. state certification number; and

9. documentation of any investigation including codes for specific findings of a resident's:

a. abuse;

b. neglect;

c. misappropriated property; and

d. an accurate summary of findings only after actions on findings are final.

B. Certifications are renewable every two years. The registry will verify renewals and whether the nurse aide has worked at least eight hours in an approved setting every 24 months after attaining certification.

C. Employers must use the registry to determine if a prospective hire is a certified nurse aide and if there is a finding placed on the registry that he/she has abused, neglected or misappropriated a resident's property or funds.

D. If there is a final and binding administrative decision to place a finding on the registry or if there is a final conviction, guilty plea or no contest plea to a crime(s) by a nurse aide against the elderly, infirm or a nursing facility resident, the department shall place the adverse finding on the registry. Record of the occurrence and associated findings will remain permanently on the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006).

§10035. Certification by Reciprocity

A. Nurse aides may become certified by reciprocity from other states. Applicants must submit to the Nurse Aide Registry the following information:

1. his/her name;
2. his/her Social Security number;
3. the certification number in the other state;
4. the address of the other state's registry;
5. his/her former place of employment; and
6. the date of employment and termination.

B. After verification of certification in the other state, the registry will certify the aide in Louisiana. Likewise, the registry will be responsible for granting reciprocity to other states.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006).

Subchapter D. Provider Participation

§10045. Provider Responsibilities

A. A person cannot be employed as a nurse aide or nurse aide trainee by a facility for more than four months unless he/she has satisfactorily completed an approved training and competency evaluation program.

B. A person cannot be employed as a nurse aide or nurse aide trainee if there is a final administrative or judicial court decision that the nurse aide or trainee has:

1. committed abuse, neglect or mistreatment of the elderly, infirm or nursing facility resident; or
2. misappropriated a resident's property.

C. The provider must complete and send the appropriate form to the registry to notify the registry of employment or termination of a certified nurse aide.

D. All facilities will continue to provide on-going training on a routine basis in groups and, as necessary in specific situations, on a one-to-one basis.

1. Each nurse aide must receive and be compensated for 12 hours of on-going training per year.

2. Training can be received in the unit as long as it is:
 - a. directed toward skills improvement;
 - b. provided by appropriately trained staff; and
 - c. documented.

E. No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.

F. If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the state must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006).

Subchapter E. Violations

§10055. Disqualification of Training Programs

A. The department prohibits nursing facilities from offering nurse aide training programs when the facilities have:

1. been determined to be out of compliance by the Medicaid or Medicare Programs until the end of a two-year period during which time no survey or investigation finds any deficiencies; or
2. operated under a waiver granted on the basis of a demonstration that the facility is unable to provide RN coverage in excess of 48 hours during a week.

B. The department may prohibit nursing facilities from offering nurse aide training programs when the facilities have been sanctioned with:

1. civil monetary penalties of \$5,000 or more;
2. termination of vendor payments;
3. a ban on new admissions;
4. placement under temporary management or closure of a facility with transfer of residents; or
5. extended or partial extended survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006).

§10057. Allegations of Nurse Aide Wrong-Doing

A. The department, through its Bureau of Appeals, has provided for a process for the review and investigation of all allegations of wrong-doing by nurse aides employed in nursing facilities. Certified nurse aides and nurse aide trainees must not:

1. use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion on a resident in a nursing facility; nor
2. neglect a resident or commit misappropriation of a resident's property or funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006).

§10059. Notice of Violation

A. When there are substantiated charges against the nurse aide, 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 the violation(s) to the Nurse Aide Registry; and
3. the right to request an informal dispute resolution and/or the right to an administrative hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006).

§10061. Informal Dispute Resolution

A. When a nurse aide feels that he/she has been wrongly accused, the following procedure shall be followed.

1. The nurse aide 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 department in writing.

2. The IDR is designed:

- a. to provide an opportunity for the nurse aide to informally review the situation;
- b. for the agency to offer alternatives based on corrections or clarifications, if any; and
- c. for the nurse aide 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 nurse aide will be afforded the opportunity to:

- a. talk with agency personnel involved in the situation;
- b. review pertinent documents on 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. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2080 (November 2006).

Subchapter F. Administrative Hearings

§10071. 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 nurse aide 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 nurse aide 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 Nurse Aide Registry to be recorded.

B. When an administrative hearing is scheduled, the Bureau of Appeals shall notify the nurse aide, 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. the place of the hearing.

C. The administrative hearing shall be conducted by an administrative law judge from the Bureau of Appeals as authorized by the Administrative Procedure Act, R.S. 49:950 et seq., 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. Each party has the burden of proving whatever facts he/she must establish to sustain his/her position.

- a. The burden of producing evidence to substantiate the written allegation(s) will be on the department and the provider of services.

- b. When the charge of abuse, neglect or misappropriation is substantiated, the nurse aide may not rest on the mere denial in his/her testimony and pleading(s) but must set forth specific facts and produce evidence to disprove or contest the charge(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. shall 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;
 - 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 the proposed decision 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 nurse aide at his/her last known address and to any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2080 (November 2006).

§10073. 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 as 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. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006).

§10075. Witnesses and Subpoenas

A. Each party shall arrange for the presence of their witnesses at the 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. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006).

§10077. 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. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006).

§10079. Failure to Appear at Administrative Hearings

A. If a nurse aide 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 nurse aide:

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. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006).

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

0611#084

RULE

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

Nursing Facilities

Nurse Aide Training and Competency Evaluation Program
(LAC 50:II.10143 and 10145)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals LAC 50:II.10143 and 10145 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Nursing Facilities

Subchapter E. Nurse Aide Training and Competency Evaluation Program

§10143. OBRA Requirements

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 22:34 (January 1996), repealed LR 32:2082 (November 2006).

§10145. State Review of Compliance with Program Requirements

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 22:34 (January 1996), repealed LR 32:2082 (November 2006).

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

0611#083

RULE

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Personal Care Services—Long Term
(LAC 50:XV.12901 and 12905)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amended LAC 50:XV.12901 and 12905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of personal care services is to enable an individual whose needs would otherwise require placement in a nursing facility to remain safely in that individual's own home. The mission of Medicaid-funded personal care services is to supplement the family and/or community supports that are available to maintain the recipient in the community. This service program is not intended to be a substitute for available family and/or community supports. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid services being provided to the recipient and will be considered in conjunction with those other services. Personal care services will be provided in a manner consistent with the basic principles of consumer direction as set forth in §12907.

B. ...

C. Authorization. Personal care services (PCS) shall be authorized by the Bureau of Health Services Financing or its designee. The department or its designee will review the completed assessment, supporting documentation, plan of care or any other pertinent documents to determine whether the recipient meets the medical necessity criteria for personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006).

§12905. Recipient Qualifications

A. - B. ...

1. meets the medical standards for admission to a nursing facility and requires assistance with at least one or more activities of daily living;

B.2. - 3.c. ...

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 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006).

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

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

0611#087

RULE

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

Pharmacy Benefits Management Program
Erectile Dysfunction Drug Coverage
(LAC 50:XXIX.115)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XXIX.115 in the Medical Assistance Program as authorized by R.S. 35:254 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 1. General Provisions

§115. Drug Coverage Limits

A. - B.2. ...

C. Erectile Dysfunction Drugs. Prescription drugs for the treatment of sexual or erectile dysfunction shall not be covered or reimbursed under the Medicaid Program. Erectile Dysfunction drugs shall only be covered for the treatment of conditions other than sexual or erectile dysfunction for which the drugs have been approved by the Food and Drug Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 32:1055 (June 2006), amended LR 32:2083 (November 2006).

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

0611#088

RULE

**Department of Health and Hospitals
Office of the Secretary
Division of Long Term Supports and Services**

Nursing Facilities—Standards for Payment
Level of Care Determination (LAC 50:II.10154)

The Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services adopts LAC 50:II.10154 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

**Chapter 101. Standards for Payment for Nursing
Facilities**

Subchapter G. Levels of Care

§10154. Determination of Nursing Facility Level of Care

A. The purpose of the level of care (LOC) determination is to assure that individuals meet the medical necessity requirements for admission to and continued stay in a nursing facility. In addition, the LOC determination process assists persons with long-term or chronic health care needs in making informed decisions and selecting options that meet their needs and reflect their preferences.

B. Level of Care Determination. The following tools shall be utilized to gather evaluative data for the purpose of determining the level of care for nursing facility services:

1. the Minimum Data Set Assessment®, a standardized, primary screening and assessment tool of health status which measures the physical, medical, psychological and social functioning of long term care participants;

2. the Preadmission Screening and Annual Resident Review (PASARR), if there are indications that the individual may require specialized care because of mental illness or mental retardation; and

3. the Louisiana Nursing Facility Level of Care Eligibility Tool (LOCET), an objective and impartial instrument which determines whether the individual has met the requirements for level of care for nursing facility services as set in this Subchapter G. A desired outcome of using the LOCET will be that the services offered to the long term care population will benefit those who are most at need.

C. Other documentation may be required for the determination of level of care as directed by the department.

D. The evaluative data used for the LOC determination must be reviewed and approved by the Department of Health and Hospitals or its designee.

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, Division of Long Term Supports and Services, LR 32:2083 (November 2006).

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

0611#086

RULE

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Nursing Facilities—Standards for Payment Medical Eligibility Determination Admission Review and Pre-Admission Screening (LAC 50:II.10146 and 10157)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amended LAC 50:II.10146 and 10157 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Nursing Facilities

Subchapter F. Vendor Payment

§10146. Medical Eligibility Determination

A. The following documentation requirements and procedures are required in order to determine medical eligibility for nursing facility services and hospice care in a nursing facility.

B. The following time frames must be met when requesting a medical eligibility determination for an individual admitted to a nursing facility. Conversion from Medicare status to Medicaid vendor payment is considered a new admission.

1. Appropriate documentation of admission information must be received within 20 working days of admission.

2. If incomplete information is received, certification of medical eligibility will be denied. The reason for denial will be given as incomplete information provided.

3. If additional information is subsequently received within the initial 20-working-day time frame, and the resident meets all requirements, the effective date of certification is the date of admission.

4. If the additional information is received after the initial 20-day time frame and the resident meets all of the requirements, the effective date of the certification shall be the date that all completed information is received.

C. Documentation Requirements for New Admissions

1. Notice of Admission or Change (Form 148) which:
a. verifies the individual's admission as a private pay resident or indicates that Medicaid or Medicare certification is being requested; and

b. provides the date of the resident's application for Medicaid if later than the date of admission;

2. a physician's order recommending nursing facility admission and documentation specifying the applicant's current health status;

NOTE: The physician's order must be signed by a physician licensed in Louisiana and dated not more than 30 days prior to admission or application if the resident applies for Medicaid after admission; and

3. Pre-Admission Screening/Readmission Screening (Level I PAS/RAS) form which:

a. is signed and dated by a physician licensed in Louisiana; and

b. lists a diagnosis and medication on the Statement of Medical Status form that is consistent with PAS/RAS;

NOTE: If a second level screen is indicated due to a diagnosis or suspected diagnosis of mental illness or mental retardation, it must be completed prior to admission unless approved by the Office of Aging and Adult Services (OAAS) under a categorical determination.

D. Documentation Requirements for Readmission from the Hospital

1. A Form 148 which indicates:

a. the date Medicaid billing was discontinued if the bed was held; or

b. the date the resident was discharged to the hospital if the bed was not held; and

c. the date of the resident's readmission to the facility and whether they are readmitted as Medicare or Medicaid status.

2. A transfer form, discharge summary or physician's orders which specifies diagnosis, medication regime, level of care, and includes a dated physician's signature; and

3. - 3.c.Note ...

E. Documentation Requirements for Facility to Facility Transfer

1. ...

2. The receiving facility must complete:

a. A Form 148 indicating date of admission; and

b. A transfer form or physician's orders which includes the diagnosis, medication regime, level of care, physician's signature and date.

F. Documentation Requirements for New Admission to SNF 18 (Medicare) with Medicaid Co-Insurance

1. - 1.b. ...

2. A physician statement completed within 30 days of admission;

3. - 3.Note ...

G. Documentation Requirements for Readmission from the Hospital Directly to SNF 18 (Medicare)

1. A Form 148 which indicates the date that Medicaid co-insurance will be effective. No further information is required until the resident converts to Medicaid vendor payment.

H. Documentation Requirements for Termination of Medicare with Change from Medicaid Co-Insurance to Medicaid Vendor Payment

1. A Form 148 which indicates the date that the Medicare benefit period ends and the first date of Medicaid coverage;

2. A new or updated physician's statement. An updated physician's statement may be submitted in lieu of having a new one completed. An updated physician's statement is one that has been reviewed by the attending

physician, includes any changes in diagnosis or treatment regimen, and has been re-signed and dated by the physician. This is viewed as a new admission because Medicare is a different payment source and the resident must be considered discharged from Medicare status in order to convert from Medicare to Medicaid. For this reason, another physician's statement is required and must be submitted within 20 working days of admissions; and

3. - 3.Note ...

I. Documentation Requirements Regarding the Death of a Resident. A Form 148 which specifies whether the death of the resident occurred in the nursing facility or in the hospital and the date of death.

J. Documentation Requirements for Admission to a Skilled Nursing/Infectious Disease (SN-ID) LOC

1. - 1.c. ...

d. Medical eligibility will be considered upon receipt of the following information.

i. For all new admissions, a Form 148, physician's order, and Form PAS/RAS must be completed as required for other nursing facility admissions. When requesting a level of care change, a Form 149-B may be submitted in lieu of the physician's order.

d.ii. - 2.b. ...

c. Medical eligibility will be considered upon receipt of the following information.

i. For all new admissions, a Form 148, physician's order, and Form PAS/RAS must be completed the same as for other nursing facility admissions. When requesting a level of care change, a Form 149-B may be submitted in lieu of the physician's order.

ii. - ii.(e). ...

K. The following time frames must be met when requesting a medical eligibility determination for hospice care in a nursing facility. These requirements are in addition to those previously published January 20, 1996 in the Medicaid Standards for Payment for Nursing Facilities (Chapter 25, Admission Review and Preadmission Screening).

1. - 4. ...

5. If additional information necessary to make a determination is received after the initial 20-day time frame, the effective date shall be no earlier than the date all completed information is received.

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 23:1317 (October 1997), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2084 (November 2006).

Subchapter H. Admission Review and Pre-Admission Screening

§10157. General Provisions

A. Evaluative data for medical certification (level of care determination) shall be submitted to the appropriate OAS Regional Admission Review Office.

1. ...

2. applications for persons already in nursing facilities;

3. transfers of persons from one facility to another;

4. - 5. ...

B. A pre-admission Level of Care Eligibility Tool (LOCET) assessment shall be performed by an appropriate professional for Medicaid applicants or recipients requesting nursing facility admission.

C. Prior to admitting a resident to the facility, the following information is required for documentation into the medical record:

1. a physician's order which includes the applicant's medical history, diagnosis, history of mental illness, mental retardation, or developmental disability;

2. - 11. ...

12. rehabilitative potential; and

13. the physician's signature and the date of signature.

14. Repealed.

NOTE: The medical/social evaluation shall not be completed more than 30 days prior to admission and a physician must personally approve a recommendation that an individual be admitted to a nursing facility.

D. Alternate Attending Physician. If the physician who performed the pre-admission examination does not provide continuing care after admission to the facility, the following steps shall be taken to secure an attending physician.

1. The resident or responsible party shall obtain an alternate physician within 48 hours after admission.

2. If they are unable to obtain a physician, the facility shall be responsible for obtaining one within two working days with the resident's or responsible party's approval. There shall be documentation of contact with the physician within the required time frame.

3. The new physician shall perform the following tasks in the course of his normal treatment regimen within seven days of assuming care:

a. examine the resident;

b. review the information provided by the physician who conducted the pre-admission examination; and

c. furnish the facility with either a signed concurrence with the original physician's orders or submit alternate orders.

E. Tuberculosis Testing as Required by Public Health. Chapter II of the Public Health Manual, The Control of Diseases, Section 2:026 requires that any person admitted to a nursing facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission. Any nursing facility resident who has complied with this provision shall be exempt from re-examination, i.e., upon transfer to another residential facility, the record of examination is transferred with the resident.

1. In compliance with the requirement for a complete history and physical examination, laboratory tests shall be completed and must include the following:

a. purified protein derivative skin test for tuberculosis (PPD-5TU) given by the Mantoux method intradermally; and

b. for residents over 35 years of age, a chest X-ray (completed no more than two weeks prior to admission).

2. The skin test and X-ray, if applicable, shall be evaluated by a licensed physician prior to the resident's admission to a nursing facility.

3. Office of Public Health (OPH) policy requires that a resident with evidence of active tuberculosis cannot be admitted to a nursing facility unless the examining physician states that the resident:

- a. is on an effective drug regimen;
- b. is responding to the prescribed treatment; and
- c. presents no imminent danger to the nursing facility's staff and other residents.

4. These statements shall be in writing, signed by the physician, and dated no more than two weeks prior to the resident's admission.

5. Additionally, no resident who has been diagnosed as having active tuberculosis or as being an asymptomatic carrier of this disease shall be admitted to a nursing facility, except under the supervision of the State Health Office (OPH). Tuberculosis is a reportable disease and shall be reported to the State Health Office through the public health unit in the parish where the nursing facility is located.

NOTE: A negative chest X-ray will allow the facility to admit the resident; provided, however, a Mantoux PPD test will be administered within 72 hours after admission. In a case where the medical record indicates resident has previously tested positive, a Mantoux PPD should not be performed.

F. Medical—Social Information. A physician's order and Form PASARR-1 shall be submitted for all applicants and recipients seeking initial certification. It is only required that Part A of the PASARR be completed by the facility.

1. The Form PASARR-1 shall be signed by the physician.

a. The physician shall date the Form PASARR-1 on the actual date he completes and signs the form. This will be the date medical certification begins.

2. A specific classification of care shall be indicated by the physician.

3. A transfer form, doctor's orders, or a statement signed by a physician who has knowledge of the case shall be completed on or before the date of transfer of a resident from one nursing facility to another.

4. Notification of Admission or Change (Form 148) shall be submitted to the OAAS regional office for admission or change in resident status.

a. Mental Status Evaluation. For persons with a mental health diagnosis, if either a current (within 30 days of application) mental status evaluation by a psychiatrist or a discharge summary from a mental health facility is available; it may be submitted with the Form PASARR-1. A psychiatrist shall sign and date these documents.

b. Psychological Evaluation. For persons with a diagnosis of mental retardation, if a psychological evaluation conducted by a psychologist is available, it may be submitted with Form PASARR-1. The evaluation shall not have been performed more than 90 days before the date certification is sought.

c. Insufficient Data. Additional documentation may be requested by letter if for any reason the data submitted is insufficient. If the PASARR-1 is not complete, it will be returned. The requested information must be received within 30 days from the date of the request.

d. Denial Due to Insufficient Data. If incomplete or insufficient data is submitted and the facility fails to respond to a request for additional data, a Notice of Medical Certification shall be issued indicating the person is not eligible due to insufficient documentation of the need for the requested services.

e. Screening for Active Treatment and Specialized Services. If the information on the Form PASARR-1 indicates the possibility of the need for active treatment for

MR and/or specialized services for MI, an independent assessment will be completed by representatives of the Office of Mental Health (OMH) or the Office for Citizens with Developmental Disabilities (OCDD).

NOTE: Medical certification cannot be guaranteed for a Medicaid applicant or recipient admitted to a facility before a service determination from the appropriate state agency is obtained.

G. Pre-Admission Screening. The nursing facility may not admit an individual with a diagnosis of mental illness or mental retardation without a pre-admission screening. The purpose of the pre-admission screening annual resident review process (PASARR) is to identify persons who have mental illness (MI) or mental retardation (MR). The form used is PASARR-1 which addresses the specific identifiers of mental illness or mental retardation that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined.

1. Mental Illness (MI). An individual is considered to have a serious mental illness (MI) if the individual has a major mental disorder diagnosable under the Diagnostic and Statistical Manual of Mental Disorders, 3rd Edition (DSM III-R). A mental disorder may include schizophrenia, mood, paranoid, panic, or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder that may lead to a chronic disability. Not inclusive would be a primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia unless the primary diagnosis is a major mental disorder as previously defined.

2. Mental Retardation (MR) and Related Conditions. An individual is considered to have MR if he/she has a level of retardation (mild, moderate, severe, or profound) as described in the American Association of Mental Deficiency's Manual on Classification in Mental Retardation (1983), page 1. Mental retardation refers to significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. These provisions also apply to persons with "related conditions," as defined by federal regulations. *Person with related conditions* means an individual who has a severe, chronic disability that meets all of the following conditions:

- a. it is attributable to:
 - i. cerebral palsy or epilepsy; or
 - ii. any other condition, other than mental illness, found to be closely related to MR because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with MR, and requires treatment or services similar to those required for these persons (any other condition includes autism);
- b. it is manifested before the person reaches age 22;
- c. it is likely to continue indefinitely;
- d. it results in substantial functional limitations in three or more of the following areas of major life activity:
 - i. self-care;
 - ii. understanding and use of language;
 - iii. learning;
 - iv. mobility;

- v. self-direction; and
- vi. capacity for independent living.

H. Categorical Determinations. In order to arrange appropriate care for residents in nursing homes, the state of Louisiana has defined certain categories of resident care needs. Individuals who fall into these categories may have a determination made regarding their need for specialized services or nursing care without an elaborate assessment. In each case that specialized services is determined not to be necessary, however, it remains the responsibility of the nursing facility to notify the appropriate agency if the resident's mental illness or mental retardation service needs changes and becomes a barrier to utilizing nursing facility services, or they become a danger to themselves or others. The following advance group determinations are made by OAAS and are for nursing facility care only. The state's mental health or mental retardation authorities must still make a determination regarding the need for specialized services for MI or MR.

H.1. - I.2. ...

J. If an individual has been identified as having a diagnosis of mental illness and/or mental retardation, the following process is followed prior to admission.

1. The Form PASARR-1 is completed, signed, and dated by the attending physician.

2. The Form PASARR-1 is forwarded to the appropriate agency (OMH or OCDD) for a screening determination to be made. A copy of the Form PASARR-1 is also submitted to the OAAS regional office with an indication that a second level screening has been requested.

3. OMH or OCDD will either make the service determination upon receipt or if further evaluation is necessary the Form PASARR-1 will be forwarded within two working days to an independent assessment team for Level II screening and recommendation of services needed by the resident.

4. If Level II screening is required, an assessment team will visit the resident to complete the evaluations.

5. After all necessary screening is completed OMH or OCDD will submit a written service determination to the OAAS Regional Office and the facility indicating whether nursing facility services are appropriate. The OAAS Regional Office will issue a Form 142 approving or denying medical certification.

6. All evaluation material will be forwarded to the nursing facility by OMH or OCDD for each resident evaluated.

7. A PAS determination must be made in writing within eight working days of referral by the agency or facility which performs the Level I identification screen. If a facility feels that an applicant for admission qualifies for one of the advance group determinations the following procedure should be followed.

a. The facility will submit form PASARR-1 to the department for review.

b. If approved, a categorical determination will be issued to the facility with the applicable time limitation for that category.

c. Based upon this approval, the facility may admit the individual but is still required to forward a copy of the admit packet to the state mental health or mental retardation authority so that they may make a determination for

specialized services in the facility. Part C is exempt from further referral for MI or MR unless the stay exceeds 30 days.

8. Annual Resident Review. All residents of a Medicaid SNF/NF with mental illness and/or mental retardation must be reviewed for services annually regardless of whether they were first screened under the PASARR requirements.

a. To the maximum extent practicable in order to avoid duplicate testing and effort, the PASARR must be coordinated with the routine resident assessment required.

K. - K.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2085 (November 2006)..

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

0611#085

RULE

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.701, 703, and 707)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, as amended, the Office of Conservation hereby amends LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The action will adopt Statewide Order No. 29-R-06/07 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation Fee Schedule for the collection of Application, Production, and Regulatory Fees, and will replace the existing Statewide Order No. 29-R-05/06.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

Application for Site Clearance—an application to approve a procedural plan for site clearance verification of platform, well or structure abandonment developed by an operator/lessee and submitted to the Commissioner of Conservation, as authorized by LAC 43:XI.311 et seq., or successor regulations.

* * *

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 6.0.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November

1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006).

§703. Fee Schedule for Fiscal Year 2006-2007

A. Application Fees

Application Fees	Amount

Application for Site Clearance	\$600

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$6,706 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$3,353 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay \$682 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$682 per well.

C. ...

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

Tier	Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0	14
Tier 2	1-5,000	75
Tier 3	5,001-15,000	215
Tier 4	15,001-30,000	355
Tier 5	30,001-60,000	565
Tier 6	60,001-110,000	780
Tier 7	110,001-9,999,999	959

E. - E.3. ...

F. Pipeline Safety Inspection Fees

1. Owners/Operators of jurisdictional gas pipeline facilities are required to pay an annual Gas Pipeline Safety Inspection Fee of \$18 per mile, or a minimum of \$320, whichever is greater.

2. Owners/Operators of jurisdictional hazardous liquids pipeline facilities are required to pay an annual Hazardous Liquids Pipeline Safety Inspection Fee of \$18 per mile, or a minimum of \$320, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-06/07 and if

any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-06/07) supersedes Statewide Order No. 29-R-05/06 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), , LR 31:2950 (November 2005), LR 32:2088 (November 2006).

James H. Welsh
Commissioner

0611#042

RULE

**Department of Natural Resources
Office of the Secretary**

**Oyster Lease Acquisition and Compensation Program
(LAC 43:I.850-895)**

Under the authority of the laws of the state of Louisiana and in accordance with provisions of Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950, including the Oyster Lease Acquisition and Compensation Program under R.S. 56:432.1, with the general authority of the Department of Natural Resources under Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, and with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary hereby promulgates Rules to govern the Oyster Lease Acquisition and Compensation Program, LAC 43:I.851, 853, 855, 857, 859, 861, 863, 865, 867, and 869 and to replace or repeal the existing provisions of LAC 43:I.Chapter 8, Subchapter B and Subchapter C in their entirety.

The Rule governs the administration of the Oyster Lease Acquisition and Compensation Program by the department, in accord with R.S. 56:432.1, for the acquisition of and compensation for oyster leases or portions of oyster leases upon which occurs or will occur dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration. The proposed Rule repeals the existing provisions of LAC 43:I.Chapter 8, Subchapter B and Subchapter C in their entirety as the authorizing statutory provisions of the former Oyster Lease Relocation Program have been replaced or repealed by Acts 2006, No. 425. The basis and rationale for this Rule are to implement Acts 2006, No. 425, and to comply with the new provisions of R.S. 56:432.1 enacted thereunder.

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

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary

Chapter 8. Coastal Protection, Conservation, and Restoration

Subchapter B. Oyster Lease Acquisition and Compensation Program

§850. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:2288 (December 1998), repealed LR 32:2089 (November 2006).

§851. Purpose and Authority

A. This Subchapter sets forth the rules for the acquisition of and compensation for oyster leases by the department when necessary for purposes of coastal protection, conservation, or restoration. The department may acquire oyster leases, in whole or in part, for such purposes on behalf of the state to the extent that the leases are or may be directly affected by the dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a coastal protection, conservation, or restoration project.

B. These regulations are adopted pursuant to Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950, including the Oyster Lease Acquisition and Compensation Program under R.S. 56:432.1 and the general authority of the department under Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq., R.S. 56:421, et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006).

§852. Notification of Leaseholders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:2288 (December 1998), repealed LR 32:2089 (November 2006).

§853. Construction and Usage

A. The following shall be observed regarding the construction and usage of these regulations.

1. Unless otherwise specifically stated, the singular form of any noun includes the plural and the masculine form of any noun includes the feminine.

2. Unless otherwise specifically stated, all references to *Section* are to Sections of this Subchapter.

3. Any reference to *days* in this Subchapter shall refer to calendar days.

4. The day of the event from which a designated time period begins to run shall not be included in the computation of a period of time allowed or prescribed in these regulations. The last day of the period is to be included in the computation of a period of time allowed or prescribed in these regulations, unless it is a legal holiday, in which case the period runs until the end of the next day that is not a legal holiday. Nonetheless, the effective date of acquisition shall be on the date set by the department pursuant to these regulations and R.S. 56:432.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq., R.S. 56:421, et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006).

§854. Exchange

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:2289 (December 1998), repealed LR 32:2089 (November 2006).

§855. Definitions

A. The following shall apply for purposes of these regulations.

Affected Acreage—the portion of an affected lease located within a direct impact area of a project.

Affected Lease—an existing oyster lease identified by the department from records provided and maintained by DWF as being located, in whole or in part, within a direct impact area of a project.

Coastal Protection, Conservation, or Restoration—any project, plan, act, or activity for the protection, conservation, restoration, enhancement, creation, preservation, nourishment, maintenance, or management of the coast, coastal resources, coastal wetlands, and barrier shorelines or islands, including but not limited to projects authorized under any comprehensive coastal protection master plan or annual coastal protection plan issued pursuant to Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950.

Department—the Department of Natural Resources, its secretary, or his designee.

Direct Impact Area—the physical location upon which dredging, direct placement of dredged, or other materials, or other work or activities necessary for the construction or maintenance of a project is planned to occur or has occurred.

DWF—the Department of Wildlife and Fisheries, its secretary, or his designee.

Effective Date of Acquisition—the date set by the department in accordance with these regulations and R.S. 56:432.1 upon which the affected lease or affected acreage shall revert back to the state of Louisiana, free and clear of any lease or other obligation or encumbrance.

Leaseholder—the last lessee of record, or his designee, of an oyster lease let by DWF pursuant to R.S. 56:425, et seq., as identified in records provided and maintained by DWF.

Marketable Oysters—includes both seed and market-size oysters as defined by DWF.

Oyster Resource Survey—any survey or sampling to obtain information that may include but is not limited to oyster density (via square meter samples), oyster condition, bottom condition, bottom type, oyster standing crop, oyster physiology, oyster mortality, water depth, water temperature, water salinity, and assessment of oyster reef community organisms.

Potential Impact Area—the physical location upon which dredging, direct placement of dredged, or other materials, or other work or activities necessary for the construction or maintenance of a coastal protection, conservation, and restoration project is projected, possible, or estimated to occur.

Potentially Affected Acreage—the portion of a lease located within the potential impact area of a project.

Potentially Affected Lease—an existing oyster lease identified by the department from records provided and maintained by DWF as being located, in whole or in part, within a potential impact area of a project.

Project—any project, plan, act, or activity recognized by the department as relating to coastal protection, conservation, or restoration.

Secretary—the Secretary of the Department of Natural Resources or his designee, unless otherwise specifically stated in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq., R.S. 56:421, et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006).

§856. Retention

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:2291 (December 1998), repealed LR 32:2090 (November 2006).

§857. Notification to Leaseholder of an Oyster Resource Survey; Procedures and Protocols for an Oyster Resource Survey

A. When appropriate, the secretary shall determine and delineate the potential impact area of a project and in making such decision may consult with the government agency or any public or private entity responsible for the project.

B. When the secretary determines that an existing oyster lease identified in records provided and maintained by DWF may, in whole or in part, be located within the direct impact area of a project, the secretary may conduct an oyster resource survey.

C. The secretary shall notify the leaseholder in writing at least 15 days prior to the oyster resource survey of the potentially affected acreage or potentially affected lease. The notification shall, at a minimum, include the following:

1. a brief description of the coastal protection, conservation, or restoration project, and a plat or map depicting the project and potentially affected lease or potentially affected acreage;

2. a copy of these regulations, R.S. 56:424, and R.S. 56:432.1;

3. the date and time of the oyster resource survey;

4. the name of and contact information for the person conducting the oyster resource survey;

5. a statement that the leaseholder or his designee may accompany the person conducting the oyster resource survey;

6. a statement that the state may acquire the potentially affected lease or potentially affected acreage to be surveyed or sampled, and if so, that the leaseholder will be compensated for any acquired lease or portion thereof in accordance with R.S. 56:432.1 and this Subchapter;

7. the name of and contact information for a person at the department to direct all inquiries regarding the project and the potentially affected lease or potentially affected acreage;

8. a statement that the leaseholder may provide to the department, through the contact person listed in the notice, any reasonably confirmable data or other information relevant to a determination of the compensation for any potentially affected lease or potentially affected acreage, within 60 days after the actual date of the oyster resource survey conducted pursuant to this Subchapter. Failure to provide such data or information within the specified time period may preclude consideration of such data by the secretary, the department, the person conducting the oyster resource survey, or the appraiser appointed thereby;

9. a statement that if the person conducting the oyster resource survey is unable to conduct the survey on the date provided in the notice, that such person will provide notice to the leaseholder of the new survey date and time by appropriate and reasonable means;

10. a statement that the oyster resource survey is to be conducted in the manner set forth under §857.E of this Subchapter; and

11. a statement that the department, the state of Louisiana, political subdivisions of the state, the United States, or any agency, agent, contractor, or employee of any of these entities is not subject to any obligation, responsibility, or liability in relation to or resulting from any surveying or sampling of any oyster lease, information provided to any leaseholder in relation to any surveying or sampling of any oyster lease, the timing of any acquisition of any part of any lease by the state pursuant to R.S. 56:432.1, the lack of acquisition of any part of any lease except as provided by R.S. 56:432.1, or any report pursuant to R.S. 56:432.2 or otherwise.

D. Any written notification from the secretary or the department to the leaseholder of a potentially affected lease or potentially affected acreage in accordance with this section shall be deemed legally sufficient if sent by certified United States mail, postage pre-paid, return receipt requested, or hand delivered, to the last address furnished to DWF by the leaseholder on the date of issuance of notice.

E. Oyster Resource Survey Procedures and Protocol

1. The intent of the oyster resource survey is to obtain information that may include but is not limited to oyster density (via square meter samples), oyster condition, bottom condition, bottom type, oyster standing crop, oyster physiology, oyster mortality, water depth, water temperature, water salinity, and assessment of oyster reef community organisms.

2. Assessment Procedure

a. Should the secretary elect to obtain an oyster resource survey of a potentially affected lease or potentially affected acreage, he may select the person(s) to conduct the oyster resource survey considering all relevant criteria, including but not limited to prior experience, prior performance, demonstrated expert knowledge in the field of oyster biology, and the ability to perform concurrent task orders while maintaining high quality work. The person(s) so selected shall be contracted with by the department pursuant to R.S. 39:1481, et seq., or other applicable public contract law, and shall have the following minimum qualifications:

i. a college degree in biological science, or prior acceptance by a Louisiana federal or state court as an expert witness in the field of oyster biology or oyster ecology; and

ii. five years of professional experience conducting oyster lease surveys and standing oyster crop analyses.

b. Samples should be taken at a minimum within the area of a potentially affected lease delineated by the secretary as the potential impact area of the project for which the oyster resource survey is being conducted.

c. A written assessment of the results of the oyster resource survey shall be prepared.

d. Oyster resource survey methods and procedures used should be stated and identified in the written assessment.

e. Information and data from the oyster resource survey should be compiled, analyzed, and presented in tables, charts, and in a written format along with scale maps indicating the location of the oyster leases in relation to the proposed project, location of sample sites, number and size of both live and dead oysters, oyster size frequency distribution, mortality rates per group, and photographs of oyster samples.

f. An original copy of the written assessment shall be provided to and retained by the department, which may use it in accordance with the appraisal and valuation procedures set forth in these regulations. A copy will be provided to the leaseholder upon written request by the leaseholder to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq., R.S. 56:424, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2090 (November 2006).

§858. Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:2291 (December 1998), repealed LR 32:2091 (November 2006).

§859. Appraisal

A. The secretary shall determine or delineate the direct impact area of a project, and in making such decision, may consult with any public or private entity responsible for the project.

B. Should the secretary determine that an existing oyster lease identified in records provided and maintained by DWF is, in whole or in part, located within the direct impact area of a project, the secretary shall obtain an appraisal of the affected lease or affected acreage.

C. When the secretary elects to obtain an appraisal of an affected lease or affected acreage, he shall select the appraiser considering all relevant criteria, including but not limited to the following:

1. prior performance; education; experience in valuation of oyster leases; experience in valuation of unique properties and unusual estates; experience in valuation of various land classes; demonstrated expert knowledge in the field of real property appraisal; and, the ability to perform concurrent tasks orders while maintaining high quality work;

2. the appraiser so selected shall be contracted with by the department pursuant to R.S. 39:1481, et seq., or other

applicable public contract law, and shall have a current certification as a Louisiana certified general real estate appraiser; professional designation in the field of appraisal; and, five or more years professional experience conducting real property appraisals.

D. The appraiser shall estimate the fair market value of the affected lease or affected acreage to be acquired according to accepted appraisal methods, which may include analysis of comparable sales of other leases. The appraiser may also take into consideration any reasonably confirmable data or information supplied by any person or obtained through the appraisal process, and any data or information obtained through the oyster resource survey conducted in accordance with §857.

E. A written appraisal shall be prepared by the appraiser, estimating the fair market value of the affected lease or affected acreage, and explaining the valuation methodology. An original of the appraisal and a copy of all documents used to develop the appraisal shall be provided to the department, which may use it pursuant to the procedures set forth in these regulations. A copy will be provided to the leaseholder upon written request by the leaseholder to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq. and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2091 (November 2006).

§861. Determination of Compensation

A. The secretary shall determine the compensation for any affected acreage to be acquired as follows.

1. If the department provides a time period of one year or more between issuance of a notice of acquisition pursuant to §863 and the effective date of acquisition, then compensation for the affected acreage to be acquired shall be equal to the fair market value of the affected acreage to be acquired as determined by the secretary in accordance with §859.

2. If the department provides a time period of less than one year between issuance of a notice of acquisition pursuant to §863 and the effective date of acquisition, the compensation for the affected acreage to be acquired shall be equal to the fair market value of the affected acreage to be acquired as determined by the secretary in accordance with §859 plus the value of such non-removable marketable oysters on the affected acreage, if any, as determined by the department, based upon reasonably confirmable data. The determination of value shall take into account the number of sacks of marketable oysters per acre, suitable acreage, natural mortality, current market price, and harvest cost.

3. Data for estimation of the value of non-removable marketable oysters shall be determined from the written assessment derived from the oyster resource survey conducted in accordance with §857. The department may also take into consideration any reasonably confirmable data or information supplied timely by any person in accordance with §857.

4. The appraiser and the department shall consider any reasonably confirmable data or other information supplied to the department by the leaseholder following the oyster resource survey conducted in accordance with §857. The department or the appraiser may disregard any information or data not submitted timely pursuant to §857.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq. and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2091 (November 2006).

§863. Notification to Leaseholder of Acquisition and Compensation

A. Should the secretary determine that an existing oyster lease issued by DWF is located within the direct impact area of a project and the project is necessary and proper for coastal protection, conservation, or restoration, the secretary may acquire the affected acreage on behalf of the state in accordance with this Section.

B. Acquisition shall be implemented by issuance of a notice of acquisition. Notice of acquisition may be mailed or delivered to the leaseholder no sooner than 60 days after the completion of the oyster resource survey conducted in accordance with §857. The notice shall be issued in writing to the leaseholder by certified United States mail, return receipt requested, postage pre-paid, or hand delivery, to the last address furnished to DWF by the leaseholder on the date of issuance of notice. A copy of such notice shall be recorded in the conveyance records of any parish in which the affected acreage to be acquired or the affected lease is located.

C. Such notice of acquisition shall, at a minimum, include:

1. a description specifying affected acreage, or portion thereof, being acquired;
2. the effective date of acquisition;
3. a brief description of the coastal protection, conservation, or restoration project for which the acreage is being acquired;
4. a plat or map depicting the project and the affected lease or affected acreage to be acquired;
5. a copy of these regulations and R.S. 56:432.1;
6. a statement that the department will acquire the acreage described in the notice of acquisition, and that such acquisition shall automatically occur on the date specified in the notice;
7. a statement that the leaseholder retains full use and possession of the affected acreage to be acquired until the effective date of acquisition, and may, at his sole risk and expense, harvest any oysters or take any other action permitted under the affected lease until the effective date of acquisition;
8. a statement that the acquisition will be effective regardless of whether the leaseholder actually received the notice of acquisition;
9. a statement that the affected lease shall continue in full force and effect as to all remaining acreage under the lease other than the acquired acreage (in cases where only part of the affected lease is being acquired);
10. a statement that lease payments as otherwise required by R.S. 56:428 or 429 shall no longer be payable as to the acquired oyster lease acreage for the calendar year after the date on which the notice of acquisition is issued; but that payment must still be paid as to any remaining acreage under the lease if the lease is acquired only in part;
11. a statement that the leaseholder will either be allowed a period of one year or more from the date of issuance of notice of acquisition herein in which to remove any and all marketable oysters from the affected lease, at his

sole risk and expense, and that no compensation shall be allowed for oysters so removed or removable, or if the department states an effective date for the acquisition that is less than one year after the date of issuance, a statement that the compensation for the acreage to be acquired includes compensation for the non-removable marketable oysters as part of the attached acquisition payment;

12. a determination of compensation, stating the dollar amount that the department has determined in accordance with these regulations and R.S. 56:432.1 to be paid for the acquired acreage and the appraised value of the acquired acreage. If compensation is being paid for non-removable marketable oysters, a statement of the value thereof is also to be included;

13. a check, attached only to a notice of acquisition sent to the leaseholder's last address as furnished to DWF by the leaseholder on the date of issuance of notice, in the full amount of the determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, in the name of the leaseholder of record in accordance with the records of DWF on the date of issuance of notice of acquisition herein;

14. a statement that acceptance or negotiation of the attached check (or draft) does not preclude a claim for additional compensation as provided in these regulations and R.S. 56:432.1;

15. if any amount due on a recorded lien or encumbrance has been withheld from the check for compensation, a statement indicating the name of the holder of the recorded lien or encumbrance, the amount withheld, and that payment of said amount has been made by the department to that holder;

16. a statement that the leaseholder may seek an administrative hearing in writing through the department within 60 days after issuance of the notice of acquisition, determination of compensation, or payment, pursuant to these regulations and R.S. 56:432.1, as to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration is proper or whether the compensation issued by the department satisfied the regulations under this Subchapter, and that administrative or judicial review may be permissible, but that the procedures stated by law and these regulations must be followed or such right of review may be lost or impaired; and

17. a statement that a request for administrative or judicial review shall have no effect upon the validity of the acquisition of the acquired acreage, but only the compensation payable to the leaseholder, unless review is sought timely and the leaseholder proves that the project or action for which the acreage was acquired does not further coastal protection, conservation, or restoration.

D. Before issuing any notice of acquisition, the department shall make a reasonable attempt to determine whether any amount is due on a recorded lien or encumbrance in relation to any oyster lease covering the acreage to be acquired. The holder of the lien or encumbrance and the leaseholder may negotiate to allocate the compensation to be paid under the notice of acquisition by written agreement among them. Any such written

agreement must fully release and indemnify the department from any claim in relation to the acreage to be acquired or the compensation for such acreage.

1. If no such written agreement is provided on or before the date when the department issues the notice of acquisition, the department shall withhold the full amount of all liens or encumbrances covering any of the acreage to be acquired, up to the full amount of the compensation determined by the department. If the department timely receives such a written agreement, the department shall withhold the amount agreed by the lienholder or encumbrance holder. A statement of the name of the holder and the amount withheld in relation to each lien or encumbrance shall be issued to the leaseholder as part of the notice of acquisition.

2. Should the amount of compensation to be paid for the acquired acreage be insufficient to pay the entirety of the lien or encumbrance, any lien or encumbrance shall be paid in order of legal preference and all holders of any remaining or unpaid lien or encumbrance shall be notified of the reason for non-payment or partial payment and issued a copy of the notice of acquisition.

3. The department shall forward payment in the full amount of any withholding to the holder of the lien or encumbrance by certified United States mail, return receipt requested, postage pre-paid, or by pre-paid receipted courier or delivery service, or hand delivery, to the last address on file with the secretary of state, if any, or to any address provided to the department or DWF by the lien or encumbrance holder. A copy of the notice of acquisition and determination of compensation, showing the lien or encumbrance and the withholding in relation thereto, shall be attached to the payment.

4. If the department is unable to make delivery of the payment by these means, the department shall transfer funds in the full amount of the withholding to a trust account from which it may be drawn for the benefit of the holder of the lien or encumbrance by joint agreement of the holder and the department, upon request of the lienholder of record on the date the notice of acquisition is initially issued.

5. If funds deposited into a trust account pursuant to this Subsection remain unclaimed after a period of five years, the funds shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151, et seq., at the sole discretion of the secretary.

E. If the department attempts issuance of notice of acquisition, determination of compensation, and the check pursuant to §863.C, at least once, and is unable to make delivery of the notice to the leaseholder thereby, the department shall re-issue the notice and the determination of compensation by certified United States mail, return receipt requested, to the leaseholder at his address on file with DWF on the date of the re-issuance. In such event, the department shall also publish a summary of such notice identifying the affected lease and acreage to be acquired, stating the effective date of the acquisition and providing a contact person at the department for all inquiries regarding the acquisition, in the official journal for all parishes in which any part of the acreage to be acquired is located. In addition, the following procedures shall apply.

1. If a Notice of Acquisition is re-issued under this Subsection, no check shall be attached to the re-issued notice. Instead, payment in the full amount of the determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, shall be transferred into a trust account from which it may be drawn for the benefit of the leaseholder by joint agreement of the leaseholder and the department, upon request of the leaseholder listed with DWF on the date the notice of acquisition is initially issued. If said funds deposited into a trust account pursuant to this Subsection remain unclaimed after a period of five years, the funds shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act as set forth in R.S. 9:151, et seq., at the sole discretion of the secretary.

2. A re-issued notice shall include a statement that compensation for the acquisition has been deposited into a trust account, and that a contact person at the department designated in the re-issued notice can assist the leaseholder in withdrawing said funds from the trust account. The re-issued notice shall also include a statement that any funds in the trust account remaining unclaimed after five years shall be declared abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151, et seq.

F. Upon the effective date of acquisition of affected acreage as stated in the notice of acquisition, possession of the affected acreage acquired pursuant to the notice of acquisition, issued in accordance with this section shall revert back to the state of Louisiana, free and clear of any lease or other obligation or encumbrance, and regardless of whether the leaseholder actually receives the notice of acquisition.

G. No lease shall be granted for any water bottom for which any lease was previously acquired by the state for coastal protection, conservation, or restoration, unless the secretary of DWF determines that leasing would otherwise be appropriate under the provisions of Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950 and the secretary of DNR affirms that the water bottom is not necessary for coastal protection, conservation, or restoration, as provided by and in accordance with the provisions of R.S. 56:425(E). Unless this determination has been made prior to issuance of the lease, a lease of water bottom for which a lease was previously acquired shall be null and void for such water bottom and shall be of no force or effect. No person shall have any claim against either secretary, either department, the state of Louisiana, its political subdivisions, the United States, or any agency, agent, contractor, or employee thereof or any other person in relation to the nullity of such lease. The determination of whether the water bottom sought to be leased is not necessary for coastal protection, conservation, or restoration shall be at the sole discretion of the secretary of DNR, upon consideration of existing, planned, projected, or reasonably foreseeable projects or other actions needed for coastal protection, conservation, or restoration.

H. Nothing in these regulations shall be construed to require the secretary to engage in or perform any project or other action for coastal protection, conservation, or

restoration or any oyster resource survey, appraisal, or valuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq., R.S. 56:425, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2092 (November 2006).

§865. Administrative Review

A. A leaseholder of an oyster lease acquired, in whole or in part, in accordance with these regulations and R.S. 56:432.1 may seek an administrative hearing through the department.

1. Any such adjudication shall be limited to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration is proper, or whether the compensation issued by the department satisfies the rules and regulations under this Subchapter.

2. Any leaseholder whose lease is not acquired, but upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred, may also seek an administrative hearing through the department under this section to determine if acquisition of such oyster lease acreage would be proper.

B. A leaseholder's request for an administrative hearing under this section shall be requested in writing and sent to the department at the following address: Louisiana Department of Natural Resources, Office of Coastal Restoration and Management, Assistant Secretary, P.O. Box 44487, Baton Rouge, LA 70804-4487.

1. A written request for adjudication under this Section must be received by the department within 60 days after issuance of the notice of acquisition, determination of compensation, or payment to which the request pertains. However, a request for adjudication may be submitted to the department within two years after completion of the project for which acreage was acquired, if and only if, the leaseholder establishes that notice of the acquisition, determination of compensation, or payment was not issued as required by R.S. 56:432.1 or §863, or the request for adjudication seeks review of the lack of acquisition of leased acreage upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred.

a. A request for adjudication received after the aforementioned deadlines, as applicable, is not timely and shall be denied.

b. A request for adjudication is deemed timely "received" when the request is mailed on or before the due date. If the papers are received by mail on the first legal day following the expiration of the delay, there shall be a rebuttable presumption that they are timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown by an official United States postmark or by official receipt or certificate from the United States Postal Service or a bona-fide commercial mail service such as Federal Express or United States Parcel Service, made at the time of mailing which indicates the date thereof.

2. A request for an administrative hearing shall, at a minimum, include the following:

a. identification of the notice of acquisition to which the request pertains, or if no notice has been issued, identification of the affected lease and affected acreage to which the request pertains;

b. a statement of the relief requested, identifying the specific issue or point as to which adjudication is sought;

c. a statement of the reasons such relief is requested, and the facts upon which the request for relief is based;

d. the name and address to which the department and the Division of Administrative Law will send all communications regarding the request for administrative review. Neither the department nor the Division of Administrative Law have any obligation to deliver any communications or other notices regarding the request to any person or address other than the address listed in the request or any amendment thereto. If no person is listed, the department and the Division of Administrative Law shall deliver all communications or notices to the last address on file for the leaseholder with DWF, and shall have no obligation to deliver communications or notices to any other person or address.

3. The department shall promptly submit a request for adjudication to the Division of Administrative Law.

C. Any adjudication hereunder shall be governed by and conducted in accordance with the Administrative Procedure Act (APA), R.S. 49:950, et seq., and the Division of Administrative Law Act (DALA), R.S. 49:991, et seq., unless such procedures are inconsistent or in conflict with the provisions of this Subchapter or R.S. 56:432.1.

D. The leaseholder may provide to the Division of Administrative Law, the department, and any other parties, including any holder of any lien or encumbrance or any other leaseholder claiming an interest in the acreage at issue, on or before the date of the adjudication, any reasonably confirmable data or other information that the leaseholder believes should be considered by the Division of Administrative Law in conducting the administrative review of the determination of the department. The Division of Administrative Law shall consider any reasonably confirmable data or information timely provided to the department by the leaseholder or any other person pursuant to §863 and R.S. 56:432.1. The Division of Administrative Law may disregard any information or data that is not submitted timely pursuant to this Subchapter.

E. The final decision of the Division of Administrative Law shall be issued to the leaseholder, in writing by certified mail, at his address on file with DWF on the date of issuance thereof, or at such other address as may be specified in the request for adjudication; and the Louisiana Department of Natural Resources, Office of Coastal Restoration and Management, Assistant Secretary, P.O. Box 44487, Baton Rouge, LA 70804-4487.

F. A request for adjudication shall have no effect upon the validity of the acquisition of the acreage acquired pursuant to a notice of acquisition, but only the compensation payable to the leaseholder. However, the acquisition may be found invalid if adjudication is sought timely and the project or action for which acquisition is sought does not further coastal protection, conservation, or

restoration. If the acquisition is invalidated, the full possession of the oyster lease acreage sought to be acquired shall remain with the leaseholder, as if the notice of acquisition had never been issued.

G. If the Division of Administrative Law declares in a final decision that the leaseholder is entitled to additional compensation for the acquisition of the leasehold acreage at issue or that the department should have acquired a lease or acreage which it had not previously acquired, and states the amount of such compensation that is due, the department, subject to Constitution Article 12, Section 10, shall issue a check or draft to the leaseholder for such additional amount, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, by certified United States mail, return receipt requested, postage pre-paid, or hand delivery, to the last address on file with DWF on the date of issuance, or at such other address as may be specified in the request for adjudication, within 60 days after issuance of the final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq. and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2094 (November 2006).

§867. Judicial Review

A. A leaseholder may seek judicial review of the final decision of the Division of Administrative Law under §865 in accordance with R.S. 56:432.1(D), based solely on the administrative record and, except as otherwise provided in these rules or by R.S. 56:432.1, governed by and conducted in accordance with the Administrative Procedure Act (APA), R.S. 49:950, et seq. and the Division of Administrative Law Act (DALA), R.S. 49:991, et seq.

B. Proceedings for judicial review may be instituted in accordance with R.S. 56:432.1(D) by filing a petition in the Nineteenth Judicial District Court for the Parish of East Baton Rouge within 60 days after issuance of the final decision of the Division of Administrative Law. No petition for judicial review may be filed, and any such petition is premature, unless adjudication has been timely sought and all administrative remedies have been exhausted. Copies of the petition shall be served upon the secretary and on all parties of record.

C. A request for judicial review shall have no effect upon the validity of the acquisition of any oyster lease acreage acquired pursuant to a notice of acquisition, but only the compensation payable to the leaseholder. However, the acquisition may be found invalid if review is sought timely and the project or action for which acquisition is sought does not further coastal protection, conservation, or restoration. If the acquisition is invalidated, the full possession of the acreage sought to be acquired shall remain with the leaseholder, as if the notice of acquisition had never been issued.

D. If the court declares in its judgment that the leaseholder is entitled to additional compensation for the acquisition of the leasehold acreage at issue or that the department should have acquired a lease or acreage which it had not previously acquired, and states the amount of such compensation that is due, the department may appeal the judgment in accord with R.S. 49:965 of the Administrative Procedure Act (APA). If the judgment is affirmed on appeal or no appeal is taken and subject to Constitution Article 12,

Section 10, the department shall issue a check or draft to the leaseholder for such additional compensation as set forth in the original judgment or as may be modified or amended on appeal by certified United States mail, return receipt requested, postage pre-paid, or hand delivery, to the last address on file with DWF on the date of issuance, or at such other address as may be specified in the request for adjudication no more than 60 days after the judgment becomes final and definitive under the provisions of Articles 2166 and 2167 of the Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq. and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2095 (November 2006).

§869. Reimbursement of Costs of Acquisition

A. The department may acquire any acreage under this Subchapter in relation to a project or action for coastal protection, conservation, or restoration performed or to be performed by or for the United States, any department, agency, board, commission, or political subdivision of the state, or any other public or private entity responsible for a project.

B. If the department acquires acreage under this Subchapter in relation to any project or action performed by any person or entity other than the department, such entity shall compensate the department for all costs incurred by the department, which are associated with the acquisition.

C. The costs for which reimbursement is due under this Subchapter includes but is not limited to costs of oyster resource surveys, appraisal, administrative, or other uses of department personnel or resources, payment for acquisition, and awards on administrative adjudications or judicial review.

D. The secretary may choose, at his sole discretion, to waive any part or all of the compensation that would otherwise be required under this Section. No person or entity shall have any right to such waiver, and the secretary shall have no obligation to make such a waiver. Waiver of any part of the compensation that would otherwise be required shall not affect any obligation to pay the remainder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq. and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2095 (November 2006).

Subchapter C. Rules Governing Davis Pond Oyster Relocation Program

§875. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1483 (July 2000), repealed LR 32:2095 (November 2006).

§877. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1483 (July 2000), repealed LR 32:2095 (November 2006).

§879. Notification of Leaseholders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1484 (July 2000), repealed LR 32:2095 (November 2006).

§881. Leaseholder Options

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1484 (July 2000), repealed LR 32:2096 (November 2006).

§883. Exchange Option

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1484 (July 2000), repealed LR 32:2096 (November 2006).

§885. Relocation Option

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1485 (July 2000), repealed LR 32:2096 (November 2006).

§887. Retention Option

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1486 (July 2000), repealed LR 32:2096 (November 2006).

§889. Purchase Option

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1486 (July 2000), repealed LR 32:2096 (November 2006).

§891. Payment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1486 (July 2000), repealed LR 32:2096 (November 2006).

§893. Release

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1487 (July 2000), repealed LR 32:2096 (November 2006).

§895. Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1487 (July 2000), repealed LR 32:2096 (November 2006).

Scott A. Angelle
Secretary

0611#018

RULE

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

CCAP/STEP Mandatory Electronic Payments
(LAC 67:III.2901, 2902, 2905-2913, 5107, 5109, and 5729)

The Department of Social Services, Office of Family Support, amended LAC 67:III §§5107 and 5109 in the Child Care Assistance Program (CCAP) and §5729 in the Strategies to Empower People (STEP) Program, and repeals Subpart 5. Family Independence Work Program (FIND Work).

Electronic disbursement will allow the agency to provide effective and efficient disbursement of CCAP and STEP payments while eliminating the need to print and mail checks. Authority for this action is ACF Guidance, ACYF-IM-CC-05-03, Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations.

Additionally, the agency repealed the FIND Work Program as it was replaced by the Strategies to Empower People (STEP) Program in October 2003.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 5. Family Independence Work Program

Chapter 29. Organization

Subchapter A. Designation and Authority of State

Agency

§2901. General Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 19:504 (April 1993), LR 24:1135 (June 1998), repealed LR 32:2096 (November 2006).

§2902. State Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:450 (April 1997), amended LR 28:1598 (July 2002), repealed LR 32:2096 (November 2006).

§2905. Program Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A)(3), R.S. 46:453(B), 45 CFR 251.4 and 45 CFR 251.5, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:627 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:973 (October 1991), LR 19:505 (April 1993), LR 23:450 (April 1997), repealed LR 32:2096 (November 2006).

Subchapter B. Participation Requirements

§2907. Individual Participation Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:505 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:2455 (December 1999), LR 26:1343 (June 2000), repealed LR 32:2097 (November 2006).

§2909. Failure to Participate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193; R.S. 46:231, R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:627 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:505 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998), LR 25:2455 (December 1999), LR 26:1343 (June 2000), repealed LR 32:2097 (November 2006).

Subchapter C. Activities and Services

§2911. Work Activities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:505 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:451 (April 1997), LR 25:2456 (December 1999), repealed LR 32:2097 (November 2006).

§2913. Support Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:388 (April 1991), amended LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:505 (April 1993), LR 20:794 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:2456 (December 1999), LR 26:1343 (June 2000), LR 28:102 (January 2002), repealed LR 32:2097 (November 2006).

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5107. Child Care Providers

A. ...

B. A licensed Class A center or licensed Class A Head Start center must be active in the Child Care Assistance Program (CCAP) Provider Directory, complete and sign a Class A provider agreement, and provide complete and accurate documentation and information required for Direct Deposit before payments can be made to that facility.

C. - D.1.d ...

E. A public or non-public school program must be certified, must complete and sign a school program provider agreement and Form W-9, must be regulated by the Board of Elementary and Secondary Education (BESE) if a public school or *Brumfield vs. Dodd* approved if a non-public school, and provide complete and accurate documentation

and information required for Direct Deposit before payments can be made to that provider.

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

1. a person living at the same residence as the child;

2. the child's parent or guardian, or parent/caretaker relative in the case of a STEP participant, whether or not that individual lives with the child;

3. an FCDCH provider, (if the child's non-custodial parent is residing in the FCDCH and is not working during the hours that care is needed);

4. a Class B child care center;

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C), unless approved in writing by a district judge of the parish and the local district attorney;

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C. unless approved in writing by a district judge of the parish and the local district attorney;

7. a person/center providing care outside of the state of Louisiana.

G.1. A provider shall be denied or terminated as an eligible CCAP provider if:

a. - g ...

h. a Class A or School Child Care Provider fails to submit complete and accurate documentation and information required for Direct Deposit.

G.2. - I.2. ...

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, 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, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:2097 (November 2006).

§5109. Payment

A. - E. ...

F. Electronic disbursement of child care payments shall be mandatory for all types of CCAP providers. Electronic disbursement of child care payments includes direct deposit to the CCAP provider's bank account (checking or savings) or payments to a stored value card account for the CCAP provider. It is mandatory for Class A and School Child Care providers to utilize direct deposit to receive their CCAP payments. The fees associated with the use of a stored value card are subject to the conditions of that financial institution.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, 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), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:2097 (November 2006).

Subpart 16. Strategies to Empower People (STEP)

Program

Chapter 57. Strategies to Empower People (STEP)

Program

Subchapter C. STEP Program Process

§5729. Support Services

A. - B.5. ...

C. Electronic disbursement of support services payments shall be mandatory for all payment types.

1. Electronic disbursement of support services payments other than child care payments includes direct deposit to the STEP participant's bank account (checking or savings) or payments to a stored value card account for the STEP participant.

2. Electronic disbursement of child care payments includes direct deposit to the CCAP provider's bank account (checking or savings) or payments to a stored value card account for the CCAP provider.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 32:2098 (November 2006).

Ann Silverberg Williamson
Secretary

0611#048

RULE

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

KCSP-FTAP-STEP—Parent Skills—IFG
(LAC 67:III.5329)

This Rule was printed in the October 20, 2006 edition of the *Louisiana Register* on pages 1911-1914. Section 5329 of this Rule is being repromulgated to correct a codification error.

The Department of Social Services, Office of Family Support, amended LAC 67:III, Subpart 2, Subpart 10, Subpart 13, and Subpart 16.

The agency amended §§1209, 1223, 1225, 1229, 1245, and 1291 in the Family Independence Temporary Assistance Program (FITAP); §§5307, 5321, 5323, 5329, 5339, 5341, and 5391 in the Kinship Care Subsidy Program (KCSP) and §5711 in the Strategies to Empower People (STEP) Program. These amendments were effected by a Declaration of Emergency signed May 1, 2006, and published in the May issue of the *Louisiana Register*.

Additionally, the agency is repealing Subpart 10, Individual and Family Grant (IFG) Program because effective October 15, 2002, IFG was replaced by the Individual and Households Program (IHP) which is administered by the Federal Emergency Management Agency.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5329. Income

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

1. - 30. ...

31. effective May 1, 2006, Supplemental Security Income (SSI).

B. - B. 2.c. ...

3. For purposes of this pretest, income is defined as countable income belonging to any member of the KCSP income unit. Exception effective May 1, 2006: Income for children receiving foster care and Supplemental Security Income is not included in the income test.

C. Income after Pretest. The child is determined eligible for KCSP if the child's countable income is, effective July 1, 2006, less than \$280. If the child's countable income is effective July 1, 2006, \$280 or more, the child is ineligible.

D. Payment Amount. Effective July 1, 2006, payment amount is \$280 per month for each eligible child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006).

Ann Silverberg Williamson
Secretary

0611#024

RULE

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

TANF Initiatives

(LAC 67:III.5509, 5549, 5555, 5569, 5579 and 5587)

The Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, §§5549, 5555; adopts §§5509, 5569, and 5587; and repeals §5579.

The initiatives being adopted include §5509, Domestic Violence Services, §5569, Alternatives to Abortion Services Program, and §5587, Children's Defense Fund Freedom Schools.

Additionally, the agency made changes in order to clarify services and funding sources.

The agency also repealed §5579, Developmental and Socialization Activities Program for Foster Children, as funding is no longer available for this TANF Initiative.

Title 67
SOCIAL SERVICES

Part III. Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006).

§5549. OCS Child Welfare Programs (Effective April 12, 2002)

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. The methods of collaboration include:

A.1. - B. ...

C. Financial eligibility is limited to needy families which include a minor child living with a custodial parent or an adult caretaker relative. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:2099 (November 2006).

**§5555. Individual Development Account Program
(Effective July 1, 2002)**

A. - B. ...

C. Effective July 1, 2006, IDA funds may be used for one or more of the following qualified purposes as determined by the secretary:

C.1 - D. ...

E. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

G. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45 (January 2003), amended LR 32:2099 (November 2006).

§5569. Alternatives to Abortion Services Program

A. Effective June 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

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 and to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. Eligibility for services is limited to pregnant women, their male partners, and/or pregnant minors whose family's income is at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006).

**§5579. Developmental and Socialization Activities
Program for Foster Children**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1, 2004 Reg. Session, Act 16 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:488 (February 2005), repealed LR 32:2099 (November 2006).

§5587. Children's Defense Fund Freedom Schools

A. Effective June 1, 2006, the agency shall enter into contracts to create supportive, nurturing, literature-rich environments for children ages 5 to 18 years of age by focusing on literacy, cultural heritage, parental involvement, servant-leadership, and social action. The Freedom Schools program connects the needs of children and their families with the resources of the community.

B. These services meet the TANF goal to prevent and reduce out-of-wedlock pregnancies.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006).

Ann S. Williamson
Secretary

0611#049

RULE

Department of Social Services Office of Family Support

TANF Initiatives—Third Party In-Kind Contributions (LAC 67:III.5585)

Editor's Note: Section 5585, Third Party In-Kind Contributions, is being repromulgated to correct a codification error. This Rule was promulgated in the October 20, 2006 *Louisiana Register* and can be viewed on page 1914.

The Department of Social Services, Office of Family Support, adopted LAC 67:III, Subpart 15, Chapter 55, §5511 Micro-Enterprise Development Program and §5585, Third Party In-Kind Contributions as TANF MOE.

As a result of Act 1 of the 2004 Regular Legislative Session, the agency repealed several TANF Initiatives including Micro-Enterprise Development effective September 2004, as funding was no longer available. Pursuant to Act 16 of the 2005 Regular Session of the Louisiana Legislature, the agency is re-establishing this program as funds have once again been appropriated for this initiative.

As a consequence of two hurricanes striking Louisiana in 2005, the Red Cross provided certain mass care in Louisiana to persons affected by the storms. The value of certain goods, services, and expenditures provided to eligible families by the Red Cross may count toward the state's Maintenance of Effort (MOE) requirement.

The Department of Social Services (DSS) has requested that the Red Cross advise the department of the total value of expenses paid by the organization between September 1 and December 31, 2005, for mass care so that DSS may count a portion of the total value towards the state's MOE requirement. This new TANF Initiative, Third Party In-Kind Contributions as MOE, provides a mechanism to capture the information on third party in-kind contributions for use as TANF MOE.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5585. Third Party In-Kind Contributions as TANF MOE

A. The Office of Family Support (OFS) may enter into a Memorandum of Understanding with the American Red Cross and other third-party organizations to collect information on expenditures for services provided to families following a federally-declared disaster for the purpose of claiming eligible expenditures as TANF Maintenance of Effort (MOE). Eligible expenditures include activities and services provided on a congregate basis to the community as a whole, such as sheltering, feeding, bulk distribution of items, but not including any expenses for which the federal government is obligated to reimburse the third party.

B. The third party organization shall determine the total value of the expenses and advise OFS of this value on a periodic basis.

C. OFS shall establish a methodology to estimate the percentage of total expenses that were made on behalf of TANF-eligible families following a federally-declared disaster.

D. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

E. Financial eligibility for these services is limited to eligible families. A family consists of a minor child living with a custodial parent or an adult caretaker relative. An eligible family is one with income at or below 200 percent of the federal poverty level.

F. OFS will count eligible third party in kind contributions as TANF Maintenance of Effort (MOE) funds starting September 2005.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:1914 (October 2006), repromulgated LR 32:2100 (November 2006).

Ann Silverberg Williamson
Secretary

0611#077

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry State Market Commission

Market Commission—Acquisition of Facilities (LAC 7:V.Chapter 23)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission, proposes to enact regulations regarding the acquisition of machinery, equipment and facilities by the Louisiana State Market Commission.

Promulgation of these proposed rules and regulations enables the State Market Commission to acquire, rent or sell machinery, equipment and facilities to further enhance the economy of agricultural production and to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products throughout the state of Louisiana.

These proposed Rules comply with and are enabled by R.S. 3:405.

Title 7

Agriculture and Animals

Part V. Advertising, Marketing and Processing

Chapter 23. Market Commission—Acquisition of Facilities

§2301. Definitions

Acquire—to gain possession or control of land, buildings, machinery, equipments, and other property by purchase, donation, rent, lease, sub-lease, or by any other lawful manner.

Commission—State Market Commission.

Commissioner—Commissioner of Agriculture and Forestry.

Department—Louisiana Department of Agriculture and Forestry.

Facility—land, buildings, or other structures and any combination thereof.

Farm Product—any agronomic, horticultural, silvicultural, or aquacultural crop; livestock; any raw product derived from any crop or livestock; and any item produced from the further processing of the crop, livestock, or raw agricultural product.

Livestock—any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, used in agriculture, aquaculture, or silviculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or

enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

Person—any association, business, corporation, firm, individual, joint venture, limited liability company, partnership, and any body of persons, whether incorporated or not.

Rent—an agreement or contract, including a lease or sub-lease, whereby a person acquires the right to use and occupy the machinery, equipment, or facility acquired by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:

§2303. Criteria for Acquiring Machinery, Equipment, and Facilities

A. The commission shall determine whether the acquisition of any machinery, equipment, or facility is necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products.

B. The commission shall also consider the following criteria in determining whether to acquire any machinery, equipment, or facility:

1. the economic needs of the areas of the state in which the machinery, equipment, or facility will be located;
2. the number of jobs created or preserved in the state;
3. the amount of farm products produced in the state that will be utilized;
4. the degree of diversification that the machinery, equipment, or facility will bring to the state's agricultural economy;
5. the economic stimulus that the use of the machinery, equipment, or facility will provide to the local economy or to the state's agricultural economy as a whole;

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:

§2305. Persons Eligible to Use, Rent, or Purchase Acquired Machinery, Equipment, or Facility

A. Any person who meets the criteria in this Section is eligible to apply to rent or purchase machinery, equipment, or facilities acquired by the commission.

B. The criteria for eligibility are as follows:

1. be authorized to do business in this state;
2. maintain or agree to maintain an operating facility in this state;
3. employ at least twenty full time employees or the equivalent thereof;
4. be engaged in the assembling, processing, storing, grading, distributing, or marketing of farm products of this state;
5. have, or be able to obtain, financial resources including operating capital sufficient to show an ability to

operate under normal condition for a period of at least one year;

6. be able to provide the commission with a first mortgage, primary lien, or other first or primary security for the rent or purchase of the machinery, equipment or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:

§2307. Contents of Application

A. Every applicant seeking to rent or purchase machinery, equipment or a facility from the commission shall submit the following information to the commission:

1. name and address of applicant including all principals by name and address;

2. a statement of the nature and amount of the interest held by each principal;

3. sworn statement of the relationship, if any, of any of the principals with any state official and/or with any employee of the Department of Agriculture and Forestry;

4. location and legal description of all property to be offered as security;

5. personal financial statements of every principal of the applicant unless the commission's staff finds that the applicant is a publicly traded company or other business enterprise whose financial statements are sufficient to show the solvency of the applicant;

6. an appraisal by a qualified appraiser of the property being offered as security or information sufficient to show the approximate value of the property;

7. a listing of all equipment and furnishings, both movable and immovable by destination, with the expected life of the equipment and furnishings, if equipment and furnishings will be offered as part of the security;

8. evidence of satisfactory interim and long term financing, where applicable;

9. a business plan/feasibility study for the proposed enterprise which includes a three year projected cash flow statement, together with an explanation of how the enterprise meets the criteria set out in 2303.B and 2305.B;

10. written authorization for the commission or its staff to perform any credit check(s) which the commission or staff may deem advisable;

11. a designation by the applicant, if any, of what records, writings, accounts, or other documents and information that pertain to the business of the applicant and are in their nature confidential;

12. any other documentation or information the commission or its staff deems necessary for a determination as to whether to approve or deny the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:

§2309. Approval of Application

A. The applicant must provide all required information at least 10 working days prior to the meeting at which the applications will be considered, unless partial submission is allowed by the commission's staff or by the commission.

B. The applicant or its representative must appear in person at the meeting at which the applications will be considered.

C. The commission may approve an application even if all the criteria set out in this Chapter have not been met by an applicant if the commission determines that under the circumstances the applicant's rent or purchase of the machinery, equipment, or facility is necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products of the state. The commission may refuse to approve an application even if all the criteria set out in this Chapter have been met by an applicant if the commission determines that under the circumstances the applicant's rent or purchase of the machinery, equipment, or facility is not necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products of the state.

D. If there is more than one applicant for the rent or purchase of machinery, equipment, or facilities acquired by the commission then the commission maintains the discretion to decide which, if any, applicant will be approved.

E. The commission may establish terms and provisions to be included in any written rental or purchase agreement or act of sale in addition to the terms and provisions submitted to the commission, or authorize the commissioner or the commission's staff to negotiate additional terms and conditions within the parameters established by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:

Family Impact Statement

The proposed amendments to Rules 7:V.Chapter 23 Acquisition of Machinery, Equipment and Facilities by the Louisiana State Market Commission should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on the proposed Rules to Randal Rogers through the close of business on December 29, 2006 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these proposed Rules is necessary.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Market Commission
Acquisition of Facilities**

**Title 25
CULTURAL RESOURCES
Part XI. Office of the Secretary**

**Chapter 5. Black Bear Golf Course
§501. Definitions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Although costs or savings to state or local governmental units cannot be accurately estimated at this time due to unknown frequency or circumstances of these transactions, the proposed rule is not anticipated to result in additional expenditures or costs at this time. Implementation of these rules is contingent upon appropriation by the legislature or the availability of any appropriate self-generated funds. The proposed rule will merely establish procedures in the event of the State Market Commission plans to acquire any machinery, equipment, and facilities which are necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, and marketing of farm products of the state.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There could be some effect on revenue collections of the state depending on the terms and conditions for selling and renting machinery, equipment and facilities. The effect is unknown since there are no such facilities in existence at this time.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Direct economic impact will depend upon the terms of the sale or lease, financial conditions that exist at the time of such sale or lease, the type of facility, the location of the facility, the farm product that will be involved and a host of other factors that will be particular to each transaction.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0611#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation, and Tourism
Office of the Secretary**

Black Bear Golf Course (LAC 25:XI.Chapter 5)

Black Bear Golf Course, a public access championship golf course constructed by the State of Louisiana in Richland Parish, was recently transferred to the Department of Culture, Recreation and Tourism to operate. The course was created as part of a larger project to attract economic development in the Poverty Point region. The proposed Rule will govern the public's use of Black Bear Golf Course, including the fees required for access and use of the facilities. The fees have been set at a rate to ensure fair competition in the industry. These rules and fees are intended to help position the course be able to support itself through self-generated funds by its fifth year of operation, contingent upon the success of related amenities and the development of other programs in the area.

A. As used within this Part, the following terms have the meanings provided herein.

Black Bear Golf Course (Course)—a public, 18-hole championship golf course and its associated property and facilities. Located adjacent to Poverty Point Reservoir in Richland Parish, Louisiana, the course is operated by the Louisiana Department of Culture, Recreation and Tourism.

Department of Culture, Recreation, and Tourism (DCRT)—a state governmental agency responsible for planning, developing, and implementing improved opportunities for the enjoyment of cultural and recreational activities by the people of Louisiana and for greater development of their cultural and physical potential. The department is responsible for the development, maintenance, and operation of library, park, recreation, museum, and other cultural facilities; the statewide development and implementation of cultural, recreational, and tourism programs; and planning for the future leisure needs of the people.

Director of Golf (Director)—the top supervisor directly in charge of day-to-day management of the course. The director is responsible for enforcing all rules set forth in this Part and for enforcing all course policies and procedures.

Secretary—the secretary of the DCRT, who serves as the executive head and chief administrative officer of the department and is appointed by the lieutenant governor with consent of the Senate. The Secretary has responsibility for the administration, control, and operation of the functions, programs, and affairs of DCRT, including the authority to make, alter, amend, and promulgate rules and regulations necessary for the administration of the functions of the DCRT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§503. General Authority and Purpose

A. These rules were enacted by the DCRT pursuant to the authority granted to the secretary by R.S. 36:204(3) and pertain to the governance and operation of the Black Bear Golf Course, a recreation facility under jurisdiction of the DCRT.

B. Course rules are designed to provide the proper atmosphere for the enjoyment and protection of course facilities and for the safety of visitors. Visitors are expected to familiarize themselves with these rules.

C. Course is open to all persons regardless of race, color, national origin, age, sexual orientation, or disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§505. Course Property

A. No person shall intentionally remove, damage, destroy, or disturb course property or the property of another course visitor, without the consent of the owner. Such

"property" shall include but is not limited to structures, signs, movables, markers, natural features, holes, grass or other plants or landscaping, or wildlife.

B. Smoking is prohibited except in designated areas. No outside alcoholic beverages are allowed on course property.

C. No person shall throw, drop, deposit, discard, permit the intentional or accidental ejection, emission, or escape of, or otherwise dispose of litter upon course property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§ 507. Golfing Etiquette

A. All golfers must use proper golfing etiquette at all times. This includes but is not limited to maintaining the proper pace of play and allowing incoming groups to play through if necessary. Golfers should repair divots in the fairway and ball marks on greens.

B. Proper attire, including shirt and shoes, must be worn by all golfers at all times. Proper attire for men includes sleeved and collared or semi-collared shirts; hemmed non-denim pants or shorts; and soft-spike shoes. Proper attire for women includes collared or semi-collared shirts; hemmed non-denim pants, shorts, or skirts; and soft-spike shoes.

C. Groups of more than five golfers will only be allowed to play in a group together on the course with special permission from the director. Single golfers will only be allowed if the course is clear or with special permission from the director.

D. Children under 6 years old are not allowed on the course without special permission from the director. When on a golf cart, children between and including age 6 to age 16 must be accompanied by an adult.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§509. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The director is authorized to control the use and consumption of alcoholic beverages on the course. The consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the course by others.

C. No loud or otherwise disruptive pets will be allowed at the course. The director or other authorized course employees will have discretion to determine which pets are not allowed. Owners will be responsible for their pets, including keeping the pets under control, cleaning up after the pets, and the payment of restitution for any damage caused by the pets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§511. Business Solicitation

A. No person may sell or offer for sale any merchandise or service at the course without the written consent of the director, subject to applicable laws, rules, and policies of the state.

B. No person may distribute, post, place, or erect any advertising device at the course without the written consent

of the director, subject to applicable laws, rules, and policies of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§513. Trespass

A. No person shall enter course property except at designated public access points or unless possessing permission from authorized agents of the course.

B. No person shall enter the course when the course is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§515. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on course property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles, excluding golf carts, must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise specifically authorized by the director.

C. Golf carts must be driven only on the cart paths at tees and greens. Golf carts may not be driven in the heavy rough areas.

D. Vehicles, including recreational vehicles, motorcycles, and trailers, shall be parked only in designated parking areas unless otherwise specifically authorized by the director or his designees.

E. No person shall operate a vehicle in excess of the posted speed limit.

F. No unauthorized person may remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§517. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation, eviction from the course, and/or restitution to the DCRT for damages incurred.

B. At the director's discretion, any person who is evicted from the course for disciplinary reasons may be banned from the course for one year.

C. If a person is delinquent in paying for damage incurred, the DCRT reserves the right to refuse privileges to that person pending receipt of such restitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§519. Operating Schedule

A. The course operating schedule will be set at the discretion of the director based on user demand, course conditions, budgetary reductions, legislative mandates, construction and maintenance, availability of staff and other resources, and other relevant factors. The hours of operation will be posted at the course.

B. The director may direct the closing of the course to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the course to a degree normal public use and enjoyment are altered, or when such use might impair the health, safety, and well-being of the public or the course employees.

C. The director may also close portions of the course for reasons provided in Subsections A or B or for any other relevant factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§521. Course Fees

The maximum fees that may be charged for reservations or use of the course and its services and facilities are as follows, taxes not included:	Maximum Fee
Greens fee per golfer, including shared cart and range balls	\$75
Second tee time	\$40/per golfer
Annual Pass	\$2800
Driving range	\$15/hour
Cart rental, 18 holes	\$18/rider
Cart rental, 9 holes	\$10/rider

B. From time to time, as deemed appropriate by the Secretary or his designee, special programs, rates, discounts on course fees, or package deals may be offered in order to promote the course or encourage visitation, e.g., on weekdays or during off-peak golfing months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§523. Reservation Policy

A. Tee time reservations will be taken one month in advance. A credit card or other form of deposit will be required to secure a time. Reservations will be accepted only from persons 18 years of age or older.

B. Groups will be allowed to book two, three, four, or five players per time slot. On weekends and holidays, groups will only be allowed to book fivesomes after 10 a.m.

C. Cancellation of reservations must be made at least 24 hours in advance. Cancellations made within 24 hours of the scheduled tee time might be subject to a 50 percent surcharge. A change of reservation date or time will be considered a cancellation and treated accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§525. Refunds

A. Rain checks will be issued at the discretion of the director for unfavorable changes in weather conditions, so long as the conditions stay unfavorable for golfing for more than 30 minutes. Credit will be given only for the percentage of holes not completed.

B. Refunds will not be issued to visitors evicted for violations of these rules.

C. Refunds will not be issued to visitors who choose to leave the course as a result of inclement weather before the director has decided that the change in weather will persist for more than 30 minutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§527. Tournament Procedure

The maximum deposit fees that may be charged for tournament reservations are as follows:	Maximum Fee
Under 20 Players	\$100.00
21 - 50 Players	\$200.00
Over 51 Players	\$300.00

1. Deposit fees may be waived at the director's discretion for a group that previously hosted a successful tournament.

B. Groups of 12 or more players will be booked as a tournament. Any group with three or more requested tee times will be allowed to contract a tournament.

C. Only the director or his designee may book a tournament. The tournament may be booked as far in advance as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§529. Golf Cart Rental

A. A valid driver's license is required to rent a golf cart. The renter must be able to safely use the cart while it is under his control.

B. Carts must be returned immediately after completion of play, in as good condition as originally rented. Any person who damages a golf cart under his or her rental control agrees to pay for necessary repairs.

C. Any person who rents a golf cart agrees to hold the course harmless for any damage caused to any person or the cart by its operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

§531. Golfer Safety

A. At the first sign of lightning in the immediate area, a siren will be sounded to announce suspension of play. Those who remain on the course after the lightning warning is given will be playing at their own risk.

B. All persons must exercise reasonable care while using course facilities and follow safety rules at all times. Each person assumes liability for his or her own safety, and the course will not be responsible for accident or injury to any person or to others caused by that person's own recklessness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. The proposed Rule will not affect the functioning of the family.

4. The proposed Rule will not affect the family earning or family budget.

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

6. No: the action proposed is strictly a state function.

Any interested person may address his or her comments or questions to Julia George Moore, Deputy General Counsel, Louisiana Department of Culture, Recreation, and Tourism, P.O. Box 94361, Baton Rouge, LA 70804-9361.

Julia George Moore
Deputy General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Black Bear Golf Course**

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

The agency currently estimates the annual cost of operations to be \$950,151. It is anticipated that the cost of operations will be offset by the revenue generated at the course, with any shortfall supplanted by funds transferred to the agency from the Poverty Point Regional Economic Development Corporation.

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

Based on golf operations, food and beverage sales, and sales of merchandise, the agency anticipates generating approximately \$850,175 in revenue in FY 06-07. There is an anticipated increase in tax revenue collections of local governmental units, due to increased economic activity at and around the course. Any increase in tax collections cannot be determined at this time.

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

The estimated cost to the individual visitor is proportionate to the value the visitor receives from the use of the services and facilities offered at the course, as set forth in the fee schedule. The economic benefit to this region is the increased economic stimulus provided by this public access facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Black Bear Golf Course will employ over 30 local residents. The course fees have been set at a level to ensure fair competition in the industry. The course was created as part of a larger project to attract economic development to the region.

Angèle Davis
Secretary
0611#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII.301, 603, and 708)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*.

The change concerning School Improvement results from negotiations with the US Department of Education about a

late 2006 accountability release. The changes to cohorts is to provide consistency throughout the accountability system.

Title 28

EDUCATION

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

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - E.1.a ...

b. Schools identified as entering SI2 at the release of the 2006 pre-appeals accountability results must offer school choice immediately upon notification and continuing for the remainder of the academic year.

c. Schools identified as entering a higher level of school improvement at the release of the 2006 pre-appeals accountability results must implement the additional sanctions immediately upon notification and continuing for the remainder of the academic year.

F. - L. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 33:

Chapter 6. Graduation Index

§603. Determining a Cohort for a Graduation Index

A. - C.1 ...

2. If, following the exit, the student record should appear in the Student Information System (SIS) associated with another Louisiana school (ex. transferred to another public school within Louisiana) and if the student does not appear in SIS, the student will be considered a dropout.

D. - G. ...

H. Students with disabilities whose IEPs state that they will take longer than 4 years to complete high school shall be added to the cohort with which they complete/graduate provided they are less than 22 years of age at the beginning of the academic year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:

Chapter 7. Subgroup Component

§708. Calculating a Graduation Rate

A. As required by the *No Child Left Behind Act of 2001*, Louisiana shall calculate a graduation rate based on a cohort of students beginning in 2007.

B. The definition of a cohort for this calculation is the same as that used in §603 (above).

C. The percentage of students in a cohort who graduate within four years with a standard diploma shall be the graduation rate used for the subgroup component.

1. Repealed.

2. Students with disabilities whose IEPs state that they will take longer than 4 years to earn a standard diploma shall be added to the panel with which they graduate provided they are less than 22 years of age at the beginning of the academic year.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:

Interested persons may submit comments until 4:30 p.m., January 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 111—The Louisiana School, District, and State Accountability System**

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

The policy changes define when School Improvement sanctions must be implemented in 2006, and clarifies rules for determining a cohort for graduation.

There are no estimated implementation costs (savings) to state 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)

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0611#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Test Security Policy and LEAP Alternate Assessment (LAC 28:CXI.305 and Chapter 19)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*, which contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The document will consolidate statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate guidelines for newly developed statewide assessments used in testing, add new language to established assessment guidelines, and to reflect the renaming of the

division to Division of Standards, Assessments, and Accountability.

Title 28 EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 3. Test Security

§305. Test Security Policy

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

d. at any time, copy, reproduce, record, store electronically, discuss or use in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials (e.g., writing prompts, science tasks);

e. - f.iv. ...

g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program [LEAP], *Integrated* LEAP [iLEAP], Graduation Exit Examination [GEE], Graduation Exit Examination ["old" GEE], LEAP Alternate Assessment, Level 1 [LAA 1], LEAP Alternate Assessment, Level 2 [LAA 2], the English Language Development Assessment [ELDA], End of Course Tests (EOCT) online assessments, or forms K, L, M, A, and B and all new forms of The Iowa Tests as a practice test or study guide;

3.h. - 5.c. ...

d. Interviews shall be conducted with students in the identified classes regarding testing procedures, layout of the classroom, access to test materials before the test, and access to unauthorized materials during testing.

6. After completion of the investigation, the school district shall provide a report of the investigation and a written plan of action to the state superintendent within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the LDE are authorized to conduct additional investigations.

7. All test administrators and proctors must sign the *Oath of Security* and return it to the STC to keep on file for three years. The STC and principal must sign an *Oath of Security* and return it to the DTC to be kept on file at the district for three years.

8. - 9.d....

e. Only personnel trained in test security and administration shall be allowed to have access to or administer any statewide assessments.

9.f. - 11. ...

12. Any individual who knowingly engages in any activity during testing that results in invalidation of scores derived from the Louisiana Educational Assessment Program (LEAP), Graduation Exit Examination (GEE), End of Course Tests (EOCT) online assessments, or Graduation Exit Examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

13. - 16. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:

Chapter 19. LEAP Alternate Assessment, Level 1
Subchapter A. Background

§1901. Overview

A. The LEAP Alternate Assessment, Level 1 (LAA 1), is a specially designed assessment program that specifically targets students with the most significant cognitive disabilities. LAA 1 represents an assessment of alternate content and performance standards relative to the general education components of the Louisiana state assessment program (i.e., LEAP, iLEAP, and GEE). As such, it meets NCLB requirements to assess students with the most significant cognitive disabilities in the state (sometimes called "1 percent" students), with its results contributing to school, district, and state accountability decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:

Subchapter B. General Provisions

§1903. Introduction

A. The LAA 1 is a performance-based student assessment that evaluates each student's knowledge and skills in targeted areas. The test administrator organizes activities to provide a student the opportunity to perform specific skills. The test administrator directs and observes the student during the activity and uses a rubric to score student performance of each specific skill.

B. Definitions

Alternate Assessment—a substitute approach used in gathering information on the performance of students who do not participate in typical state assessments. (from *Alternate Assessment Resource Matrix [CCSSO, SCASS-ASES, 1999]*).

Target Indicators—represent the Louisiana content standards that most directly reflect the skills students with significant disabilities need as they progress through childhood and enter adulthood.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

Subchapter C. Target Population

§1905. Participation Criteria

(refer to *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

Subchapter D. LAA 1 Test Design

§1907. Test Structure

A. LAA 1 is based on sixteen Louisiana content standards in four major areas: English language arts, mathematics, social studies, and science. It includes 20 target indicators from the standards—five from English language arts, five from mathematics, six from social studies, and four from science. These target indicators form

the basis of LAA 1, and represent those Louisiana content standards that most directly reflect the skills students with significant disabilities need as they progress through childhood and enter adulthood. The target indicators are intentionally broad to reflect skills that are very basic and those more advanced skills that will support adults at work and in their communities. Two target indicators in each content area have state-specified skills. For the remaining target indicators, the test administrator determines the skill to be assessed; these are referred to as teacher-specified skills.

B. Each target indicator allows a LAA 1 student to score at three participation levels: Introductory, Fundamental, and Comprehensive. These participation levels reflect different levels of skill complexity at which a student may participate on a skill being measured through a given activity. Participation levels for students are determined by the test administrator and may vary across target indicators. The participation levels are:

1. Introductory (I)—skills that require basic processing of information to address real-world situations that are related to the content standards regardless of the age or grade level of the student.
2. Fundamental (F)—skills that require simple decision making to address real-world situations that are related to the content standards regardless of the age or grade level of the student.
3. Comprehensive (C)—skills that require higher-order thinking and information-processing skills that are related to the content standards regardless of the age or grade level of the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§1909. Scoring

A. The scoring rubric for the LAA 1 is based on 6 point levels.

0	No performance (at introductory level only)
1	Tolerates engagement or attempts engagement
2	Performs skill in response to a prompt
3	Performs skill independently without a prompt
4	Performs skill independently without prompts for different purposes or in multiple settings
5	Performs skill independently without prompts for different purposes and in multiple settings

B. Students receive higher points for attempting performance than they do for no performance of the example skill. A score point of three is awarded for performances that are completed independently. Students who perform a task for more than one purpose or in more than one setting receive a higher score. Those who generalize their skills or apply their skills for different purposes and in a variety of settings receive the highest scores.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

Subchapter E. Achievement Levels and Performance Standards

§1911. Achievement Levels

- A.1 The Louisiana achievement levels are:
- Substantial Growth;
 - Moderate Growth;
 - Minimal Growth; and
 - No Measurable Growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance LR 33:

§1913. Performance Standards

A. Performance standards for LAA 1 English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form.

LAA 1 Achievement Levels and Scaled-Score Growth Ranges		
LAA 1 Achievement Levels	Scaled Score Growth Range	Definition
Substantial Growth	> 7.50	A student has demonstrated Substantial Growth during the school year in the specific content area being measured.
Moderate Growth	2.51 to 7.50	A student has demonstrated Moderate Growth during the school year in the specific content area being measured.
Minimal Growth	0.0 to 2.50	A student has demonstrated Minimal Growth during the school year in the specific content area being measured.
No Measurable Growth	≤ 0.0	A student at the No Measurable Growth level has not demonstrated measurable improvement during the school year in the specific content area being measured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

Subchapter F. Achievement Level Descriptors

§1915. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. The descriptors define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§1917. LAA 1 Achievement Level Descriptors

A. English Language Arts Achievement Level Descriptors

Substantial Growth Level		
This student has demonstrated Substantial Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example of such growth is the student's improvement from indicating basic need with assistance to ordering items for different purposes without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Indicates basic need Indicates discomfort Reacts to nonsymbolic stimulus Reacts to symbolic stimulus 	<ul style="list-style-type: none"> Makes requests Indicates need for assistance Responds appropriately to school/community signs Makes selections from a list/pictorial representation. 	<ul style="list-style-type: none"> Orders items Advocates for self and/or others Reads words in context of activity Uses text/symbols/pictures to locate information

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example of such growth is the student's improvement from indicating basic need with assistance to making requests without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Indicates basic need Indicates discomfort Reacts to nonsymbolic stimulus Reacts to symbolic stimulus 	<ul style="list-style-type: none"> Makes requests Indicates need for assistance Responds appropriately to school/community signs Makes selections from a list/pictorial representation 	<ul style="list-style-type: none"> Orders items Advocates for self and/or others Reads words in context of activity Uses text/symbols/pictures to locate information

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example of such growth is the student's improvement from indicating basic need with assistance to indicating basic need without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Indicates basic need Indicates discomfort Reacts to nonsymbolic stimulus Reacts to symbolic stimulus 	<ul style="list-style-type: none"> Makes requests Indicates need for assistance Responds appropriately to school/community signs Makes selections from a list/pictorial representation 	<ul style="list-style-type: none"> Orders items Advocates for self and/or others Reads words in context of activity Uses text/symbols/pictures to locate information

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		

Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Indicates basic need Indicates discomfort Reacts to nonsymbolic stimulus Reacts to symbolic stimulus 	<ul style="list-style-type: none"> Makes requests Indicates need for assistance Responds appropriately to school/community signs Makes selections from a list/pictorial representation 	<ul style="list-style-type: none"> Orders items Advocates for self and/or others Reads words in context of activity Uses text/symbols/pictures to locate information

B. Mathematics Achievement Level Descriptors

Substantial Growth Level		
<p>This student has demonstrated Substantial Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example of such growth is the student's improvement from following directions related to spatial concepts with assistance to discriminating between sizes for different purposes without assistance. The skills assessed are selected from the list below:</p>		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

Moderate Growth Level		
<p>This student has demonstrated Moderate Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example of such growth is the student's improvement from following directions related to spatial concepts with assistance to distributing multiple sets of objects accurately to each member of a group without assistance. The skills assessed are selected from the list below:</p>		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

Minimal Growth Level		
<p>This student has demonstrated Minimal Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example of such growth is the student's improvement from following directions related to spatial concepts with assistance to following directions related to spatial concepts without assistance. The skills assessed are selected from the list below:</p>		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

No Measurable Growth Level		
<p>This student has demonstrated No Measurable Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:</p>		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

C. Science Achievement Level Descriptors

Substantial Growth Level		
<p>This student has demonstrated Substantial Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example of such growth is the student's improvement from participating in personal hygiene with assistance to planning a nutritionally balanced meal in more than one setting without assistance. The skills assessed are selected from the list below:</p>		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

D. Social Studies Achievement Level Descriptors

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example of such growth is the student's improvement from participating in personal hygiene with assistance to identifying healthy foods without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example of such growth is the student's improvement from participating in personal hygiene with assistance to participating in personal hygiene without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

Substantial Growth Level		
This student has demonstrated Substantial Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example of such growth is the student's improvement from greeting familiar people with assistance to sharing experiences and ideas with others in more than one setting without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Greets familiar people Uses acceptable behavior to gain attention from others Adjusts to new situations Demonstrates respect for property of others 	<ul style="list-style-type: none"> Takes turns with peers Assists peer or adult Demonstrates respect for the rights of others Follows rules 	<ul style="list-style-type: none"> Shares experiences and ideas with others Recognizes others' needs for assistance and then assists peer and/or adult Assumes responsibility for personal belongings Performs responsibilities

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example of such growth is the student's improvement from greeting familiar people with assistance to taking turns with peers without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Greets familiar people Uses acceptable behavior to gain attention from others Adjusts to new situations Demonstrates respect for property of others 	<ul style="list-style-type: none"> Takes turns with peers Assists peer or adult Demonstrates respect for the rights of others Follows rules 	<ul style="list-style-type: none"> Shares experiences and ideas with others Recognizes others' needs for assistance and then assists peer and/or adult Assumes responsibility for personal belongings Performs responsibilities

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example of such growth is the student's improvement from greeting familiar people with assistance to greeting familiar people without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Greets familiar people Uses acceptable behavior to gain attention from others Adjusts to new situations Demonstrates respect for property of others 	<ul style="list-style-type: none"> Takes turns with peers Assists peer or adult Demonstrates respect for the rights of others Follows rules 	<ul style="list-style-type: none"> Shares experiences and ideas with others Recognizes others' needs for assistance and then assists peer and/or adult Assumes responsibility for personal belongings Performs responsibilities

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> • Greets familiar people • Uses acceptable behavior to gain attention from others • Adjusts to new situations • Demonstrates respect for property of others 	<ul style="list-style-type: none"> • Takes turns with peers • Assists peer or adult • Demonstrates respect for the rights of others • Follows rules 	<ul style="list-style-type: none"> • Shares experiences and ideas with others • Recognizes others' needs for assistance and then assists peer and/or adult • Assumes responsibility for personal belongings • Performs responsibilities

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights 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? No.

Interested persons may submit written comments until 4:30 p.m., January 9, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices—Test Security Policy and LEAP Alternate Assessment

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

The proposed rule consolidates into *Bulletin 118* the State Board of Elementary and Secondary Education (SBESE) and

the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0611#019

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28: CXV.337, 1121, 2301,
2319, 2321, 2357, and 2363)

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*: §337, Written Policies and Procedures, §1121, Immunizations, §2301, Standards and Curriculum, §2319, Graduation Requirements, §2321, Carnegie Credit for Middle School Students, §2357, Physical Education, and §2363, Social Studies.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - B. ...

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. - 14. ...

15. the prohibition of teachers from recommending that a student be administered a psychotropic drug and from specifying or identifying any specific mental health diagnosis for a student;

16. the prohibition of teachers from using a parents refusal to consent to administration of a psychotropic drug or psychiatric evaluation, screening or evaluation as grounds for prohibiting a student from attending class or participating in school related activities or as the sole basis of accusations of child abuse or neglect against the parent or guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240; 17:436.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:

Chapter 11. Student Services

§1121. Immunizations

A. - F. ...

G. LEAs that provide information relative to immunizations are required to provide parents and/or guardians with information relative to the risks associated with meningococcal disease. The information should include availability, effectiveness and known contraindications of immunization against such disease as well as causes and symptoms of the disease and how the disease is spread. LEAs shall also provide information on where a student may be immunized and where parents may obtain additional information. Information shall be updated annually if new information is available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170; R.S. 17:170.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 33:

Chapter 23. Curriculum and Instruction

§2301. Standards and Curriculum

A. Each LEA shall adopt and implement local curricula aligned with state content standards, benchmarks, and grade-level expectations. The state documents are:

1. - 17 ...

18. English Language Development Standards, Bulletin 112.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:3070 (December 2005), LR 33:

§2319. Graduation Requirements

A. - D. ...

E. Minimum Course Requirements for High School Graduation

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following:	
<ul style="list-style-type: none"> Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or Integrated Mathematics I (1 unit) 	
The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.	
(Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics	

Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective.	
<ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, one-half unit of Civics or AP American Government, one-half unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

b. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I/II	1 each

G - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:

§2321. Carnegie Credit for Middle School Students

A. Students in the middle grades are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, English, social studies, foreign language, keyboarding/keyboarding applications, or computer/technology literacy.

B. Middle school students intending to take a course for Carnegie credit must demonstrate mastery of the eighth grade grade-level expectations in that content area by passing an exam developed by the DOE before taking the high school course. In order to be prepared for the exam, students should successfully complete an accelerated seventh grade course in that content area that addresses both the seventh and eighth grade grade-level expectations.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:

§2357. Physical Education

A. - D. ...

E. In schools having approved Junior Reserve Officer Training Corps (JROTC) training, credits may, at the option of the local school board, be substituted for the required credits in physical education.

F. - J.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:17.1; R.S. 17:24.4; R.S. 17:276.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:

§2363. Social Studies

A. Three units of social studies shall be required for graduation. They shall be American History, one-half unit of Civics or AP American Government, one-half unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.

B. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), 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 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., January 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

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 §1121 resulting from legislation requires districts to provide and disseminate information about meningococcal disease to parents and/or guardians. The addition to §337 results from legislation that requires LEAs to adopt policies prohibiting teachers from making recommendations that a student be administered psychotropic drugs and from certain actions relative to mental health diagnosis. The change to §2321 requires all middle school students wishing to take a high school course first pass a test developed by the Department of Education on the eighth grade Grade-Level Expectations (GLEs) in that content area. To be prepared for the exam, students should successfully complete an accelerated seventh grade course in that content area that addresses both the seventh and eighth grade GLEs. BESE also approved minor revisions to the following policies: §2301, §2319 E, §2363, §2357, and §2319 F. These changes include the addition of the English Language Development Standards to the list of state standards and the addition of Digital Media to the list of courses meeting the computer requirement for TOPS and for the career area of concentration.

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
Superintendent
0611#030

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Criminal Background Checks (LAC 28: CXV.501)

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*, §501, Criminal Background Checks. This change will require any local school district, prior to hiring any employee, to request from the applicant's current or previous employer any documentation regarding any sexual misconduct engaged in by the applicant involving a student. It will also require the applicant's current or previous employer to provide any such information to the local school district that has requested it. It provides immunity to any school district or school employee who, in good faith, discloses such information to school district requesting it. It requires the applicant to sign a disclosure and release statement providing for the release of such information to the school district requesting it. It prohibits any school district from hiring any applicant who does not sign a disclosure and release statement. It allows a school district to hire an applicant on a conditional basis pending the hiring board's review of any information obtained. It provides that any such information can only be used by the school district considering the applicant for employment for the purpose of evaluating the applicant's qualifications for employment. It prohibits the disclosure of any such information to anyone who is not directly involved in evaluating the applicant's qualifications for employment. It makes the unauthorized disclosure of such information a misdemeanor.

It defines sexual misconduct as: (1) any conduct that would amount to sexual harassment under Title IX of the Education Amendments of 1972, as amended, (2) any conduct that would amount to a sexual offense affecting a minor under state criminal codes, (3) any sexual relationship with a student, regardless of the student's age or with a former student under the age of 18 or with a former student regardless of age who suffers from a disability that would prevent consent in a relationship. All students enrolled in the school and in any organization in which the school employee holds a position of trust and responsibility are included, (4) any activity directed toward establishing a sexual relationship such as sending intimate letters, engaging in sexualized dialogue in person, via the internet, in writing or by telephone, making suggestive comments or dating a student.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§501. Criminal Background Checks

A. - D.2. ...

E. Each LEA, prior to hiring any employee, shall request that the applicant for employment sign a statement providing for the disclosure of information by the applicant's current or

previous employer, if such employer is an LEA, relative to all instances of sexual misconduct with students committed by the applicant, if any, and releasing the current or previous employer, if such employer is a city, parish, or other local public school board, and any school employee acting on behalf of such employer from any liability for providing such information.

1. Prior to hiring any applicant, each LEA must request, in writing, that the applicant's current or previous employer, if such employer is an LEA, provide the above-described information, if such information exists, and make available to the hiring school board copies of any documents as contained in the applicant's personnel file maintained by such employer relative to such instances of sexual misconduct, if any. Such request for information must include a copy of the aforementioned statement signed by the applicant.

2. If such information exists, it must be provided and copies of all documents as contained in the applicant's personnel file relating to all instances of sexual misconduct, if any, must be made available to the requesting school board no later than 20 business days from the receipt of the request.

3. Any LEA or any school employee who discloses such information in good faith shall be immune from civil liability for having disclosed such information.

4. An applicant who does not sign the disclosure and release statement cannot be hired. An applicant can be hired on a conditional basis pending the hiring board's review of any information obtained.

5. Any information obtained can only be used by the hiring board for the purpose of evaluating an applicant's qualifications for employment for the position for which he or she has applied. Such information is not subject to the Public Records Act and is not to be disclosed to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. Unauthorized disclosure is a misdemeanor offense with exposure to a fine of up to \$500 or imprisonment for up to six months, or both.

6. Adult sexual misconduct in schools, for the purposes of disclosing information to LEAs as required by R.S. 17:81.9, includes sexually inappropriate behavior by the adult that is directed at a student, including but not limited to sexually-related conversations, jokes, or questions directed at students. More specifically, sexual misconduct is:

a. any conduct that would amount to sexual harassment under Title IX of the (U.S.) Education Amendments of 1972, as amended;

b. any conduct that would amount to a sexual offense affecting a minor under state criminal codes;

c. any sexual relationship by a school employee with a student, regardless of the student's age; with a former student under 18; with a former student (regardless of age) who suffers from a disability that would prevent consent in a relationship. All students enrolled in the school and in any organization in which the school employee holds a position of trust and responsibility are included;

d. any activity directed toward establishing a sexual relationship such as sending intimate letters; engaging in sexualized dialogue in person, via the Internet, in writing or by phone; making suggestive comments; dating a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1 and 17:81.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), 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 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., January 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Criminal Background Checks

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be a negligible cost to local school districts in staff time, in making copies of documents and in postage in sending the documents to the local school districts requesting the documents. These negligible costs cannot accurately be estimated at this time.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that 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)
It is estimated that there will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule will make it more difficult for individuals who have engaged in sexual misconduct with a student while employed with a local school district to obtain employment with another local school district.

Beth Scioneaux
Acting Deputy Superintendent
0611#051

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements (LAC 28: CXV.2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §2319, High School Graduation Requirements*. The proposed changes are being requested to assure that the Career and Technical Education Diploma Endorsement components are aligned and students receiving the Endorsement are trained in the skills requested by business and industry and/or are better prepared for postsecondary training aligned with the Endorsement. Numerous questions regarding implementation of the diploma endorsements have arisen since inclusion of a Graduation Index in the Louisiana Accountability System. Diploma endorsements are a component of the Graduation Index. The proposed changes will provide clarity to the policy.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2319. High School Graduation Requirements**

- A. - F.1.a. ...
- b. To complete a career Area of Concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the Area of Concentration and two related elective credits, including one computer/technology course. Areas of Concentration are identified in the Career Options Reporting System with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year.

* * *

- G. - G.1.e. ...
- H. Career/Technical Endorsement
1. - 1a. ...

b. Student shall complete the Career and Technical Area of Concentration approved by BESE. The Career and Technical Education Areas of Concentration are identified in the CATE data system with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year.

- c. ...
- d. Students shall complete a minimum of 90 work hours of work-based learning experience in the student's Career and Technical Education Area of Concentration (as defined in the DOE Diploma Endorsement Guidebook) and complete one of the following requirements:
 - i. industry-based certification from the list of industry-based certification approved by BESE; or
 - ii. three college hours in the student's Career and Technical Education Area of Concentration that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours

H.1.e. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

- 1. Will the proposed Rule effect the stability of the family? No.
- 2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.
- 3. Will the proposed Rule effect the functioning of the family? No.
- 4. Will the proposed Rule effect family earnings and family budget? No.
- 5. Will the proposed Rule effect 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., January 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741
Louisiana Handbook for School Administrators
High School Graduation Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units; however, it is likely that the costs will be minimal if a school system has to reprint certain items associated with implementing the initiative.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by state/local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to assure that the Career and Technical Education Diploma Endorsement components are aligned and students receiving the Endorsement are trained in the skills requested by business and industry and/or are better prepared for postsecondary training aligned with the Endorsement. The proposed changes may provide economic benefit to both affected persons and non-

governmental groups via enhanced earning ability for individuals and a better trained workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0611#011

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—Minimum Requirements for Blended General/Special Education Mild-Moderate Certification Programs
(LAC 28:CXXXI.219, 221, and 223)

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*: §219., §221., and §223. This policy specifies changing the effective date of the Blended General/Special Education Mild-Moderate certification programs from July 1, 2007, to July 1, 2009. The vast majority of Louisiana universities would not be prepared to meet the July 1, 2007, effective date. Additional time is needed for special and general education university personnel to collaborate on the development of programs that truly blend regular and special education content. Furthermore, the Blue Ribbon Commission will focus its attention and recommendations this year on strategies to provide quality special education teachers and services in Louisiana schools. It is anticipated that these recommendations will inform the development of blended programs.

**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**

§219. Minimum Requirements for Approved Blended General/Special Education Mild-Moderate Program for Grade Levels 1-5: Adopted September 14, 2004; Effective July 1, 2009.

A. - A.4.a. ...

* * *

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 32:1787 (October 2006), amended LR 33:

§221. Minimum Requirements for Approved Blended General/Special Education Mild-Moderate Program for Grade Levels 4-8: Adopted September 14, 2004; Effective July 1, 2009.

A. - A.4. ...

* * *

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 32:1788 (October 2006), amended LR 33:

§223. Minimum Requirements for Approved Blended General/Special Education Mild-Moderate Program for Grade Levels 6-12: Adopted September 14, 2004; Effective July 1, 2009.

A. - A.4. ...

* * *

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 32:1788 (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., January 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Minimum Requirements for Blended General/Special Education Mild-Moderate Certification Programs

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

This policy specifies changing the effective date of the Blended General/Special Education Mild-Moderate certification programs from July 1, 2007 to July 1, 2009. 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
0611#032

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—Professional Level and Out-of-State Certificates (LAC 28:CXXXI.305 and 309)

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*: §305, Professional Level Certificates and §309, Out-of-State (OS) Certificate. This revision to the out-of-state application policy clarifies that an individual must have the completion of a teacher education program in another state and hold a teaching certificate from any other state prior to becoming certified in Louisiana. This will allow more flexibility for individuals coming from another state who did not obtain certification in the state where their education program was completed.

**Title 28
EDUCATION**

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

§305. Professional Level Certificates

- A. - A.1.b.i.(a) ...
- (b). completed a teacher preparation program in another state;
 - (c). hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the State Department of Education in the state of origin verifying eligibility in that state for a certificate in the certification area(s);
 - (d). pass all parts of Praxis exam(s) required for Louisiana certification:
 - (i). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (Pre-Professional Skills Tests in reading, writing, and mathematics); the Principles of Learning and Teaching

(PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

(ii). if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification.

(e). has completed student teaching, an internship, or three years of teaching experience in the candidate's area of certification; and

(f). has not been out of teaching in the five years immediately preceding first employment or application for a Louisiana certificate.

A.1.b.ii. - E.3. ...

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 32:1797 (October 2006), amended LR 33:

§309. Out-of-State (OS) Certificate

A. - B.2. ...

3. hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the State Department of Education verifying eligibility in that state for a certificate in the certification area(s);

B.4. - C.1.c.iv.(b) ...

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 32:1799 (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., January 9, 2007, to Nina Ford, State Board of Elementary

and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Professional Level and Out-of State Certificates

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

This revision to the out-of-state application policy clarifies that an individual must have the completion of a teacher education program in another state and hold a teaching certificate from any other state prior to becoming certified in Louisiana. 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
0611#012

H. Gordon Monk
Legislative Fiscal Office
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities—Participation Criteria (LAC 28:XCVII.905)

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 1530—Louisiana's IEP Handbook for Students with Disabilities*. The changes in Chapter 9, LEAP Alternate Assessments, §905. Participation Criteria, clarify guidelines for the participation of students with disabilities in alternate assessments who cannot participate in regular assessment.

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities

Chapter 9. LEAP Alternate Assessments

§905. Participation Criteria

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

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the *Unsatisfactory* level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or participated in the LAA 1 or LAA 2.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005), 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 of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., January 9, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 1530—Louisiana's IEP
Handbook for Students with Disabilities
Participation Criteria**

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

The Department of Education is adding to *Louisiana's IEP Handbook for Students with Disabilities, Bulletin 1530, section I Chapter 9*. LEAP Alternate Assessments, §905. The only cost associated with this change is the preparation and printing of the document and that is projected to be approximately \$200.00. Publication can be accomplished via the Department's web site.

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

There will be no effect on revenue collections of state or local government.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Beth Scioneaux
Acting Deputy Superintendent
0611#020

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1929—Louisiana Accounting and Uniform
Governmental Handbook—Personnel Requirements
(LAC 28:XLI.1301)**

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 1929—Louisiana Accounting and Uniform Governmental Handbook: §1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer/Business Manager (Local School Districts and Charter Schools)*. Act 606 (Senate Bill 539) of the 2006 Regular Legislative Session requires that each city, parish, and other local public school board shall employ a business manager or chief financial officer who shall have the qualifications established by rules promulgated by the State Board of Elementary and Secondary Education. The State Board of Elementary and Secondary Education shall establish such qualifications not later than January 2007.

**Title 28
EDUCATION**

**Part XLI. Bulletin 1929—Louisiana Accounting and
Uniform Governmental Handbook**

Chapter 13. Personnel Requirements

**§1301. Minimum Requirements for Lead School
Business Administrator/Chief Financial
Officer/Business Manager (Local School
Districts and Charter Schools)**

A. Statutory Authority. Act 606 of the 2006 Regular Session requires that each city, parish, and other local public school board shall employ a business manager or chief financial officer who shall have the qualifications established by rules promulgated by the State Board of Elementary and Secondary Education. The tentative citation for this law is R.S. 17:84.2. Minimum qualifications are established below.

B. Minimum qualifications, must meet one of the following:

1. a baccalaureate degree with a minimum of 24 hours of business-related courses, such as accounting, finance, or management;

2. a certified public accountant licensed in Louisiana;

3. a master's degree in public or business administration.

C. Work Experience. An applicant for a lead school business official shall have not less than three years of work experience in a field relevant to the duties and responsibilities of a lead school business administrator. Relevant areas shall include accounting, finance, or other areas of fiscal management.

D. Continuing Education. All lead school business administrators must acquire Certified Louisiana School Business Administrator (CLSBA) certification by the Louisiana Association of School Business Officials (LASBO) within seven years of the date of hire as an administrator/chief financial officer/business manager and maintain certification while employed as a lead school business administrator/chief financial officer/business manager. A Louisiana CPA license may be substituted for the CLSBA certification. The CPA license must remain in active status while employed as a lead school business administrator/chief financial officer/business manager.

E. Grandfather Clause. A lead school business administrator/chief financial officer/business manager employed prior to the final adoption of the law shall be exempt from meeting the minimum degree and work experience requirements. The lead school business administrator/chief financial officer/business manager shall be allowed seven years from the date of final adoption into law to complete the CLSBA certification or become a licensed CPA in the state of Louisiana.

F. Shared Services Provision. Statute allows city, parish, or other local public school boards to enter into an agreement to share business services, including the employment of a single business manager or chief financial officer. The shared business manager or chief financial officer must meet the minimum qualifications established by the State Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:84 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights 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., January 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1929—Louisiana Accounting
and Uniform Governmental Handbook
Personnel Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Estimated implementation costs are less than \$300 per year per district for approximately twenty-four of the sixty-eight local school systems.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on revenue collections to state or local governmental units..
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Desired impact is to enhance the training and qualifications of those individuals employed by school boards as the chief financial advisor to the school district superintendent. Sound financial practices are essential for the delivery of appropriate educational services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Standards set by the minimum qualifications set by the Board of Elementary and Secondary Education may be more stringent than those currently in place in some school districts.

Beth Scioneaux
Acting Deputy Superintendent
0611#033

H. Gordon Monk
Legislative Fiscal Officer
Legislative Office

NOTICE OF INTENT

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

Residential Group Common Bonds
and Associational Groups
(LAC 10:IX.Chapter 5)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:641 et seq., (Louisiana Credit Union Law) the Commissioner of the Office of Financial Institutions gives notice of intent to promulgate a Rule to establish prudential standards to be used in reviewing an application by a Louisiana state-chartered credit union for a residential group common bond within a well-defined neighborhood, small community, or rural district; and adding associational groups. The proposed Rule defines relative terms, establishes safety and soundness criteria, establishes the application process, as well as other necessary guidance. There is no family impact associated with this proposed Rule, as provided for in R.S. 49:972.

Pursuant to Section 645(B) of the Louisiana Credit Union Law, a state-chartered credit union may be organized within groups that have a common bond of residence within a well-defined neighborhood, a small community, or a rural district; or an occupation, or an association, or any combination thereof. Each application must satisfy all statutory requirements, comply with the provisions of this Rule,

adhere to prudent safety and soundness criteria, and clearly identify the existence of mutual interest or commonality between persons sharing the proposed residential group common bond.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part IX. Credit Unions

Chapter 5. Criteria to Organize Within Residential Groups, and Add Associational Groups

§501. Definitions

A. As used in this Rule, and unless the content details otherwise, the following definitions apply.

Application—those documents submitted in a form acceptable to the commissioner, along with all supporting information, requesting approval of a bylaw amendment that provides for a residential group common bond.

Association—those individuals (natural persons) and/or groups (non natural persons) whose members participate in specific activities, share common goals and purposes; possess a charter, bylaws, or any other equivalent documentation that contains a specific definition of who is eligible for membership; conduct periodic meetings open to all members; and sponsor other activities which demonstrate that the members of the group meet to accomplish the goals and objectives of the association.

Commissioner—the Commissioner of the Office of Financial Institutions.

Field of Membership (FOM)—those persons and entities eligible for membership in the credit union.

Immediate Family—shall include any relative by blood or marriage, or foster and adopted children, grandchildren, sons-in-law, and daughters-in-law of a member.

LOFI—Louisiana Office of Financial Institutions.

Low Income Area—an area with a majority of residents who make less than 80 percent of the average for all wage earners as established by the U.S. Bureau of Labor Statistics or have annual household income at or below 80 percent of the median household income for the nation as established by the Census Bureau. For the purpose of this part, household includes persons living or residing in the same residence maintaining a single economic unit.

Residence Within—to live within a well-defined neighborhood, small community, or rural district.

Residential Group Common Bond—a common bond created by residence within a well-defined neighborhood, small community, or rural district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§503. Well-Defined Neighborhood, Small Community, and Rural District

A. *Well-Defined Neighborhood* shall mean a specified small part of a geographic area considered in regard to its residents or distinctive characteristics, *specified by name*, and must be described in writing.

1. Boundaries may be defined by streets, roads, or other delineations including boundaries of a municipality (such as the city limits) or other boundaries that reasonably demonstrate the end of one well-defined neighborhood and the beginning of another. For example, a written description

typically will include the names of streets or other delineations surrounding the well-defined neighborhood.

2. Boundaries of a well-defined neighborhood may be defined as a small part of a municipality. Indicators of unifying characteristics may include, but are not limited to, recreation centers or athletic facilities, social clubs or organizations, neighborhood associations, or similar facilities or functions.

3. A written description of a well-defined neighborhood must demonstrate a viable residential common bond based upon its size, its level of activity, and safety and soundness criteria related to service of the proposed area.

B.1. *Small Community* shall mean an area where residents share common political, environmental, geographical, or economic characteristics that tend to create a mutual interest or, residents share common facilities or services such as an education or transportation system, recreational or cultural facilities, government, medical services, newspaper, fire or police protection, public utilities and services or other unifying characteristics that tend to create interaction or mutual interest. A small community must be described in writing and delineated on a map.

2. A single municipality or parish may qualify as a small community if a mutual interest can be properly documented. A credit union must demonstrate that it has or will establish, within two years, adequate facilities and staffing to serve the individuals that reside in the requested small community, including individuals residing in low income areas of the small community that have insufficient access to affordable (or non-predatory) financial services. In order to do so, a credit union must submit a business plan to the commissioner specifying how it will serve individuals in the small community, including individuals that reside in low income areas. The business plan must detail the credit and depository needs of the small community and address how a credit union plans to serve those needs. A credit union will also be expected to regularly review the business plan to determine if the small community is being adequately served. The commissioner may request periodic "service" status reports from a credit union to ensure that the needs of the small community, including individuals that reside in low income areas, are being met in an appropriate manner. The commissioner may also request such a report before allowing a credit union to further expand its field of membership.

C. *Rural District* shall mean an area that is outside a Metropolitan Statistical Area (MSA) as those areas are established from time to time by the United States Office of Management and Budget. It may also be represented by sharing common political characteristics or facilities such as utilization of a single police jury, election district, water district, or similar governing authority. A rural district must be described in writing and be delineated on a map. A rural district may encompass a larger geographic area than a small community, if the area is demonstrated to have certain commonalities of interest. However, a rural district may not include multiple parishes.

D. Typically, the boundaries of a small community or rural district will be defined by streets and roads but may also be bounded by other delineations including boundaries of a town, municipality (such as the city limits), or other boundaries that reasonably demonstrate the end of one small

community or rural district and the beginning of another. In many cases, it may be more appropriate to describe the small community or rural district by means of a map rather than listing all delineations that comprise its border. If the written description is so limited, a well drawn map may be needed to readily facilitate a determination that a prospective member qualifies for membership based upon residence within a well-defined area being served.

E. More than one credit union may be approved to serve the same residential group common bond.

F. The credit union must demonstrate that it has or will have adequate facilities and staffing to serve the requested residential group.

G. Various groups that have a common bond of residence may be combined in the same field of membership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§505. Residential Group Common Bond

A. The applying credit union must demonstrate by the weight and accumulation of facts presented that a residential group common bond has unifying characteristics that clearly meet the applicable definition(s). The commissioner will consider the volume and value of evidence in establishing the commonality criteria to meet the definitions for a well-defined neighborhood, small community, or rural district common bond.

B. Safety and Soundness Criteria

1. Credit unions are subject to safety and soundness criteria based on the financial and managerial capacity of the credit union to serve the proposed field of membership. The commissioner will not approve any application unless the credit union can meet the criteria set forth in this Rule.

2. The following criteria may be considered in determining the financial and managerial capacity of a credit union to support a request for a residential group common bond:

a. A composite CAMEL rating of "1" or "2" was assigned at the most recent examination.

b. Any credit union receiving a CAMEL rating of "3" in any component area at its most recent examination shall be considered only after review of the following additional factors:

i. the underlying reasons for ratings outside the criteria in Subparagraph a above;

ii. the overall condition of the credit union and ability to support expanded activities;

iii. management's progress and commitment to improve such ratings; and

iv. the prospects for improving performance and ratings in the near term.

c. Credit unions with any CAMEL component rating more severe than a "3" in its most recent report of examination may not apply for a residential group common bond based on residence in a well defined neighborhood, small community, or rural district.

d. Credit Unions with a Composite CAMEL rating of "3", or more severe, may not apply for a residential group common bond until the overall condition of the credit union is restored to a satisfactory level.

e. The credit union must demonstrate in its application for a residential group common bond that it has a

sufficient level and depth of management to meet the requirements of the residential common bond proposed.

f. The credit union must demonstrate in its application for a residential group common bond that it has sufficient data processing resources and capacity to serve the residential group that is being proposed.

g. If the commissioner deems it appropriate, he may require the credit union to submit a comprehensive business/strategic plan that addresses the following:

i. how the credit union intends to service the targeted well-defined neighborhood, small community, or rural district;

ii. a list of the financial services that will be provided to the targeted well-defined neighborhood, small community, or rural district;

iii. a projection of the expected size and penetration into the target market over a three year period, including an analysis of the market's current financial service providers;

iv. the impact of the proposed expansion upon the credit union's capital, property and equipment (including technology resources), and personnel resources;

v. the adequacy and sufficiency of fixed assets and data processing facilities to meet the expected levels of growth;

vi. the effect upon management's ability to recognize, monitor, and control all types of risks including, but not limited to, the following: audit, interest rate, liquidity, transaction, compliance, strategic, and reputation.

vii. a comprehensive income statement budget and proforma balance sheet reflecting realistic financial, capital, and operating goals for the next three calendar years beyond the year in which the field of membership expansion is requested.

3. If the commissioner deems it appropriate, he may require that the credit union submit revised loan and collection policies and procedures that recognize the additional complexities of a residential group common bond.

4. If the commissioner deems it appropriate, he may require that the credit union provide adequate policies related to asset/liability management, recognizing the additional complexities that could result from expanded lending and deposit taking activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§507. Applications

A. A residential group common bond request shall be submitted to the commissioner on the form(s) provided by the LOFI; and include the proposed amendment to the credit union's bylaws in accordance with Section 665 of the Louisiana Credit Union Law. In reviewing the application, the commissioner may consider:

1. whether the well-defined neighborhood, small community, or rural district has adequate unifying characteristics or a mutual interest such that the safety and soundness of the institution, and protection of the funds invested by members, is maintained;

2. service by the credit union that is responsive to the needs of prospective members, to promote thrift and create a source of credit at reasonable rates;

3. protection for the interest of current and future members of the credit union; and

4. the encouragement of economic progress in the state by allowing the opportunity to expand services and facilities; and

5. the purpose and/or intent of the Louisiana Credit Union Law.

B. The applicant credit union shall have the burden to show the commissioner such facts and data that support the requirements and considerations in these rules and/or any existing or future policies and procedures issued by LOFI in connection with the same and/or the Louisiana Credit Union Law.

C. The financial and managerial capacity of a credit union shall be an important consideration for the commissioner in approving any residential group common bond. The credit union must demonstrate that the size, capability, and experience of its management is adequate to meet the demands of the residential group proposed.

D. The applicant credit union shall submit a comprehensive strategic and ongoing business plan that addresses the services to be provided, impact on the credit union's capital and resources, adequacy of fixed assets and data management facilities, and ability of management to recognize, monitor and control risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§509. Public Policy

A. In order to protect the interests of current and future members of the credit union, to be responsive to the needs of the membership for financial services, to encourage further economic growth in the state of Louisiana, and to foster the development of credit unions under a dual chartering system in the state of Louisiana pursuant to Section 641.1 of the Louisiana Credit Union Law, groups that are within the field of membership of the credit union prior to application for a residential group common bond shall be considered to remain within the FOM of the credit union, after the approval of a residential group common bond.

B. Upon application for a residential group common bond, the goal of the credit union shall be to adequately serve the residential area that may be approved by the commissioner, as well as any other group(s) included in its FOM.

C. In approving any further expansion of a credit union's field of membership, the commissioner may give consideration to its rate of market penetration and other pertinent criteria to determine if the credit union is properly and adequately serving the FOM in the residential area as projected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§511. Mergers

A. A credit union serving a residential group common bond may merge with another credit union, pursuant to Section 646(A)(2) of the Louisiana Credit Union Law, if the proposed merger neither creates a safety and soundness concern nor violates any other section of the Louisiana Credit Union Law. Credit unions must meet the safety and

soundness criteria for a merger, and the continuing credit union must demonstrate that it can reasonably serve its members and the members of the credit union being merged. The plan of merger must also specifically indicate that the new FOM will be comprised of the combination of membership groups of the two credit unions.

B. In any merger involving a credit union serving a residential group common bond, the surviving credit union will be subject to the conditions of this rule. While the surviving credit union may continue to serve members of the merging credit union, no additional expansion will be allowed that does not comply with this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§513. Adding Associational Groups

A. Pursuant to his authority under the Louisiana Credit Union Law and the stated purpose of the same, the commissioner has determined that, if there are no safety and soundness concerns, it is appropriate to allow expansions of a credit union's FOM involving members and employees of an association in accordance with Sections 645(B) and 646(A)(2)(b) of the Louisiana Credit Union Law. At a minimum, the commissioner may consider the following when assessing an application to add an associational group to a credit union's FOM:

1. whether the group meets the definition of an association as contained in this rule;
2. whether members pay dues;
3. whether members have voting rights;
4. whether the association maintains a membership list;
5. whether the association maintains separate books and records; and
6. the frequency of meetings and other group activities.

B. The association may not be created or organized by the credit union or any of its officials or employees. The association must be a separate, legal entity that maintains separate financial records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§515. Public Notification

A. Upon approval of a residential group common bond, the commissioner shall include the name of the credit union and a brief description of the well-defined neighborhood, small community, or rural district that has been approved in LOFI's next monthly bulletin, which is available on the OFI webpage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§517. Exceptions

A. Exceptions to this rule and/or waivers of the requirements contained herein may be granted by the commissioner on a case-by-case basis. Any request for an exception and/or waiver must be submitted in writing and requires the written approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§519. Effective Date

A. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§521. Severability

A. If any Section, term, or provision of this rule, LAC 10:IX.501-519, is for any reason declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining Sections, terms, or provisions contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., January 20, 2006, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Please note that any interested persons seeking to request a public hearing regarding this proposed Rule must submit their request to this office within 20 days of the publication of this Notice of Intent in accordance with R.S. 49:953(A)(2)(a).

John Ducrest, CPA
Commissioner

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

**RULE TITLE: Residential Group Common Bonds
and Associational Groups**

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

There are no implementation costs or savings to state or local governmental units associated with this proposal. The proposed rule establishes standards to be used by this Office in the review of an application filed by a state-chartered credit union to reorganize with a residential group common bond and/or add members/employees of an association.

**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 or local governmental units.

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

The proposed rule will have no net impact on the credit unions covered by this rule with respect to any estimated costs. The proposed rule will allow state-chartered credit unions to expand their field of membership in order to grow and enhance earnings.

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

The proposed rule may have limited impact on employment. Credit unions electing to expand their field of membership through a residential group common bond may need to hire additional employees in order to adequately

provide services to new members. The proposed rule will also provide state-chartered credit unions an opportunity to be more competitive with federal credit unions with similar fields of memberships and other financial service providers (banks, finance companies, mortgage lenders) by being able to offer services to a larger consumer base.

John Ducrest, CPA
Commissioner
0611#046

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Collaborative Drug Therapy Management
(LAC 46:XLV.Chapter 74)**

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., that pursuant to the authority vested in the Louisiana State Board of Medical Examiners ("board") by the Louisiana Medical Practice Act, R.S. 37:1270(A)(1), 1270(B), the Louisiana Pharmacy Practice Act, as amended during the 2006 Session of the Louisiana Legislature by Acts 2006, Number 627, R.S. 37:1164(37), and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the board intends to adopt LAC Title 46:XLV, Subpart 3, by adding Chapter 74, §§7401-7443, to govern the practice of physicians who engage in collaborative drug therapy management with pharmacists in this state.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Profession

Subpart 3. Practice

**Chapter 74. Collaborative Drug Therapy
Management**

Subchapter A. General Provisions

§7401. Scope of Subchapter

A. The rules of this Chapter govern the registration and practice of physicians engaged in collaborative drug therapy management with pharmacists in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7403. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Medical Practice Act.

Collaborative Drug Therapy Advisory Committee or Advisory Committee—the Louisiana State Board of Medical Examiners' Collaborative Drug Therapy Advisory Committee, as constituted under §7417 of this Chapter.

Collaborative Drug Therapy Management Agreement or Agreement—a written document in which a pharmacist and a physician identify the terms and conditions under which they voluntarily agree to participate in collaborative drug therapy management.

Collaborative Drug Therapy Management or Drug Therapy Management—that practice in which a pharmacist, to the extent authorized by a collaborative drug therapy management agreement, voluntarily agrees with a physician registered with the board under this Chapter, to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a written protocol. Drug therapy management shall be limited to:

- a. monitoring and modifying a disease specific drug therapy;
- b. collecting and reviewing patient history;
- c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure and respiration;
- d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under written protocol, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis;
- e. administration of vaccines to a patient 16 years of age or older by a pharmacist authorized to administer vaccines by the Louisiana Board of Pharmacy;
- f. providing up to a single 7-day supply of a single drug, in accordance with §7433 of this Chapter, after all refills authorized on the original prescription issued to the patient by the patient's physician have been dispensed; and
- g. providing disease or condition specific patient education and counseling.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Disease Specific Drug Therapy—a specific drug(s) prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for treatment of one of the following diseases or conditions:

- a. treatment and prevention of arterial and venous clot propagation and disease *i.e.*, anti-coagulant therapy;
- b. treatment and prevention of diabetes;
- c. adjustment of medication administered by inhalant for treatment of asthma;
- d. administration of disease specific vaccines to patients 16 years of age and older;
- e. smoking cessation therapy; and
- f. such other vaccines, categories of drugs, diseases or conditions, including but not limited to hypertension, as may be subsequently recommended by the advisory committee and approved by the board.

Drug—a legend drug.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified, in accordance with the procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Legend Drug—for purposes of this Chapter, any drug bearing on the label of the manufacturer or distributor as required by the Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without a

prescription" or "Rx Only." For purposes of this Chapter, legend drugs do not include controlled substances.

Medical Practice Act or the Act—R.S. 37:1261-92 as may be amended from time to time.

Medication—except in these rules where its use may indicate otherwise, is synonymous with *drug*, as defined herein.

Pharmacist—for purposes of this Chapter an individual who has a current, unrestricted license to practice pharmacy in this state duly issued by the Louisiana Board of Pharmacy and has completed a certificate program in the area of practice covered by a collaborative drug therapy management agreement approved by the Accreditation Council for Pharmacy Education, or the academic degree of Doctor of Pharmacy that provides training in the area of practice covered by the agreement, or such other advanced training or program as may be recommended by the advisory committee and approved by the board.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the board.

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his/her patient.

Written Protocol—a written set of directives or instructions containing each of the components specified by §7429 of this Chapter for collaborative drug therapy management of disease specific drug therapy for a specific patient. The written protocol shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

Subchapter B. Prohibitions and Exceptions

§7405. Prohibitions and Exceptions

A. No physician shall engage in collaborative drug therapy management except in compliance with the rules of this Chapter.

B. This Chapter shall not apply to a physician's practice in a hospital licensed by the Louisiana Department of Health and Hospitals, provided the medication ordered or prescribed by the physician for in-patients of the hospital is managed in accordance with a written agreement approved by the members of the medical staff of the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

Subchapter C. Registration

§7407. Eligibility for Registration

A. No physician shall engage in collaborative drug therapy management in this state until registered with the board in accordance with the provisions of this Subchapter. To be eligible for registration a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine issued by the board and not be the subject of a pending investigation or complaint by the board or by the medical licensing authority of any other state or jurisdiction;

2. be actively engaged in the clinical practice of medicine and the provision of patient care in this state in the particular field of medicine in which collaborative drug therapy management is to take place;

3. not be currently enrolled in a medical residency training program; and

4. not be employed by or serve as an independent contractor to a pharmacist, pharmacy, or pharmaceutical company, or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, the exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law or the board's rules on the physician.

B. A physician shall be deemed ineligible for registration of collaborative drug therapy management who:

1. does not possess the qualifications prescribed by 7407.A of this Section;

2. has voluntarily surrendered or had suspended, revoked or restricted, his/her controlled substances license, permit or registration, either state or federal;

3. has had a medical license suspended, revoked, placed on probation or restricted in any manner by the board or by the medical licensing authority of any other state or jurisdiction;

4. has had an application for medical licensure rejected or denied; or

5. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

C. Upon the affirmative recommendation of the advisory committee the board may, in its discretion, waive the ineligibility restrictions of 7407.B.2-5 of this Section on a case-by-case basis where it has been shown to its satisfaction that the license, registration, permit, or participation in the health insurance program giving rise to ineligibility has been granted, reinstated or restored on an unrestricted basis, that following such action the individual has not been subject to further or additional disqualifying action and has demonstrated exemplary conduct or accomplishments meriting waiver consideration.

D. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285(A), or any other violation of the provisions of the Medical Practice Act or of the board's rules.

E. The burden of satisfying the board as to the eligibility of a physician for registration to engage in collaborative drug therapy management shall be upon the physician. A physician shall not be deemed to possess such qualifications unless and until the physician demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7409. Registration Procedure

A. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board.

B. Application forms and instructions may be obtained from the board's web site www.lsbme.louisiana.gov or upon contacting the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7411. Original Application; Issuance of Registration

A. An application for registration to engage in collaborative drug therapy management shall include:

1. the physician's full name, license number, home address, e-mail address, emergency contact information, and the municipal post office address of each office or other location at which the applicant practices medicine in this state;

2. a description of the physician's professional background, specialty and the nature and scope of medical practice;

3. proof documented in a form satisfactory to the board that the physician possesses the qualifications set forth in this Subchapter;

4. a fully executed copy of a collaborative drug therapy management agreement that conforms to the requirements of §7427 of these rules;

5. confirmation that the physician shall only engage in collaborative drug therapy management in the particular field of medicine in which collaborative drug therapy management is to take place and in accordance with the rules and regulations adopted by the board; and

6. such other information and documentation as the board may require to evidence qualification for registration.

B. The board may reject or refuse to consider any application for registration that is not complete in every detail required by the board or a collaborative drug therapy management agreement that fails to comply with the minimum requirements specified by §7427 of this Chapter. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application or the collaborative drug therapy management agreement as a condition to consideration.

C. A physician seeking registration to engage in collaborative drug therapy management shall be required to appear before the board or its designee if the board has questions concerning the nature or scope of the physician's application, finds discrepancies in the application, or for other good cause as determined by the board.

D. Registration of authority to engage in collaborative drug therapy management shall not be effective until the physician receives notification of approval from the board. If all the qualifications, requirements and procedures of §§7407, 7409, and 7411 of this Subchapter are met to the satisfaction of the board, the board shall approve and register a physician to engage in collaborative drug therapy management.

E. Although a physician shall notify the board each time he intends to engage in collaborative drug therapy management with a pharmacist, other than the pharmacist

identified in the physician's original application, registration with the board is only required once. The board shall maintain a list of physicians who are registered to engage in collaborative drug therapy management.

F. Each registered physician is responsible for updating the board within 15 days in the event any of the information required and submitted in accordance with §§7407, 7409 and 7411 of this Subchapter changes after the physician has become registered to engage in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

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

§7413. Notice of Intent to Collaborate

A. Notification of intent to engage in collaborative drug therapy management with a pharmacist, other than the pharmacist identified in the physician's original application, shall be filed with the board by a registered physician for each pharmacist with whom the physician intends to collaborate. Such notification shall be deemed given upon the physician's filing with the board, prior to initiating collaborative drug therapy management, a notice of intent to engage in collaborative drug therapy management on a form supplied by the board, along with a fully executed copy of a collaborative drug therapy management agreement with such pharmacist that conforms to the requirements of §7427 of these rules. Prior to engaging in collaborative drug therapy management with such pharmacist the physician shall have received confirmation and approval of notification of intent from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7415. Expiration of Registration; Renewal

A. A physician's registration to engage in collaborative drug therapy management with a pharmacist shall terminate and become void, null and of no effect upon the earlier of:

1. death of either the physician or a pharmacist;
2. loss of license of either the physician or pharmacist;
3. disciplinary action limiting the ability of either the physician or a pharmacist to enter into collaborative drug therapy management;
4. notification to the board that either the physician or pharmacist has withdrawn from collaborative drug therapy management;
5. a finding by the board of any of the causes that would render a physician ineligible for registration under this Subchapter; or
6. expiration of a physician's medical license or registration to engage in collaborative drug therapy management for failure to timely renew such license or registration.

B. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a physician's medical license unless renewed by a physician by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of

and/or accompany a physician's renewal application for medical licensure.

C. The timely submission of an application for renewal of a registration shall operate to continue the expiring registration in effect pending renewal of registration or other final action by the board on such application for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

Subchapter D. Collaborative Drug Therapy Advisory Committee

§7417. Constitution of Committee

A. To assist the board on matters relative to collaborative drug therapy management, a Collaborative Drug Therapy Management Advisory Committee is hereby constituted, to be composed and appointed, to have such functions, and to discharge such duties and responsibilities as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7419. Composition; Appointment

A. The advisory committee shall be composed of 7 members, consisting of 4 physicians and 3 pharmacists. These members shall include: one physician designated by the Louisiana State University Health Sciences Center School of Medicine in New Orleans; one physician designated by the Louisiana State University Health Sciences Center School of Medicine in Shreveport, one physician designated by the Tulane University Health Sciences Center School of Medicine; one physician designated by the Louisiana State Medical Society; one pharmacist who holds the academic degree of Doctor of Pharmacy designated by the Xavier University of Louisiana College of Pharmacy; one pharmacist who holds the academic degree of Doctor of Pharmacy designated by the University of Louisiana at Monroe School of Pharmacy; and one pharmacist designated by the Louisiana Board of Pharmacy. The president of the Louisiana State Board of Medical Examiners or his/her designee may sit on the committee in an *ex officio* capacity.

B. To be eligible for appointment to the advisory committee each individual shall have maintained residency and practiced their profession in the state of Louisiana for not less than one year, hold the qualifications prescribed by this Chapter for those of their respective professions who may wish to engage in collaborative drug therapy management, and possess education, particular experience, advanced training or other qualifications that the board may deem to be of value to the advisory committee in the discharge of its duties and responsibilities.

C. Each member of the advisory committee shall be appointed by the board from among a list of one or more qualified nominees for each position submitted to the board. Accompanying each nominee shall be a personal resume or *curriculum vitae* for the individual. In the event a designating entity does not submit nominees within 60 days of the board's request the position or vacancy may be filled by a physician or pharmacist designated by the board. Each member of the advisory committee shall serve for a term of

three years or until a successor is appointed and shall be eligible for reappointment. With the exception of the member designated by the Louisiana Board of Pharmacy, who shall serve at the pleasure of that board, all members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. The advisory committee shall meet not less than twice each calendar year, or more frequently as may be deemed necessary or appropriate by a quorum of the advisory committee or by the board. The presence of four members shall constitute a quorum. The advisory committee shall elect from among its members a chairperson, a vice-chairperson and a secretary. The chair or in the absence or unavailability of the chair the vice-chair, shall call, designate the date, time and place of, and preside at meetings of the advisory committee. The secretary shall record or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7421. Duties and Responsibilities

A. The advisory committee is authorized by the board to assist by:

1. reviewing applications for physician registration and notifications of intent to engage in collaborative drug therapy management and collaborative drug therapy management agreements, to insure compliance with the requirements of this Chapter;

2. identifying disease specific conditions for which there are generally accepted standards of care that are amenable to collaborative drug therapy management. The committee shall periodically, but not less frequently than annually, provide the board with recommendations relative to additional diseases, conditions, vaccines, and categories of drugs that may be appropriate for collaborative drug therapy management;

3. providing advice and recommendations to the board respecting the modification, amendment, and supplementation of its rules concerning physicians who engage in collaborative drug therapy management;

4. serving as a liaison between and among the board, physicians and pharmacists who engage in collaborative drug therapy management; and

5. identifying and recommending to the board acceptable certificate programs and other advanced training or programs in the areas of practice covered by collaborative drug therapy management agreements.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to this Section shall be considered confidential. Advisory committee

members are prohibited from communication, disclosing, or in any way releasing to anyone any information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

Subchapter E. Standards of Practice

§7423. Authority, Responsibility and Limitations of Collaborative Drug Therapy Management

A. A physician registered with the board under this Chapter may engage in collaborative drug therapy management with a pharmacist:

1. to the extent authorized by a collaborative drug therapy management agreement that has been filed with and approved by the board; and

2. in accordance with a patient specific, drug specific, disease specific written protocol, satisfying the requirements of §7429 of this Chapter.

B. A physician engaged in collaborative drug therapy management shall:

1. retain professional responsibility to his/her patients for the management of their drug therapy;

2. establish and maintain a physician-patient relationship with each patient subject to the collaborative drug therapy management agreement;

3. be geographically located so that the physician, or a back-up physician as provided in §7427.D of this Chapter, is able to be physically present daily to provide medical care to a patient subject to collaborative drug therapy management;

4. receive on a schedule defined in the written protocol, a periodic status report on the patient including, but not limited to, any problem, complication or other issues relating to patient non-compliance with drug therapy management; and

5. be available through direct telecommunication for consultation, assistance, and direction.

C. A physician's registration to engage in collaborative drug therapy management with a pharmacist is personal to the physician. A registered physician shall not allow another physician or any other individual to exercise the authority conferred by such registration. A registered physician shall not engage in collaborative drug therapy management with a non-pharmacist or with any pharmacist who is not a party to the physician's collaborative drug therapy management agreement on file with the board.

D. Collaborative drug therapy management shall only be utilized for those conditions or diseases identified in and in the manner specified by §7403 of this Chapter. Additional conditions or diseases for which there are generally accepted standards of care for disease specific drug therapy may be identified by the advisory committee and approved by the board in accordance with 7403. Definitions. *Disease Specific Drug Therapy* and §7421 of this Chapter.

E. A physician shall only engage in collaborative drug therapy management of anti-coagulant therapy with a pharmacist who holds the academic degree of Doctor of Pharmacy, which degree provided training in the area of practice covered by the agreement. The board may, in its discretion, grant an exception to this limitation on a case-by-case basis and permit a physician to engage in anti-coagulant

drug therapy management with a pharmacist who does not possess the academic degree required by this Subsection upon the affirmative recommendation and advice of the advisory committee that the pharmacist possesses the equivalent or other acceptable advanced training in the area of practice covered by the agreement.

F. The scope of the collaborative drug therapy management shall not include:

1. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease specific written protocol;
2. drug therapy management of more than one specific disease or condition. Administration of a vaccine or smoking cessation therapy are excepted from this provision;
3. drug therapy management of any patient by more than one registered physician and one pharmacist;
4. any patient under 18 years of age. Administration of a vaccine or smoking cessation therapy are excepted from this provision;
5. pregnant or nursing mothers;
6. research, clinical or investigational trials;
7. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the written protocol;
8. the management of controlled substances or drugs of concern;
9. substitution of a drug prescribed by a physician without the explicit written consent of such physician; or
10. use of any drug not identified by its manufacturer for treatment of the specific disease or condition subject to drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7425. Informed Consent

A. A physician shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

B. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to collaborative drug therapy management shall be:

1. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the physician and pharmacist;
2. informed that he or she may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient relationship; and
3. provided written disclosure of any contractual or financial arrangement with any other party that may impact one of the party's decisions to participate in the agreement.

C. All services provided pursuant to a collaborative drug therapy management agreement shall be consistent with the agreement and shall be performed in a setting that insures patient privacy and confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7427. Collaborative Drug Therapy Management Agreement

A. A collaborative drug therapy management agreement shall, at a minimum, include:

1. the name, professional license number, address(es), telephone/cell number, e-mail address and emergency contact information for the physician and pharmacist and the date of signing and termination of the agreement;
2. a description of the manner and circumstances under which the physician and pharmacist will engage in collaborative drug therapy management;
3. the condition or disease to be managed;
4. the disease specific drug(s) to be utilized for such condition or disease;
5. the drug therapy management activities, as defined in §7403 of this Chapter, the physician authorizes the pharmacist to perform;
6. the procedure to be followed by the parties for drug therapy management and a plan of accountability that defines the respective responsibilities of the physician and pharmacist;
7. a plan for reporting and documenting drug therapy management activities in the medical and pharmacy records and schedule by which such are to take place. A physician shall insure that the pharmacist submits a report at least every 30 days, or more frequently if warranted by clinical conditions, to the physician regarding the status of a patient's collaborative drug therapy management, which report shall be noted in and made part of the physician's record on the patient;
8. a plan for record keeping, record sharing and record storage. The agreement shall acknowledge that all collaborative drug therapy management records shall be treated as and governed by the laws applicable to physician medical records;
9. acknowledgement that each patient subject to the agreement shall be notified that a collaborative drug therapy management agreement exists, describes the procedures for obtaining informed consent of such patient and the plan to address patient needs when both the physician and pharmacist are absent from the practice setting; and
10. the procedure and schedule for reviewing and assessing the quality of care provided to patients subject to collaborative drug therapy management under written protocol.

B. In the event the physician authorizes the pharmacist to order, evaluate, and apply the results of a laboratory test(s) directly related to the disease specific drug therapy being managed under written protocol, the agreement shall identify the specific test(s) and describe the plan for securing such testing.

C. The agreement shall affirm that:

1. collaborative drug therapy management shall be in conformity with then-current generally accepted standards of care for treatment of a patient's specific disease or condition;
2. all services provided pursuant to a collaborative drug therapy management shall be consistent with the agreement and performed in a setting that insures patient privacy and confidentiality; and

3. a copy of the agreement shall be maintained on site by the respective parties.

D. The agreement may include the identity of a single back-up physician possessing the qualifications for collaborative drug therapy management prescribed by this Chapter, who will serve in the absence of the registered physician to the agreement. The identifying information specified by 7427.A.1 of this Section shall be provided for such physician, along with an acknowledgment of responsibility to adhere to the same obligations and commitments imposed upon the registered physician to the agreement, as evidenced by a dated signature.

E. An agreement is valid for a period not to exceed one year. A physician shall insure that a collaborative drug therapy management agreement is annually reviewed, updated as appropriate, signed by the physician and pharmacist and submitted to the board for review and approval of any substantive changes.

F. Each registered physician is responsible for updating the board within 15 days in the event any of the information required and submitted in accordance with this Section changes after the board has approved the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7429. Written Protocols

A. A separate protocol shall be written for each patient to be managed by collaborative drug therapy management. A copy of each written protocol shall be:

1. provided to the collaborating pharmacist;
2. made part of the patient's medical record; and
3. appended by the physician to the collaborative drug therapy management agreement with the pharmacist and maintained in a separate file at the practice site listed on the physician's registration on file with the board.

B. A physician shall develop a patient specific written protocol for a particular patient or utilize a standard written protocol, incorporating what patient specific deviations, if any, the physician may deem necessary or appropriate for such patient. In either event, a written protocol for disease specific drug therapy shall adhere to current generally accepted standards of care and shall identify, at a minimum:

1. the physician, the pharmacist and telephone number and other contact information for each;
2. the patient's name, address, gender, date of birth, and telephone number;
3. the disease or condition to be managed;
4. the disease specific drug(s) to be utilized;
5. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;
6. the specific responsibilities of the physician and pharmacist;
7. the procedures, criteria or plan the pharmacist is required to follow in connection with drug therapy management;
8. the specific laboratory test(s), if any, that are directly related to drug therapy management that the physician authorizes the pharmacist to order and evaluate;
9. the reporting and documentation requirements of the physician and pharmacist respecting the patient and schedule by which such are to take place;

10. the conditions and events upon which the physician and pharmacist are required to notify one another; and

11. procedures to accommodate immediate consultation by telephone or direct telecommunication with or between the physician, pharmacist and/or the patient.

C. Every written protocol utilized for collaborative drug therapy management of a patient shall be reviewed annually by a registered physician, or more frequently as such physician deems necessary, to address patient needs and to insure compliance with the requirements of this Chapter. The physician's signature and date of review shall be noted on the written protocol and maintained by the physician in accordance with 7429.A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7431. Administration of Vaccines

A. A physician who engages in collaborative drug therapy management with a pharmacist that includes administration of a patient specific order for administration of a disease specific vaccine:

1. shall:

- a. include such authority in the collaborative drug therapy management agreement with such pharmacist that has been filed with the board; and

- b. annex documentation to the collaborative drug therapy management agreement evidencing such pharmacist is currently authorized by the Louisiana Board of Pharmacy to administer medication and confirming that such pharmacist shall in every instance adhere to the requirements specified by Section 521 of the Louisiana Pharmacy Board's rules relative to administration of vaccines.

2. In addition to the requirements of 7429 and 7431.A of this Section, a physician shall include within the written protocol for any patient of such physician to receive a vaccine:

- a. the identity of the drug, dose and route of administration;

- b. the date of the original order and the date of any authorized subsequent dose or administration;

- c. a statement that the patient or patient's legal guardian shall be provided the manufacturer's vaccine information statement with each dose;

- d. confirm that written policies and procedures for disposal of used or contaminated supplies shall be utilized;

- e. require the pharmacist to immediately report any adverse event to the collaborating physician and such governmental entities as may be directed or required by the Louisiana Department of Health and Hospitals; and

- f. confirm that the physician shall be promptly available for consultation regarding contraindications and adverse reactions to such physician's patient.

B. This Chapter shall not prevent or restrict the Louisiana Department of Health and Hospitals, Office of Public Health, or any other governmental entity of this state, from administering vaccines under the authority of other laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7433. Additional Refills

A. Whether or not and the extent to which a physician may authorize a pharmacist to dispense up to a single 7-day supply of a single drug for a single patient utilized for disease specific drug therapy after all refills authorized for such physician's patient have been dispensed, shall be specifically included in the collaborative drug therapy management agreement with such pharmacist, as well as the written protocol applicable to a specific patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7435. Reporting Obligations and Responsibilities

A. A physician engaged in collaborative drug therapy management shall:

1. within 15 days of the occurrence or discovery notify the board in writing of:

a. the death of a patient that was, in the physician's opinion, directly related to drug therapy management;

b. complications or errors that are, in the physician's opinion, directly related to drug therapy management;

c. a physician's termination of a collaborative drug therapy management agreement with a pharmacist and applicable reasons;

d. a pharmacist's termination of a collaborative drug therapy management agreement with a physician and applicable reasons;

e. a patient's election to withdraw from participation in collaborative drug therapy management and applicable reasons;

f. a physician's or a pharmacist's failure and/or refusal to abide by the terms, conditions or restrictions of a drug therapy management agreement or written protocol and applicable reasons;

g. the physician's retirement or withdrawal from active clinical practice in this state or relocation to another state to engage in practice; or

h. the revocation, suspension or other restriction imposed on a pharmacist's license that would prohibit the pharmacist from entering into a collaborative drug therapy management agreement;

2. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of a physician or pharmacist engaged in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

§7437. Records

A. Included with a physician's medical record on a patient subject to collaborative drug therapy management shall be a copy of:

1. the prescription or order implementing drug therapy management;

2. the written protocol applicable to the patient evidencing documentation of annual review;

3. documentation of all activities performed by the physician and pharmacist;

4. consultations and reports by and between the physician and pharmacist; and

5. documentation of the patient's informed consent to collaborative drug therapy management.

B. A physician registered to engage in drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a copy of any or all collaborative drug therapy management agreement(s), amendments thereto, applicable written protocols and such other records or documentation as may be requested by the board to assess a physician's compliance with the requirements of this Chapter, the Act or other applicable rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

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

Subchapter F. Sanctions

§7439. Action Against Medical License

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license to practice medicine in Louisiana held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1285, and 37:1164(37).

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

§7441. Action Against Registration

A. For noncompliance with any of the provisions of this Chapter the board may, in addition to or in lieu of administrative proceedings against a physician's license, suspend, revoke, or cancel a physician's registration to engage in collaborative drug therapy management or impose such terms, conditions or restrictions thereon as the board may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1285, and 37:1164(37).

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

§7443. Unauthorized Practice

A. Nothing in this Chapter shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the board, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Medical Practice Act.

B. Any physician who associates with or assists an unlicensed person engage in the practice of medicine shall be deemed to be in violation of R.S. 37:1285(A)(18), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license to practice medicine in Louisiana held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1271, 1285, 1286, 1290, and R.S. 37:1164(37).

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

Family Impact Statement

The proposed Rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendments until 4 p.m. December 21, 2006, to Rita Arceneaux, Executive Assistant, Louisiana State Board of Medical Examiners, at P. O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA, 70130).

Robert L. Marier, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Collaborative Drug
Therapy Management**

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

It is anticipated that the Board of Medical Examiners will devote some administrative resources to processing initial physician registrations to engage in collaborative drug therapy management with pharmacists. Inasmuch as the number of physician applicants who may seek registration is unknown but believed to be relatively small in number and because annual renewal applications will be included within the existing processes for licensure renewal, any modest increase in administrative workload will be absorbed by existing personnel. Accordingly, other than the rule publication costs, the total of which are estimated to be \$2,856 over the years FY 2006 and FY 2007, it is not anticipated that the proposed rules will result in any material costs or savings to the Board of Medical Examiners or any state or local governmental unit.

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

It is not anticipated that the proposed rules will have any effect on the Board's revenue collections.

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

Aside from an additional form supplied by the Board for completion and execution for initial registration and annual renewal, it is not anticipated that the proposed rules will have any material effect on costs, paperwork or workload of physicians seeking to engage in collaborative drug therapy management with pharmacists. Implementation of the proposed rules may, to an extent that is not quantifiable, serve to increase receipts and/or income of pharmacists engaged in collaborative drug therapy management with physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any material impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.
Executive Director
0611#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Practice (LAC 46:LIII.Chapters 3-25)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend several chapters of rules. The Chapters to be amended, and some of the specific items at issue, include:

Chapter 3: Board Hearings—provision for cease and desist orders; clarification of evidentiary standard.

Chapter 5: Pharmacists—changes to the continuing education requirements; notification requirements for impaired practitioners; collaborative drug therapy management.

Chapter 7: Pharmacy Interns—notification requirements for impaired practitioners.

Chapter 11: Pharmacies—clarification of rule concerning advertising of controlled substances; centralized prescription dispensing; remote processing of medical orders or prescription drug orders.

Chapter 15: Hospital Pharmacy—remote processing of medical orders.

Chapter 17: Institutional Pharmacy—inspection requirements for drug cabinets.

Chapter 19: Nuclear Pharmacy—technical change concerning continuing education requirement.

Chapter 23: Out-of-State Pharmacy—technical change concerning pharmacist-in-charge.

Chapter 25: Prescriptions, Drugs, and Devices—prescription refills; transfer of prescription information; requirements for controlled substance prescriptions; theft or loss of controlled substances.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 3. Board Hearings

§343. Board Decisions

A. The board's decision shall be based on finding(s) of fact and conclusion(s) of law. The board's decision shall be based on a preponderance of the evidence presented at a formal hearing, together with the board's determination of any appropriate sanctions, by an affirmative majority record vote of the board members participating in the decision process. Decisions shall be recorded and made a part of the record.

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2081 (October 2003), effective January 1, 2004, amended LR 33:

§351. Administrative Review

A. - B.4. ...

C. Time. The board or the hearing officer shall grant or deny the petition for rehearing within 30 days after its submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2082 (October 2003), effective January 1, 2004, amended LR 33:

§361. Cease and Desist Orders; Injunctive Relief

A. The board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of the Louisiana Pharmacy Practice Act or the regulations promulgated thereto, directing such person or firm to forthwith cease and desist from such activity, conduct, or practice.

B. If the person to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within the timeframe directed by said order, the board may seek, in any court of competent jurisdiction and proper venue, a writ of injunction enjoining such person or firm from engaging in the activity, conduct, or practice.

C. Upon proper showing of the board that such person has engaged in the prohibited activity, conduct, or practice, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall be issued after a hearing, commanding the cessation of the unlawful activity, conduct, or practices complained of.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

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

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§505. Licensure

A. - A.2. ...

3. Renewal. The board shall make the annual pharmacist license renewal application available to all currently licensed Louisiana pharmacists prior to November 1. The completed application along with the appropriate fee shall be submitted to the board by December 31 of each year. A pharmacist's renewal of licensure shall be displayed in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said renewal may be seen by patrons. A renewal of licensure shall serve as proof of licensure and a pharmacist's license to practice pharmacy for that year of issuance.

3.a. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:

§507. Continuing Education Program

A. ...

B. Definitions

1. ACPE—Accreditation Council for Pharmacy Education.

2. - 3. ...

C. Requirements

1. A minimum of 1 1/2 ACPE or board-approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal. Of this number, no less than 3/10 ACPE or board-approved CPE units, or three hours, shall be acquired through live presentations, as designated by ACPE or the board. Alternatively, should a pharmacist choose to not acquire at least 3/10 ACPE or board-approved CPE units, or three hours, through live presentations, then he shall acquire an additional 5/10 ACPE or board-approved CPE units, or five hours, through any other acceptable method, over and above the minimum requirement, for a total of two ACPE or board-approved CPE units, or 20 hours.

2. - 3. ...

4. When deemed appropriate and necessary by the board, the number of hours to be acquired through live presentations as designated by ACPE or the board may be increased. When so deemed, the board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1306 (October 1997), LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:

§514. Impairment

A. Pharmacists shall be non-impaired.

B. Pharmacists who have knowledge that another pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician candidate is impaired shall notify the board of that fact.

C. Pharmacists may be subject to a medical evaluation for impairment by a board-approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

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

Subchapter B. Professional Practice Procedures

§519. State of Emergency

A. - A.1.b. ...

2. A pharmacist not licensed in Louisiana, but currently licensed in another state, may dispense prescription medications in the affected parish(es) during the time that a state of emergency exists if:

a. the pharmacist has some type of identification to verify current unrestricted licensure in another state;

b. the pharmacist is engaged in a legitimate relief effort during the emergency period; and

c. the pharmacist and pharmacy notify the board of their presence and approximate location in the affected parish(es).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, amended LR 33:

§523. Collaborative Drug Therapy Management

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Board—the Louisiana Board of Pharmacy.

Collaborative Drug Therapy Management—that practice in which a pharmacist, to the extent authorized by a collaborative drug therapy management agreement, voluntarily agrees with a physician registered with the Louisiana State Board of Medical Examiners, to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a written protocol. Drug therapy management shall be limited to:

- a. monitoring and modifying a disease specific drug therapy;
- b. collecting and reviewing patient history;
- c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure, and respiration;
- d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under written protocol, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis;
- e. administration of vaccines to a patient 16 years of age or older by a pharmacist authorized to administer vaccines by the board;
- f. providing up to a single seven day supply of a single drug after all refills authorized on the original prescription issued to the patient by the patient's physician have been dispensed; and
- g. providing disease or condition specific patient education and counseling.

Collaborative Drug Therapy Management Agreement—a written document in which a pharmacist and a physician identify the terms and conditions under which they voluntarily agree to participate in collaborative drug therapy management.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such statute or regulations.

Disease Specific Drug Therapy—a specific drug(s) prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for treatment of one of the following diseases or conditions:

- a. treatment and prevention of arterial and venous clot propagation and disease, i.e., anti-coagulant therapy;
- b. treatment and prevention of diabetes;
- c. treatment of asthma;
- d. treatment and prevention of dyslipidemia;
- e. treatment and prevention of hypertension;
- f. smoking cessation therapy;
- g. treatment and prevention of obesity;
- h. immunizations for patients 16 years of age or older; and

i. such other diseases or conditions as may be subsequently recommended by the advisory committee and approved by the board.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified, in accordance with the procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Written Protocol—a written set of directives or instructions containing each of the components specified elsewhere in this Section for collaborative drug therapy management of disease specific drug therapy for a specific patient. The written protocol shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

B. Registration

1. Eligibility

a. No pharmacist shall engage in collaborative drug therapy management in this state until registered with the board in accordance with this Section. To be eligible for registration, a pharmacist shall, as of the date of the application:

i. possess a current, unrestricted license to practice pharmacy issued by the board and not be the subject of a pending investigation or complaint by the board or by the pharmacy licensing authority of any other state or jurisdiction;

ii. be actively engaged in the practice of pharmacy in this state and the provision of pharmacist care similar to the activities anticipated in the collaborative drug therapy management agreement.

b. A pharmacist shall be deemed ineligible for registration of collaborative drug therapy management who:

i. does not possess the qualifications prescribed by §523.B.1(a);

ii. has voluntarily surrendered or had suspended, revoked, or restricted, his controlled dangerous substances license, permit, or registration (state or federal);

iii. has had a pharmacy license suspended, revoked, placed on probation or restricted in any manner by the board or by the pharmacy licensing authority of any other state or jurisdiction;

iv. has had an application for pharmacist licensure rejected or denied; or

v. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

c. The board may, in its discretion, waive the limitations referenced in Subparagraph B.1.b of this Section on a case-by-case basis.

d. The board may deny registration to an otherwise eligible pharmacist for any of the causes enumerated in R.S. 37:1241.A, or any other violation of the provisions of the Pharmacy Practice Act or the board's rules.

e. The burden of satisfying the board as to the eligibility of a pharmacist for registration to engage in collaborative drug therapy management shall be upon the pharmacist. A pharmacist shall not be deemed to possess such qualifications unless and until the pharmacist

demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

2. Application and Issuance

a. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board. Application forms and instructions may be obtained from the board's website at www.labp.com or by contacting the board's office.

b. An application for registration to engage in collaborative drug therapy management shall include:

i. the pharmacist's full name, license number, mailing address of record, and emergency contact information;

ii. a description of the pharmacist's professional education that qualifies him to engage in collaborative drug therapy management activities described in the agreement;

iii. proof documented in a form satisfactory to the board that the pharmacist possesses the qualifications set forth in this Section;

iv. a fully executed copy of a collaborative drug therapy management agreement that conforms to the requirements of this Section;

v. confirmation that the pharmacist shall only engage in collaborative drug therapy management to the extent detailed in the agreement and in accordance with the rules of the board; and

vi. such other information and documentation as the board may require to evidence qualification for registration.

c. The board may reject or refuse to consider any application for registration that is not complete in every detail required by the board or they may refuse to consider a collaborative drug therapy management agreement that fails to comply with the minimum requirements of this Section. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application as a condition to consideration.

d. A pharmacist seeking registration to engage in collaborative drug therapy management shall be required to appear before the board or its designee if the board has questions concerning the nature or scope of the pharmacist's application, finds discrepancies in the application, or for other good cause as determined by the board.

e. If all the qualifications, requirements, and procedures of this Section are met to the satisfaction of the board, the board shall approve and register a pharmacist to engage in collaborative drug therapy management. Registration of authority to engage in collaborative drug therapy management shall not be effective until the pharmacist receives notification of approval from the board.

f. Although a pharmacist shall notify the board each time he intends to engage in collaborative drug therapy management with a physician other than the physician identified in the pharmacist's original application, registration with the board is only required once. The board shall maintain a list of pharmacists who are registered to engage in collaborative drug therapy management.

g. Each pharmacist registered to engage in collaborative drug therapy management shall be responsible for updating the board within 10 days in the event of any change in the information recorded in the original application.

3. Expiration of Registration; Renewal

a. A pharmacist's registration to engage in collaborative drug therapy management with a physician shall terminate and become void, null and without effect upon the earlier of:

i. death of either the pharmacist or physician;

ii. loss of license of either the pharmacist or physician;

iii. disciplinary action limiting the ability of either the pharmacist or the physician to enter into collaborative drug therapy management;

iv. notification to the board that either the pharmacist or physician has withdrawn from collaborative drug therapy management;

v. a finding by the board of any of the causes that would render a pharmacist ineligible for registration; or

vi. expiration of a pharmacist's license or registration to engage in collaborative drug therapy management for failure to timely renew such license or registration.

b. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a pharmacist's license unless renewed by the pharmacist by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a pharmacist's renewal application for pharmacist licensure.

c. The timely submission of an application for renewal of a registration shall operate to continue the expiring registration in effect pending renewal of registration or other final action by the board on such application for renewal.

C. Advisory Committee. The Collaborative Drug Therapy Management Advisory Committee, constituted as provided for in LAC 46:XLV.7417, shall assist the Board of Medical Examiners and the Board of Pharmacy on matters relative to collaborative drug therapy management. The President of the Board of Pharmacy shall appoint a pharmacist to serve on the committee, and that pharmacist shall serve at the pleasure of the Board of Pharmacy.

D. Standards of Practice

1. Authority, Responsibility, and Limitations of Collaborative Drug Therapy Management

a. A pharmacist registered with the board under this Section may engage in collaborative drug therapy management with a physician:

i. to the extent authorized by a collaborative drug therapy management agreement that has been filed with approved by the board; and

ii. in accordance with a patient specific, drug specific, disease specific written protocol, satisfying the requirements of this Section.

b. A pharmacist engaged in collaborative drug therapy management shall:

i. retain professional responsibility to his patients for the management of their drug therapy;

ii. establish and maintain a pharmacist-patient relationship with each patient subject to the collaborative drug therapy management agreement;

iii. be geographically located so as to be able to be physically present to provide pharmacist care to a patient subject to collaborative drug therapy management;

iv. provide on a schedule defined in the written protocol, a periodic status report on the patient, including but not limited to, any problem, complication, or other issues relating to patient non-compliance with drug therapy management; and

v. be available through direct telecommunication for consultation, assistance, and direction.

c. A pharmacist's registration to engage in collaborative drug therapy management with a physician is personal to the pharmacist. A registered pharmacist shall not allow another pharmacist or any other individual to exercise the authority conferred by such registration. A registered pharmacist shall not engage in collaborative drug therapy management with a non-physician or with any physician is not a party to the pharmacist's collaborative drug therapy management agreement on file with the board.

d. Collaborative drug therapy management shall only be utilized for those conditions or diseases identified in, and in the manner specified by, this Section. Additional conditions or diseases for which there are generally accepted standards of care for disease specific drug therapy may be identified by the advisory committee and approved by the board.

e. The scope of the collaborative drug therapy management shall not include the management of controlled substances or drugs of concern.

2. Informed Consent

a. A pharmacist shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

b. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to a collaborative drug therapy management agreement shall be:

i. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the pharmacist and physician;

ii. informed that he or she may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient or pharmacist-patient relationship; and

iii. shall be provided written disclosure of any contractual or financial arrangement with any other party that may impact one of the party's decision to participate in the agreement.

c. All services provided pursuant to a collaborative drug therapy management agreement shall be consistent with the agreement and shall be performed in a setting that insures patient privacy and confidentiality.

3. Collaborative Drug Therapy Management Agreement

a. A collaborative drug therapy management agreement shall, at a minimum, include:

i. the name, professional license number, address(es), telephone/cell number, e-mail address, and emergency contact information for the pharmacist and

physician, and the date of signing and termination of the agreement;

ii. a description of the manner and circumstances under which the pharmacist and physician will engage in collaborative drug therapy management;

iii. the condition or disease to be managed;

iv. the specific drug(s) to be utilized for such condition or disease;

v. the drug therapy management activities, as defined in this Section, to be performed by the pharmacist as authorized by the physician;

vi. the procedure to be followed by the parties for drug therapy management and a plan of accountability that defines the respective responsibilities of the pharmacist and physician;

vii. a plan for reporting and documenting drug therapy management activities in the pharmacy and medical records and schedule by which such are to take place. A pharmacist shall submit a report to the physician at least every 30 days, or more frequently if warranted by clinical conditions, regarding the status of a patient's collaborative drug therapy management, with such report made a part of the pharmacy record for such patient;

viii. a plan for record keeping, record sharing, and record storage. The agreement shall acknowledge that all collaborative drug therapy management records shall be treated as and governed by the laws applicable to physician medical records;

ix. acknowledgement that each patient subject to the agreement shall be notified that a collaborative drug therapy management agreement exists, describes the procedures for obtaining informed consent of such patient, and the plan to address patient needs when both the pharmacist and physician are absent from the practice setting; and

x. the procedure and schedule for reviewing and assessing the quality of care provided to patients subject to collaborative drug therapy management under written protocol.

b. In the event the physician authorizes the pharmacist to order, evaluate, and apply the results of a laboratory test(s) directly related to disease specific drug therapy being managed under written protocol, the agreement shall identify the specific test(s) and describe the plan for securing such testing.

c. The agreement shall affirm that:

i. collaborative drug therapy management shall be in conformity with then-current generally accepted standards of care for treatment of a patient's specific disease or condition;

ii. all services provided pursuant to a collaborative drug therapy management shall be consistent with the agreement and performed in a setting that insures patient privacy and confidentiality; and

iii. a copy of the agreement shall be maintained on site by the respective parties.

d. The agreement may include the identity of one back-up pharmacist possessing the qualifications for collaborative drug therapy management prescribed by this Section, who will serve in the absence of the registered pharmacist to the agreement. The identifying information

specified in this Section shall be provided for such pharmacist, along with and acknowledgement of responsibility to adhere to the same obligations and commitments imposed on the registered pharmacist to the agreement, as evidenced by a dated signature.

e. An agreement is valid for a period of time not to exceed one year. A pharmacist shall insure that a collaborative drug therapy management agreement is annually reviewed, updated as appropriate, signed by the pharmacist and physician.

f. Each registered pharmacist is responsible for updating the board within 10 days in the event any of the information required and submitted in accordance with this Section changes after the board has approved the agreement.

4. Written Protocols

a. A separate protocol shall be written for each patient to be managed by collaborative drug therapy management. A copy of each written protocol shall be:

- i. provided to the collaborating physician and pharmacist;
- ii. made part of the patient's pharmacy record; and
- iii. appended by the pharmacist to the collaborative drug therapy management agreement with the physician and maintained in a separate file at the pharmacist's practice site listed on the pharmacist's registration on file with the board.

b. A physician shall develop a patient specific written protocol for a particular patient or utilize a standard written protocol, incorporating what patient specific deviations, if any, the physician may deem necessary or appropriate for such patient. In either event, a written protocol for disease specific drug therapy shall adhere to current generally accepted standards of care and shall identify, at a minimum:

- i. the pharmacist, the physician, and telephone number and other contact information for each;
- ii. the patient's name, address, gender, date of birth, and telephone number;
- iii. the disease or condition to be managed;
- iv. the disease specific drug(s) to be utilized;
- v. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;
- vi. the specific responsibilities of the pharmacist and physician;
- vii. the procedures, criteria, or plan the pharmacist is required to follow in connection with drug therapy management;
- viii. the specific laboratory test(s), if any, that are directly related to drug therapy management that the physician authorizes the pharmacist to order and evaluate;
- ix. the reporting and documentation requirements of the pharmacist and physician respecting the patient and schedule by which such are to take place;
- x. the conditions and events upon which the pharmacist and physician are required to notify one another; and
- xi. procedures to accommodate immediate consultation by telephone or direct telecommunication with or between the pharmacist, physician, and/or the patient.

c. Every written protocol utilized for collaborative drug therapy management of a patient shall be reviewed

annually by a registered pharmacist, or more frequently as such pharmacist deems necessary, to address patient needs and to insure compliance with the requirements of this Section. A pharmacist's signature and date of review shall be noted on the written protocol and maintained by the pharmacist in accordance with this Section.

5. Administration of Vaccines

a. A collaborative drug therapy management agreement that includes the administration by a pharmacist of a patient specific order for administration of a disease specific vaccine shall include documentation of the pharmacist's authority to administer such medications, pursuant to §521 of the board's rules.

b. Agreements for immunizations administered under the authority of the Public Health Service of the Louisiana Department of Health and Hospitals shall not be required to contain specific patient names.

c. In addition to the requirements of this Section, the following information shall be included in any written protocol for any patient receiving a vaccination from a collaborating pharmacist:

- i. the identity of the drug, dose, and route of administration;
- ii. the date of the original order and the date of any authorized subsequent dose or administration;
- iii. a statement that the patient or patient's legal guardian shall be provided the manufacturer's vaccine information statement with each dose;
- iv. confirmation that written policies and procedures for disposal of used or contaminated supplies shall be utilized;
- v. a requirement for the pharmacist to immediately report any adverse event to the collaborating physician and such governmental entities as may be directed or required by the Louisiana Department of Health and Hospitals; and
- vi. confirmation that the physician shall be promptly available for consultation regarding contraindications and adverse reactions in said physician's patient.

6. Additional Refills. Whether or not and the extent to which a physician may authorize a pharmacist to dispense up to a single seven day supply of a single drug for a single patient utilized for disease specific drug therapy after all refills authorized for such physician's patient have been dispensed, shall be specifically included in the collaborative drug therapy management agreement with such pharmacist, as well as the written protocol applicable to a specific patient.

7. Reporting Obligations and Responsibilities

a. A pharmacist engaged in collaborative drug therapy management shall notify the board, in writing, within 10 days of the occurrence or discovery of:

- i. the death of a patient that was, in the pharmacist's opinion, directly related to drug therapy management;
- ii. complications or errors that are, in the pharmacist's opinion, directly related to drug therapy management;
- iii. a pharmacist's termination of a collaborative drug therapy management agreement with a physician and applicable reasons;

iv. a physician's termination of a collaborative drug therapy management agreement with a pharmacist and applicable reasons;

v. a patient's election to withdraw from participation in collaborative drug therapy management and applicable reasons;

vi. his/her or a physician's failure and/or refusal to abide by the terms, conditions, or restrictions of a collaborative drug therapy management agreement or written protocol and applicable reasons;

vii. the pharmacist's retirement or withdrawal from active practice in this state or relocation to another state to engage in pharmacy practice; or

viii. the revocation, suspension, or other restriction imposed on a physician's license that would prohibit the physician from entering into a collaborative drug therapy management agreement.

b. A pharmacist engaged in collaborative drug therapy management shall comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities, and performance of a pharmacist or physician engaged in collaborative drug therapy management.

8. Records

a. The following information shall be included in the pharmacy's record on a patient subject to collaborative drug therapy management:

i. the prescription or order implementing collaborative drug therapy management;

ii. the written protocol applicable to the patient evidencing documentation of annual review;

iii. documentation of all activities performed by the pharmacist;

iv. consultations and reports by and between the pharmacist and physician; and

v. documentation of the patient's informed consent to collaborative drug therapy management.

b. A pharmacist registered to engage in collaborative drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a copy of any or all collaborative drug therapy management agreement(s), amendments thereto, applicable written protocols and such other records or documentation as may be requested by the board to assess a pharmacist's compliance with requirements of this Section, the Pharmacy Practice Act, or other board rules that may be applicable.

E. Sanctions

1. Action against Registration. For noncompliance with any of the provisions of this Section, the board may, in addition to or in lieu of administrative proceedings against a pharmacist's license, suspend or revoke a pharmacist's registration to engage in collaborative drug therapy management, or may impose such terms, conditions, or restrictions thereon as the board may deem necessary or appropriate.

2. Action against Pharmacist License. Any violation or failure to comply with the provisions of this Section shall be deemed a violation R.S. 37:1241.A.1, as well as a violation of any other applicable provision of R.S. 37:1241.A, providing cause for the board to take any of the

actions permitted in R.S. 37:1241.A against the pharmacist's license.

3. Unauthorized Practice. Nothing in this Section shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Louisiana Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the Louisiana State Board of Medical Examiners, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Louisiana Medical Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1164(37)(b)(i).

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

Chapter 7. Pharmacy Interns

§705. Practical Experience

A. - B.1. ...

2. A pharmacy intern shall not practice in a permitted pharmacy site that is on probation with the board. A pharmacy intern shall not practice under the supervision of a pharmacist whose license is on probation with the board.

C. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2086 (October 2003), effective January 1, 2004, amended LR 33:

§707. Impairment

A. Pharmacy interns shall be non-impaired.

B. Pharmacy interns who have knowledge that a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician candidate is impaired shall notify the board of that fact.

C. Pharmacy interns may be subject to a medical evaluation for impairment by a board approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

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

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1101. Pharmacy

A. - B. ...

C. Pharmacy Permit.

1. Initial. A completed pharmacy permit application shall be signed by the pharmacist-in-charge and the owner of the pharmacy and submitted to the board for approval. An application for a pharmacy permit shall expire one year after the date of receipt in the board office.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003), effective January 1, 2004, amended LR 33:

§1115. Advertising

A - C. ...

D. No advertising shall include any reference, direct or indirect, to any controlled dangerous substance as provided for in Schedules II, III, IV, or V of R.S. 40:964. The provision of coupons or vouchers for controlled dangerous substances through authorized prescribers, which accompany legitimate prescriptions for such controlled dangerous substances issued to patients, shall not be prohibited by this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, amended LR 33:

§1117. Centralized Prescription Processing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, repealed LR 33:

Subchapter C. Pharmacy Opening, Closing, Change of Ownership, and Change of Location Procedures

§1135. Pharmacy Change of Ownership Procedures

A. - A.2. ...

3. Upon receipt of the new permit, the seller shall:

- a. notify the board of the transaction, including the identity of the new owner(s); and
- b. surrender the voided pharmacy permit and voided Louisiana Controlled Dangerous Substance License to the board.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003), effective January 1, 2004, amended LR 33:

Subchapter D. Off-Site Services

§1139. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

Centralized Prescription Dispensing—the fulfillment by one permitted pharmacy of a request from another permitted pharmacy to fill or refill a prescription drug order.

On-Site Pharmacy—a permitted pharmacy which utilizes centralized prescription dispensing services from a remote dispenser or remote processing services from a remote processor.

Remote Processing Services—the processing of a medical order or prescription drug order by one permitted pharmacy on behalf of another permitted pharmacy, including:

- a. receipt, interpretation, or clarification of an order;
- b. data entry and information transfer;
- c. interpretation of clinical data;
- d. performance of drug utilization review; and
- e. provision of drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Dispenser—a Louisiana permitted pharmacy which provides centralized prescription dispensing services for another permitted pharmacy in Louisiana.

Remote Processor—a permitted pharmacy in Louisiana which provides remote processing services for another permitted pharmacy in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

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

§1141. Centralized Prescription Dispensing

A. General Requirements

1. An on-site pharmacy may obtain centralized prescription dispensing services from a remote dispenser provided the pharmacies:

- a. have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and
- b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. All drugs dispensed to a patient that have been dispensed by a remote dispenser shall bear a label containing an identifiable code that provides a complete audit trail of the dispensing of the drug and pharmacy primary care activities.

B. Policies and Procedures

1. On-site pharmacies and remote dispensers engaging in the acquisition or provision of centralized dispensing services shall maintain a policy and procedure manual for reference by all personnel; it shall be made available for inspection and copying by the board.

2. At a minimum, the manual shall include policies for:

- a. a description of how the parties will comply with federal and state laws and regulations;
- b. the maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;
- c. the maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process;
- d. the maintenance of a mechanism to identify on the prescription label all pharmacies involved in the dispensing the prescription drug order; and
- e. the provision of adequate security to protect the confidentiality and integrity of patient information and to prevent its illegal use or disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

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

§1143. Remote Processing of Medical Orders or Prescription Drug Orders

A. General Requirements

1. An on-site pharmacy may obtain remote processing services from a remote processor provided the pharmacies:

- a. have the same owner or have entered into a written contract or agreement that outlines the services to be

provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. With respect to hospital pharmacies and institutional pharmacies, a contract or agreement for remote processing services shall not relieve the on-site pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the hospital or institutional facility. The activities authorized by this section are intended to supplement hospital and institutional pharmacy services when the pharmacy is not operating and are not intended to eliminate the need for an on-site pharmacy or pharmacist.

B. Access to Patient Information

1. The pharmacist at the remote processor shall have secure electronic access to the on-site pharmacy's patient information system and to all other electronic systems that the on-site pharmacy's pharmacist has access to when the on-site pharmacy is operating. The pharmacist at the remote processor shall receive training in the use of the on-site pharmacy's electronic systems.

2. If an on-site pharmacy is not able to provide remote electronic access to the remote processor, both pharmacies shall have appropriate technology to allow access to the required patient information.

C. Policies and Procedures

1. On-site pharmacies and remote processors engaging in the acquisition or provision of remote processing services shall maintain a policy and procedure manual for reference by all personnel; it shall also be available for inspection and copying by the board.

2. At a minimum, the manual shall include policies and procedures for:

- a. identification of the responsibilities of each of the pharmacies;
- b. protection of the integrity and confidentiality of patient information;
- c. maintenance of appropriate records to identify the name, initials, or unique identification code of each pharmacist performing processing functions, the specific services performed, and the date of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

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

Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

* * *

Remote Processing Services—the processing of a medical order or prescription by one pharmacy on behalf of another pharmacy, including:

- a. receiving, interpreting, or clarifying a medical order;
- b. entering data and transferring medical order information;
- c. interpreting clinical data;

d. performing therapeutic intervention relative to medication therapy; and

e. providing drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Processor—a permitted hospital pharmacy in Louisiana which provides remote processing services for another permitted hospital pharmacy in Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in a hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:

§1525. Remote Processing of Medical Orders

A. General Requirements

1. A hospital pharmacy may obtain remote processing services from a remote processor provided the pharmacies:

a. have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. A contract or agreement for remote processing services shall not relieve the hospital pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the facility. The activities authorized by this Section are intended to supplement hospital pharmacy services when the pharmacy is not operating and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist.

B. Access to Patient Information

1. The remote pharmacist shall have secure electronic access to the hospital pharmacy's patient information system and to all other electronic systems that the hospital pharmacist has access to when the pharmacy is operating. The remote pharmacist shall receive training in the use of the hospital's electronic systems.

2. If a hospital pharmacy is not able to provide remote electronic access to the patient information system, both pharmacies shall have appropriate technology to allow access to the required patient information.

C. Policies and Procedures

1. Hospital pharmacies and remote processors engaging in the acquisition or provision of remote

processing services shall maintain a policy and procedure manual for reference by all personnel; it shall also be available for inspection and copying by the board.

2. At a minimum, the manual shall include policies and procedures for:

- a. identification of the responsibilities of each of the pharmacies;
- b. protection of the integrity and confidentiality of patient information;
- c. maintenance of appropriate records to identify the name, initials, or unique identification code of each pharmacist performing processing functions, the specific services performed, and the date of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

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

Chapter 17. Institutional Pharmacy

Subchapter A. General Requirements

§1707. Drug Cabinet

A. - A.5. ...

6. Inspection. The pharmacy shall inspect medications stored in a drug cabinet every 30 days, plus or minus five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003), effective January 1, 2004, amended LR 33:

Chapter 19. Nuclear Pharmacy

§1907. Qualified Nuclear Pharmacist

A. ...

B. Continuing Education. Nuclear pharmacists shall obtain at least five hours of the total required hours of Accreditation Council for Pharmacy Education (ACPE) or board-approved continuing education on those applications and procedures specific to nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2098 (October 2003), effective January 1, 2004, amended LR 33:

Chapter 23. Out-of-State Pharmacy

§2307. Pharmacist-in-Charge

A. ...

B. The pharmacist-in-charge shall have an active and current license in the state in which the pharmacy is located, and further, shall not have any restrictions that prohibit the position of pharmacist-in-charge.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992), effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended LR 33:

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2519. Prescription Refills

A. Refill Authorization. Prescription refills may be dispensed only with the prescriber's authorization, as indicated on the original prescription order. In the absence of

the authorized practitioner's instructions on the original prescription, the prescription shall be considered non-refillable. When all refills authorized on the original prescription have been dispensed, then authorization from the prescribing practitioner shall be obtained prior to dispensing; when such authorization has been received, a new prescription shall be prepared and it shall be issued a different prescription number.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:

§2523. Transfer of Prescription Information

A. Prescription Transfer Requirements

1. Prescriptions for Controlled Dangerous Substances

a. The transfer of original prescription information for a controlled substance listed in Schedules III, IV, or V for the purpose of refill dispensing is permissible between pharmacies on a one time basis only. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber's authorization. Transfers are subject to the following requirements.

i. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information.

(a). Write the word "VOID" on the face of the invalidated prescription.

(b). Record on the reverse of the invalidated prescription the name, address, and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.

(c). Record the date of the transfer and the name of the pharmacist transferring the information.

b. The pharmacist receiving the transferred prescription information shall reduce to writing the following.

i. Write the word "transfer" on the face of the transferred prescription.

ii. Provide all information required for a prescription for a controlled substance (full name and address of patient; drug name, strength, and dosage form; quantity prescribed and directions for use; and the name, address, and DEA registration number of the prescriber) and include:

(a). date of issuance of original prescription;

(b). original number of refills authorized on original prescription;

(c). date of original dispensing;

(d). number of valid refills remaining and date(s) and location(s) of previous refill(s);

(e). pharmacy's name, address, DEA registration number and prescription number from which the prescription information was transferred;

(f). name of pharmacist who transferred the prescription; and

(g). pharmacy's name, address, DEA registration number and prescription number from which the prescription was originally filled.

iii. The original and transferred prescription(s) shall be maintained for a period of two years from the date of the last refill.

c. Pharmacies electronically accessing the same prescription record shall satisfy all information requirements of a manual mode for prescription transferal.

2. Prescriptions for Drugs Other Than Controlled Dangerous Substances

a. The transfer of original prescription information for the purpose of refill dispensing is permissible between pharmacies, subject to the following requirements.

i. Prescriptions may be transferred up to the maximum number of refills permitted by the prescriber on the original prescription.

ii. The transferring pharmacist or intern shall record the information itemized in Clause 1.a.i above, with the exception of DEA registration numbers.

iii. The receiving pharmacist or intern shall record the information itemized in Subparagraph 1.b above, with the exception of DEA registration numbers.

b. The original and transferred prescription(s) shall be maintained for a period of two years from the date of the last refill.

c. Pharmacies electronically accessing the same prescription record shall satisfy all information requirements of a manual mode for prescription transferal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:

Subchapter D. Controlled Dangerous Substances

§2543. CDS Prescription Order Requirements

A. - B.6.b. ...

c. Partial Filling for Patient of Long-Term Care Facility or for Patient with Terminal Illness. A prescription for a drug listed in Schedule II for a patient in a long-term care facility or for a patient with a terminal illness may be filled in partial quantities.

i. - i.(c). ...

ii. The remaining portion may be filled within 60 days of the date of issue. However, if the remaining portion is not filled within the 60-day period, the pharmacist shall notify the prescribing practitioner.

B.6.c.iii. - C.3.d. ...

D. Labeling of Dispensed Controlled Dangerous Substances. In addition to the labeling requirements enumerated in §2517 of these regulations, a prescription label for a controlled dangerous substance shall include the federal transfer caution label.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2108 (October 2003), effective January 1, 2004, amended LR 33:

§2549. CDS Theft or Loss

A. - A.2. ...

3. Notice. The permittee shall file the above-referenced report to the board within 10 days of discovery of the theft or loss.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2111 (October 2003), effective January 1, 2004, amended LR 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in LRS 49:972.

Interested persons may submit written comments to Malcolm J. Broussard, Louisiana Board of Pharmacy, 5615 Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, December 27, 2006 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for receipt of all written comments is 12 noon that day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Practice

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

It is estimated that implementation of the proposed rule will cost the agency \$1,000 during the current fiscal year. The agency has sufficient self-generated funds budgeted and available to implement the proposed rule.

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

It is estimated that implementation of the proposed rule will have no impact on revenue collections of state or local governmental units.

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

The changes in Chapter 3 are primarily technical in nature, but one of the changes in Chapter 5 will require all pharmacists to obtain some continuing education in live venues, and yet another will authorize all pharmacists with appropriate skills to enter into collaborative practice agreements. The changes in Chapter 7 are clarification and reinstatement of prior rules. The most significant change in Chapters 11 and 15 will enable pharmacies to remotely process prescription orders. The remaining amendments in Chapters 17, 19, 23, and 25 are primarily technical in nature. We estimate most of the affected persons to have no estimable costs or economic benefits as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Some of the provisions, notably the collaborative drug therapy management provisions of §523 and the remote processing of medical orders or prescription drug orders in §1143 and §1525, could have positive effects on competition and employment for the 4,500 pharmacists and 1,600 pharmacies across the state, in both the public and private

sectors, due to the addition of non-dispensing professional services that pharmacies and pharmacists could offer.

Malcolm J. Broussard
Executive Director
0611#021

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)

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 Section 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 December 21, 2006. 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, December 28, 2006, at 10 am 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
0611#089

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**

**Inpatient Hospital Services—Private Hospitals
Reimbursement Rate Increase**

Editor's Note: This Notice of Intent refers to an August 1, 2006 Emergency Rule, which was not submitted in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B)(1).

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5). The May 20, 1999 Rule was later amended to reduce the reimbursement paid to private (non-state) acute hospitals for inpatient services (*Louisiana Register*, Volume 30, Number 6).

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 private providers for inpatient and outpatient hospital services. In compliance with the directives of Act 17, the Bureau promulgated an Emergency Rule to amend the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals (*Louisiana Register*, Volume 32, Number 10). This proposed Rule is being promulgated to continue the provisions of the August 1, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to increase the prospective per diem rate paid to private (non-state) hospitals, including long term hospitals and hospital intensive neurological rehabilitation care units, for inpatient services by 3.85 percent of the rate on file for July 31, 2006.

NOTICE OF INTENT

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

Inpatient Psychiatric Services—Private Hospitals Reimbursement Rate Increase

Editor's Note: This Notice of Intent refers to an August 1, 2006 Emergency Rule, which was not submitted in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B)(1).

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). The June 20, 1993 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was subsequently amended to increase the reimbursement rates for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average costs reported on the cost report ending in SFY 2002 (*Louisiana Register*, Volume 30, Number 11).

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 private providers for hospital inpatient and outpatient services. In compliance with the directives of Act 17, the bureau promulgated an Emergency Rule to amend the reimbursement methodology for inpatient psychiatric services to increase the Medicaid reimbursement rates paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals (*Louisiana Register*, Volume 32, Number 10). This proposed Rule is being promulgated to continue the provisions of the August 1, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for

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

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, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services Private Hospitals—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 \$6,645,365 for FY 06-07, \$7,466,859 for FY 07-08, and \$7,690,865 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 \$15,300,886 for FY 06-07, \$17,192,517 for FY 07-08, and \$17,708,293 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 August 1, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to increase the prospective per diem rate paid to private (non-state) hospitals (approximately 160 hospitals), including long term hospitals and hospital intensive neurological rehabilitation care units, for inpatient services by 3.85 percent. It is anticipated that implementation of this proposed rule will increase program expenditures for inpatient hospital services rendered in private (non-state) hospitals by approximately \$21,946,047 for FY 06-07 and \$24,659,376 for FY 07-08 and \$25,399,158 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
Acting Director
0611#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

inpatient psychiatric hospital services to increase the prospective per diem rate paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals by 3.85 percent of the rate on file for July 31, 2006.

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

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, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Psychiatric Services Private Hospitals—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 \$369,930 for FY 06-07, \$415,553 for FY 07-08, and \$428,019 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 \$851,636 for FY 06-07, \$956,814 for FY 07-08, and \$985,519 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 August 1, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for inpatient psychiatric hospital services to increase the prospective per diem rate paid to private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals (approximately 75 hospitals) by 3.85 percent. It is anticipated that implementation of this proposed rule will increase program expenditures for inpatient psychiatric services rendered in private (non-state) distinct part psychiatric units and freestanding psychiatric hospitals by approximately \$1,221,362 for FY 06-07 and \$1,372,367 for FY 07-08 and \$1,413,538 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
Acting Medicaid Director
0611#074

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

Medical Transportation Program—Emergency Ambulance Services—Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by 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 reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. During the 2001 and 2002 Regular Sessions of the Louisiana Legislature additional funds were allocated and the Bureau subsequently increased the reimbursement rate for certain designated procedure codes for emergency ambulance transportation services (*Louisiana Register*, Volume 27, Number 11; Volume 28, Number 12).

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 base rate and ground mileage reimbursement rate for emergency ambulance transportation services (*Louisiana Register*, Volume 32, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have no effect on family functioning, stability or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement of emergency ambulance transportation services to increase the base rate by 5 percent and ground mileage reimbursement rate for emergency ambulance transportation services by 17 percent of the rates in effect on August 31, 2006.

NOTICE OF INTENT

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

Outpatient Hospital Services—Private Hospitals Reimbursement Rate Increase

Editor's Note: This Notice of Intent refers to an August 1, 2006 Emergency Rule, which was not submitted in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B)(1).

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare fee schedule, outpatient rehabilitation and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to reduce the reimbursement paid for outpatient services (*Louisiana Register*, Volume 26, Number 12). Rules were later promulgated to increase the reimbursement paid for outpatient hospital rehabilitation services rendered to Medicaid recipients who are age 3 and older, outpatient clinic services, and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7).

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 private providers for hospital inpatient and outpatient services. In compliance with the directives of Act 17, the bureau promulgated an Emergency Rule to amend the reimbursement methodology for outpatient services to increase the Medicaid reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals (*Louisiana Register*, Volume 32, Number 10). This proposed Rule is being promulgated to continue the provisions of the August 1, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospitals services to increase the reimbursement rate paid to private (non-state) acute hospitals for cost-based

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

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, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Emergency Ambulance 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 \$620,923 for FY 06-07, \$767,335 for FY 07-08, and \$790,355 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 \$1,429,550 for FY 06-07, \$1,766,797 for FY 07-08, and \$1,819,801 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 September 1, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement of emergency ambulance services by increasing the base rate (5% for 79,756 services) and ground mileage reimbursement rate (17% for 760,125 miles) for emergency ambulance transportation services. It is anticipated that implementation of this proposed rule will increase program expenditures for emergency ambulance services by approximately \$2,050,269 for FY 06-07, \$2,534,132 for FY 07-08, and \$2,610,156 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
Acting Director
0611#078

Robert E. Hosse
Staff Director
Legislative Fiscal Office

outpatient services by 3.85 percent of the rate on file for July 31, 2006. Final reimbursement shall be 86.2 percent of allowable cost through the cost report settlement process. This change does not include the fee schedule amounts for outpatient laboratory services, outpatient rehabilitation services, outpatient surgery and outpatient clinic (facility fees).

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

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, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Outpatient Hospital Services Private Hospitals—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 \$1,611,769 for FY 06-07, \$1,810,928 for FY 07-08, and \$1,865,256 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 \$3,710,982 for FY 06-07, \$4,169,679 for FY 07-08, and \$4,294,770 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 August 1, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for outpatient hospital services to increase the reimbursement rate paid to private (non-state) acute hospitals (approximately 160 hospitals) for cost-based outpatient services by 3.85 percent with final reimbursement to be 86.2 percent of allowable cost through the cost report settlement process. It is anticipated that implementation of this proposed rule will increase program expenditures for outpatient hospital services rendered in private

(non-state) acute hospitals by approximately \$5,322,547 for FY 06-07 and \$5,980,607 for FY 07-08 and \$6,160,026 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
Acting Director
0611#076

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

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 Rule 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 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 (*Louisiana Register*, Volume 32, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 4, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy, as described in R.S. 49:972, by helping to stabilize provider participation in the Medicaid Program and improve access to physician services.

Proposed Rule

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

provisions governing the reimbursement methodology for physician services to increase 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 October 3, 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 proposed 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 Thursday, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Physician 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 \$3,732,546 for FY 06-07, \$5,766,521 for FY 07-08, and \$5,939,517 for FY 08-09. It is anticipated that \$340 (\$170 SGF and \$170 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 \$8,594,003 for FY 06-07, \$13,277,472 for FY 07-08, and \$13,675,796 for FY 08-09. It is anticipated that \$170 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 October 4, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates (approximately 10% for regular medicaid and 15% for CommunityCARE physicians) paid to physicians (approximately 11,000 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. It is anticipated that implementation of this proposed rule will increase program expenditures for physician services by approximately \$12,326,209 for FY 06-07 and \$19,043,993 for FY 07-08 and \$19,615,313 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
Acting Director
0611#075

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

Third Party Liability—Provider Billing and
Trauma Recovery (LAC 50:I.8341-8349)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:I.8341-8349 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions governing provider billing and recovery from liable third parties in traumatic injuries or accident cases. Under these provisions, the department shall not prevent a provider from pursuing a liable third party for payment in excess of the Medicaid paid amount to a provider.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 83. Third Party Liability

Subchapter D. Provider Billing and Trauma Recovery

§8341. Definitions

Difference—payment to a provider for health care services rendered to a Medicaid recipient in excess of the Medicaid paid amount.

Initial Lien—the first letter or other notice sent by the Medicaid Third Party Recovery Unit via certified mail to the recipient or his representative providing notification of the lien amount.

Updated Lien—the most recent letter or other notice sent by the Medicaid Third Party Recovery Unit via certified mail to the recipient or his representative, subsequent to the initial lien, providing notification of an updated lien amount.

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:

§8343. Introduction

A. Congress intended the Medicaid Program be the payor of last resort, requiring other available resources be used before Medicaid pays for any health care services rendered to an individual enrolled in the Medicaid Program.

B. The Department of Health and Hospitals shall not prevent a provider from pursuing a liable or potentially liable third party for payment in excess of the Medicaid paid amount to a provider for rendered health care services, hereinafter referred to as the "difference".

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:

§8345. Provider Responsibilities

A. A provider, who has filed and accepted Medicaid payment and who wishes to pursue the difference, shall submit written notification containing information relating to the existence or possible existence of a liable third party to the Medicaid Third Party Recovery Unit within 365 days of the accident or incident for which the third party is or may be liable.

1. The notice shall contain the:

- a. Medicaid recipient's name;
- b. Medicaid recipient's Social Security number or Medicaid identification number, or both; and
- c. date of the accident or incident.

B. A provider who has filed and accepted a Medicaid payment may accept or collect the difference from a third party. Within 10 working days of receipt of the difference, the provider or his agent shall notify Medicaid to determine whether it has received full reimbursement for all payments made to all providers for health care services rendered to a Medicaid recipient as a result of an accident or incident. A provider shall not disburse the difference until receipt of notification from Medicaid that it has been made "whole". Medicaid shall be made whole.

1. In the event Medicaid agrees to and accepts less than full reimbursement for all payments made on behalf of a Medicaid recipient, excluding any partial payment, Medicaid shall be deemed to have been made whole. Medicaid shall have 10 working days from receipt of notice to notify the provider whether it has been made whole.

C. In the event a provider has knowledge that an individual is a Medicaid recipient and is receiving health care services which may be covered by Medicaid as a result of the accident or incident, the provider is prohibited from:

1. demanding any payment from the Medicaid recipient or his representative; or
2. pursuing collection of any type against the Medicaid recipient or his representative.

D. Nothing in this Subchapter shall prevent a provider from demanding payment from, or pursuing any type of collection efforts for the difference against any liable or potentially liable third party, directly or through the Medicaid recipient or his representative who is demanding payment from any liable or potentially liable third party.

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:

§8347. Recipient Responsibilities

A. The claims included in the initial lien calculated by the Medicaid Third Party Liability Recovery Unit shall be deemed as an accurate reflection of the total amount paid by Medicaid, unless challenged in writing by the recipient or representative of the recipient within 90 days of the date of the initial lien notification to the Medicaid recipient or his representative.

B. Any additional Medicaid payments included as the result of an updated lien shall be deemed as an accurate

reflection of the total amount of the claims paid by Medicaid, unless challenged in writing by the recipient or his representative, within 30 days of the date of the updated lien notification to the Medicaid recipient or his representative.

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:

§8349. Noncompliance and Violations

A. A provider who has filed and accepted Medicaid payment and who fails to comply with the notification requirement stated in §8345 of this Subchapter shall be limited to the Medicaid payment received as payment in full for the health care services rendered to the Medicaid recipient.

B. A provider who has filed and accepted Medicaid payment may be referred for investigation and prosecution for any possible violation of federal and state laws and may be excluded from participation in the Medicaid Program in the event a provider:

1. pursues the difference prior to providing written notification to the department;
2. accepts payment from a third party and fails to comply with the provisions of §8345.B.; or
3. receives payment in excess of billed charges or a duplicate payment for the same health care services.

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

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

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

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, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals 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: Third Party Liability—Provider Billing and Trauma Recovery

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 06-07. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 06-07

for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 06-07. It is anticipated that \$272 will be expended in FY 06-07 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to adopt provisions governing provider billing and recovery from liable third parties in traumatic injuries or accident cases and allows providers to seek payment in excess of the Medicaid paid amount from potentially liable third parties (approximately 8,000 cases). It is anticipated that implementation of this proposed rule could result in an indeterminable increase in third party liability recovery to the Medicaid program for FY 06-07, FY 07-08 and FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Acting Medicaid Director
0611#079

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice—Termination of Diaper Coverage
(LAC 50:XXI.11303, 11527 and 12101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.11303, 11527 and 12101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the rules governing the Children's Choice Waiver under the Louisiana Administrative Code (*Louisiana Register*, Volume 28, Number 9). The Children's Choice Waiver provides services with greater flexibility which is appropriate to families who care for children with disabilities.

The Children's Choice Waiver currently provides coverage of diapers as a component of the waiver service package. The Louisiana Medicaid State Plan was recently amended to clarify that the exclusion on coverage of incontinence supplies under Home Health services does not apply to recipients in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Coverage and reimbursement for incontinence supplies is available for EPSDT recipients up to the age of 21 when medically necessary. In order to avoid a duplication of services, the

Office for Citizens with Developmental Disabilities now proposes to amend the provisions governing the Children's Choice Waiver to exclude coverage of diapers.

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 not have an adverse effect on family functioning, stability or autonomy as coverage of diapers will be available to Children's Choice participants under the Medicaid State Plan.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

**Part XXI. Home and Community-Based Services
Waivers**

Subpart 9. Children's Choice

Chapter 113. Service

§11303. Service Definitions

A. - F.2. ...

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 115. Providers

Subchapter B. Provider Requirements

§11527. Direct Service Providers

A. - 3.b. ...

c. Repealed.

A.3.d. - 12. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - B.3. ...

4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

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

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all

written comments is 4:30 p.m. on the next business day following the public hearing.

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

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

**RULE TITLE: Home and Community-Based
Services Waivers—Children's Choice
Termination of Diaper Coverage**

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

It is anticipated that the implementation of this proposed rule will be cost neutral to the state other than cost of promulgation for FY 06-07. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 06-07. It is anticipated that \$170 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 amend the rules for the Children's Choice Waiver program to exclude the coverage of diapers (approximately 350 recipients). These supplies will be covered under the Home Health Program. It is anticipated that implementation of this proposed rule will be cost neutral for directly affected persons or non-governmental groups in FY 06-07, FY 07-08, and FY 08-09 because the costs will be shifted to the Home Health Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Acting Medicaid Director
0611#072

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)

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 thirty days of good time credit in addition to that otherwise authorized by law for every thirty 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 Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

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 December 20, 2006.

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 & 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
0611#069

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Imposition of Sanctions; Enforcement Actions;
Advertising; Video Draw Poker Devices
(LAC 42:VII.2325, 2927; IX.2919, 4103;
XI.2407, 2430; XIII.2325 and 2927)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2325, Penalty Schedule, VII.2927, Advertising, IX.2919, Advertising Mandatory Signage, IX.4103, Enforcement Actions of the Board, XI.2407, Operation of Video Draw Poker Devices, XI.2430, Penalty Schedule, XIII.2325, Penalty Schedule, 2927, Advertising in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 23. Compliance, Inspections and Investigations

§2325. Sanctions

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscription Period (months)

2927	Advertising	\$1000	18

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1321 (June 2000), amended LR 27:2255 (December 2001), LR 28:1028 (May 2002), repromulgated LR 28:2371 (November 2002), amended LR 29:362 (March 2003), LR 33:

**Chapter 29. Operating Standards
§2927. Advertising**

- A.

B. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

C. The toll-free telephone number and all accompanying letters shall appear in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:765 (April 2000), LR 33:

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 29. Operating Standards Generally

§2919. Advertising; Mandatory Signage

A.

B. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

C. The toll-free telephone number and all accompanying letters shall appear in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), amended LR 26:335 (February 2000), LR 33:

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

A. - B.

C. Penalty Schedule

Section Reference	Description	Base Fine	Proscription Period (months)

2919	Advertising	\$1000	18

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), amended LR 26:2307 (October 2000), LR 27:2255 (December 2001), repromulgated LR 28:344 (February 2002),

amended LR 28:1029 (May 2002), LR 29:362 (March 2003), LR 29:2507 (November 2003), LR 33:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2407. Operation of Video Draw Poker Devices

A. - C.2.e. ...

D. Advertising

1. - 4. ...

5. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

6. The toll-free telephone number and all accompanying letters shall appear in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004), repromulgated LR 30:441 (March 2004), amended LR 33:

§2430. Penalty Schedule

A. - D. ...

Regulation Number	Violation Description	Licensed Establishments With Up To Three Machines	All Other Licensees

2405 (B)(4)(b)	Requirements for Licensing	\$ 250	\$ 500

2907 D.5 and 6	Advertising	\$ 500	\$ 1000

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 33:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. - D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscription Period (Months)

2927	Advertising	\$1000	18

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1318 (June 2000), LR 27:2255 (December 2001), LR 28:1029 (May 2002), LR 29:363 (March 2003), LR 33:

Chapter 29. Operating Standards
§2927. Advertising

A. ...

B. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

C. The toll-free telephone number and all accompanying letters shall appear in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 33:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amended LAC 42:VII.2325, IX.2919, 4103, XI.2407, 2430, XII.2325, and 2927.

It is accordingly concluded that amending LAC 42:VII.2325, IX.2919, 4103, XI.2407, 2430, XII.2325, 2927 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the 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;
4. the effect on family earnings and family budget;
5. the 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.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through December 10, 2006, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin
Chairman

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

**RULE TITLE: Imposition of Sanctions; Enforcement
Actions; Advertising; Video Draw Poker Devices**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule change will result in increased costs to some directly affected persons, certain gaming establishments using outdoor advertising. New advertisements on outdoor billboards or other forms of print media should not result in increased costs, however in the event an establishment elects to modify an existing outdoor billboard advertisement to be in compliance with the rule change, it will result in costs of applying an added decal to the billboard. Due to the varying size of billboards and the unknown number of billboards, which establishments would choose to modify, the economic impact on those persons cannot be determined with any degree of certainty.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is estimated.

H. Charles Gaudin
Chairman
0611#090

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Corporation Income Tax (LAC 61:I.1122)

Under the authority of R.S. 47:287.83 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1122 relative to the alternative minimum tax deduction.

The purpose of the proposed amendment is to update the regulation to reflect changes in federal law since the original regulation was enacted.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 11. Corporation Income Tax
§1122. Taxes Not Deductible

A. ...

B. Federal Alternative Minimum Tax. Federal alternative minimum tax attributable to tax preference items such as, but not limited to, accelerated depreciation, depletion, and intangible drilling and development cost is not deductible. Federal alternative minimum taxable net income from

sources other than tax preference items is deductible to the extent that it is applicable to regular federal taxable income.

C. Net Operating Loss Carryback. Federal income tax deducted from Louisiana net income in taxable periods to which a net operating loss is carried back shall be computed to determine the amount of federal income tax attributable to net income which is taxed by the federal but which is not taxed by Louisiana as a result of a net operating loss carryback. Federal income tax attributable to net income which is not taxed by Louisiana as a result of a net operating loss carryback is the excess of allowable federal income tax deducted from Louisiana net income before the net operating loss carryback over the allowable deduction after the net operating loss carryback. The federal income tax attributable to net income which is not taxed by Louisiana shall be treated as a reduction to the net operating loss deduction. If

the amount of the federal income tax attributable to the net income which is not taxed by Louisiana exceeds the Louisiana net operating loss deduction, such excess shall be treated as income in the year of the transaction that gave rise to the excess. These principles are illustrated in the following examples.

D. Examples

Example 1

The ABC Corporation does not include its net income in a consolidated federal income return as provided by Section 1501 of the *Internal Revenue Code*. ABC files state and federal income tax returns on a calendar year basis. ABC Corporation's net income and other financial information used to file state and federal income tax returns for the four-year period ending December 31, 1987, include the following:

Taxable Periods	1984	1985	1986	1987
Federal net income or (loss)	\$ 2,000,000	\$ 4,000,000	\$ 5,000,000	\$ 600,000
Louisiana net income or (loss)	1,200,000	1,800,000	3,000,000	(1,000,000)
Federal income tax	800,000	1,600,000	2,000,000	240,000
Federal income tax deducted from Louisiana net income	467,280	706,240	1,171,200	-0-
State income tax deducted from federal net income but not Louisiana net income	57,500	86,000	144,000	-0-
Income tax apportionment ratio	55%	40%	50%	50%
Louisiana taxable income	732,720	1,093,760	1,828,800	-0-

ABC Corporation elects to carry their 1987 Louisiana net operating loss back to 1984 pursuant to R.S. 47:287.86. Federal income tax attributable to net income which is not

taxed by Louisiana as a result of the net operating loss carryback is computed as follows:

1. Louisiana net income, 1984		\$1,200,000
Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$1,000,000	
Adjustment		\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 168,375
4. Federal net income, 1984		\$2,000,000
5. Ratio (line 3 divided by line 4)		8.4188%
6. Federal income tax, 1984		\$ 800,000
Allowable federal income tax deduction after the Louisiana net operating loss carryback (line 6 multiplied by line 5)		\$ 67,350
Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
Federal income tax attributable to net income which is not taxed by Louisiana (line 8 minus line 7)		\$ 399,930
Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$1,000,000
Federal income tax attributable to net income which is not taxed by Louisiana (from line 9)		\$ 399,930
Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 11)		\$ 600,070

Example 2

Assume the same facts in Example 1 except that the ABC Corporation sustained a \$2,000,000 federal net operating

loss in 1987 and elects to carry the federal loss back to 1984. Federal income tax after the net operating loss carryback is zero.

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$1,000,000	
Adjustment		\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 168,375
4. Federal net income, 1984		\$2,000,000
5. Federal net operating loss carryback from 1987		(\$2,000,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)		-0-
7. Ratio (line 3 divided by line 6)		-0-
8. Federal income tax after the federal net operating loss carryback		-0-
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 multiplied by line 7)		-0-
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 9)		\$ 467,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$1,000,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)		\$ 467,280
14. Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)		\$ 532,720

Example 3

Assume the same facts in Examples 1 and 2 except that the Louisiana and federal net operating losses in 1987 are

\$350,000 and \$1,800,000 respectively. Federal income tax after the net operating loss carryback is \$80,000.

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$350,000	
Adjustment		\$ 381,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 818,375
4. Federal net income, 1984		\$2,000,000
5. Federal net operating loss carryback from 1987		(\$1,800,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)		\$ 200,000
7. Ratio (line 3 divided by line 6)		100%
8. Federal income tax after the federal net operating loss carryback		\$ 80,000
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 times line 7)		\$ 80,000
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana, 1984 (line 10 minus line 9)		\$ 387,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$ 350,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)		\$ 387,280
14. Louisiana net operating loss after deduction for the amount of federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)		-0-
15. Additional Louisiana taxable income for 1987 due to excess of federal income tax attributable to net income which is not taxed by Louisiana over the Louisiana net operating loss (line 13 minus line 12)		\$ 37,280

E. Definitions. For the purposes of this Section, alternative minimum tax, regular federal income tax, alternative tax on capital gains, and regular tax on ordinary net income are defined as provided in §1123.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.83, R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:96 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:470 (March 2004), amended by the Department of Revenue, Policy Services Division LR 33:

Family Impact Statement

The proposed adoption of the amendment to LAC 61:I.1122, which will clarify the deduction associated with the federal alternative minimum tax, 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, the implementation of this proposed Rule will have no known or foreseeable effect on:

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

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 4:30 p.m., Wednesday, December 27, 2006. A public hearing will be held on Thursday, December 28, 2006 at 10:00 a.m. in the Magnolia Room Conference Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Corporation Income Tax

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

Implementation of this proposed amendment to LAC 61:I.1122 will result in no costs or savings to state governmental units. Congress changed federal law in 1990 making these current regulations obsolete. The Department of Revenue is proposing these technical changes to make current rules consistent with federal law changed in 1990. The proposed changes will have no impact on the Department of Revenue's policies or practices.

There will be no costs or savings to local governmental units resulting from the proposed rule changes.

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

There will be no effect on revenue collections of state or local governmental units.

The proposed amendment removes obsolete language from the regulation.

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

There will be no directly affected persons or non-governmental groups. Current compliance requirements will not change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0611#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Intermodal Transportation Division

Intermodal Transportation (LAC 70:IX.Chapters 1-11)

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 current regulations concerning Intermodal Transportation.

Title 70

TRANSPORTATION

Part IX. Intermodal Transportation

Chapter 1. Aeronautics in Louisiana

§101. General

A. The Louisiana Department of Transportation and Development (formerly the Department of Public Works) as provided under Title 2 of the Louisiana Revised Statutes of 1950, as regulates aeronautics in Louisiana.

1. Section 2.8 of the Title provides that "All proposed airports, landing fields, air schools, flying clubs, air beacons, or other navigation facilities, shall first be approved by the department before they are so used or operated. No airport, landing field, air school, flying club, air beacon, or other navigation facility, except airports and landing fields constructed and operated prior to July 28, 1936, shall be used or operated without the approval of the department, and no aircraft except in case of emergency, shall land upon or take off from any area other than an airport, landing field, or landing strip. No license, rule, order, or regulation promulgated under the authority of this Section or of this Chapter shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the government of the United States or by this state. The department may issue a certificate of its approval in each case and make reasonable charges therefore."

2. ...

B. Landing Area Registration Procedures. Pursuant to these statutory provisions, all landing area proponents will provide the Louisiana Department of Transportation and Development, Aviation Section with the following information prior to use of the area for landing or take-off of aircraft.

1. Completed Environmental Questionnaire. This form addresses general environmental considerations.

2. Completed Landing Area Location Sketch. This sketch shows the relationship of the proposed site to other prominent centers of activity within an area of several miles.

3. Completed Landing Area Immediate Vicinity Sketch. This sketch shows the relationship of the proposed site to structures within the immediate vicinity.

4. - 5. ...

6. One copy of the Federal Aviation Administration's notification of its favorable or unfavorable airspace findings. Instructions for registration along with copies of all appropriate forms are combined in OAPT Information Publication Number 5000, a copy of which may be obtained at no charge from: Louisiana Department of Transportation and Development, Aviation Section, Post Office Box 94245, Baton Rouge, LA 70804, Attention: Aviation Safety/Compliance Officer.

C. - C.1. ...

2. Airports. The airports in the LASP are classified according to a simplified version of the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) classification system. Essentially, this involves identifying the airport according to the type of aircraft which it will principally serve. Although the LASP classification is less complicated than that of the FAA NPIAS, there is no conflict between the NPIAS classification of an airport and the LASP classification. The classification of each publicly-owned airport is listed on the individual airport data sheets in Volume Two of the State Plan. Additional classifications were necessary to complete the System Plan: Landing Strip; Seaplane Base; and Heliport. The letter codes used are as follows:

a. - d. ...

e. GT- General Transport. These airports generally accommodate transport category aircraft between 60,000 pounds and 175,000 pounds MGW. Generally, the GT airport serves scheduled jet commercial service operators.

3. - 6. ...

7. Heliport. Any area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters, which has been specifically prepared for use by helicopters, any area for use by helicopters which is "open to the public", or any area, other than those used for agricultural operations, which may have three or more takeoffs or landings in a 30-day period. All heliports must be registered with the state in accordance with the Department of Transportation and Development, Aviation Section.

8. Heliport Service Facilities. Those facilities such as major maintenance facilities, or fueling facilities which may be used in conjunction with a heliport. Such facilities must receive approval from the Aviation Section prior to their construction or use. Registration of a heliport is not to be understood as approval for heliport service facilities.

D. ...

E. Review of Landing Area Proposals. Upon receipt of the required information, the Aviation Section, following a reasonable period for review, will provide the proponents with a statement of its findings and issue a notice of no objection to the establishment and use of the proposed landing area, if such is appropriate. The review may include:

E.1. - H. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 6:163 (May 1980), amended LR 6:559 (September 1980), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Chapter 3. Ultralight Aircraft, Testing and Licensing of Pilots of Ultralight Aircraft; Establishment of Ultralight Airports; Restriction of Use of Ultralight Aircraft in Hazardous Areas

§301. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:417 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§303. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:417 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§305. Use of Licensed Airports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:418 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§307. Special Ultralight Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:418 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§309. OAPT Powered Ultralight Vehicle Pilot/Instructor Competency and Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:419 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§311. Powered Ultralight Vehicle Pilot Competency and Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:419 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§313. OAPT Powered Ultralight Vehicle Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:421 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§315. Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:421 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§317. Appendix

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:422 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Chapter 5. Flight Operations Manual

Subchapter A. General

§501. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§503. Director of Flight Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§505. Chief of Aircraft Maintenance (DOTD/OFO)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§507. Chief Inspector (DOTD/OFO)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§509. Authorized Chief Pilots (Agency or Department)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§511. Authorized Check Pilots (DOTD and Agency)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§513. Variance Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§515. Waiver Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§517. Operations Bulletins

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§519. Purchasing Guidelines for Aircraft (Other Than Normal Maintenance Items)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§521. Safety (General)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§523. Public Protection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§525. Insurance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§527. Authorized Use of Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§529. Flight Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§531. Medical-Evacuation Flights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§533. Use of Personally Owned Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§535. Hazardous Material

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§537. General Personnel Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§539. Pilot Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§541. Minimum Qualifications for State Flight Crew Personnel (Pilot Certification and Flight Physical)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§543. Pilot Physical Condition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§545. Blood Donations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§547. Drugs and Medication

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§549. Use of Alcoholic Beverages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§551. Alcoholic Beverages on State Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§553. Unauthorized Personnel, Baggage, and Cargo

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§555. Personal Appearance and Conduct

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§557. Aircraft Appearance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§559. Maintaining Logs and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§561. Aircraft Accidents/Incidents (General)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Subchapter B. Operations

§563. Standard Operating Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§565. Flight and Duty Time

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§567. Pilot Proficiency

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§569. Pilot Information File

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§571. Publications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§573. Flight Preparation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§575. Passenger Manifests

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705

(July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§577. Weather Briefings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§579. Takeoff Weather Minimums (Airplanes)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§581. Landing Weather Minimums

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§583. IFR Takeoff and Landing Minimums for Newly Upgraded (Second-in-Command to Pilot-in-Command) State Pilots

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§585. Frost, Snow and Icing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§587. Severe Weather and Weather Detection Devices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§589. Day, Night, and Instrument Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§591. Single-Engine Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705

(July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§593. Multi-Engine Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§595. Helicopter Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§597. Refueling of Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§599. Weight and Balance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§601. Responsibility for Determination of Aircraft Airworthiness (Pilots)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§603. Aircraft Discrepancy Record

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§605. Minimum Equipment List

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§607. Deferred Discrepancies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§609. Flight Following/Flight Plans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§611. Daily Inspections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§613. Preflight Inspections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§615. Walk-Around Inspection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§617. Emergency Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§619. Survival, Over-Water, and Flotation Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§621. Passenger Briefing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§623. Use of Seat Belts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§625. Oxygen Requirement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§627. Portable Electronic Devices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§629. Smoking

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§631. Passengers Requiring Special Attention

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§633. Noise Abatement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§635. Admission to the Cockpit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§637. Flight Crewmembers at Duty Stations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§639. Use of Checklists

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§641. Crew Coordination (IFR Operations)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§643. Hijack Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§645. Postflight Inspection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§647. Tie Down and Securing Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§649. Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§651. Aircraft Management Data Sheet (Form 100E)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Subchapter C. Maintenance

§653. Maintenance Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§655. Maintenance Reference Library

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§657. Overhaul Time Limits (TBO)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§659. Aircraft Maintenance Request Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§661. Contract Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§663. Required Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§665. Required Inspection Items

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§667. Incomplete Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§669. Ferry Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§671. Maintenance Test Flights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§673. Airworthiness Determination (Maintenance)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705

(July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§675. Malfunction and Defect Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§677. Aircraft Discrepancy Record (Form 200A Rev 6/20/84)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§679. Fuel Quality Control

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§681. Tagging Parts (Maintenance)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§683. Ground Support Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Subchapter D. Training

§685. Pilot Training Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§687. Pilot Qualification Certificate Completion Instructions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§689. First Aid

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

**§691. Simulated Engine Failures and In-Flight
Aircrew Training**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§693. Certificate of Ground Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§695. Certificate of Flight Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Subchapter E. Scheduling

§697. Scheduling Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§699. Waivers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§701. Executive Transport Flight

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§703. Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§705. Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

**Chapter 9. Aviation Program Needs and Project
Priority Process**

§901. Introduction

A. The Louisiana Department of Transportation, Aviation Section is responsible for the development of public aviation facilities in the state. Assistance with the planning, design, and construction of facilities is provided to local governments which own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement if the improvement is federally funded, receives 90 percent or more of project funds from sources other than state funds, or if most or all of the total funding is previously approved by the Legislature. The aviation portion of the Louisiana Transportation Trust Fund is known as the Aviation Trust Fund (ATF), which is funded by the collection of sales tax solely on aviation fuels, and is the only source of state funds for airport capital improvements or matching funds for federal airport improvement grants.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803B and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

**§903. Federal Aviation Administration (FAA) Airport
Improvement Program (AIP) Grants**

A. Federal funding for projects is received through grants from the Federal Aviation Administration directly to the recipient airport. Under the Airport Improvement Program (AIP) a minimum of 90 percent of project funds are federal. Occasionally, the FAA may offer a grant requiring a local match of more than 10 percent. For example, terminal building projects at commercial service airports are offered as 75 percent federal, 25 percent local match. Terminal buildings at commercial service airports may have a percentage of the project not eligible to receive funding. In most instances, the FAA determines what portion is or is not eligible. When the local sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The local sponsor must coordinate the development of the project with the Aviation Section and the FAA in order to receive the matching funds through the priority system. When the required match is greater than 10 percent, the state will participate in no more than 10 percent of the project cost and the local sponsor must provide the additional matching funds. The FAA provides the AIP grants directly to the airport sponsor who is responsible for administering the grant.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803B and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§905. Project Identification and Development

A. The primary objective of the priority system is to prioritize airport improvement projects. Nonprioritized projects are not included in the priority system as individual projects, but are funded through approved amounts for each category of project. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with airport improvement projects.

B. Potential projects for inclusion in the priority system are initiated by the airport sponsor or by the State Aviation Section. The need for the project may be identified in a master plan, action plan, system planning document, or as a result of a change in conditions or facilities at the airport.

C. Only airport development projects are subject to prioritization. Airport administration and operations are not included since they are the responsibility of the airport owner and are not within the purview of the prioritization process.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§907. Project Prioritization Process

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available. Support documentation may include a project resolution from the local airport owner or sponsor requesting state assistance for that project, project scope and estimated cost, justification of the project, any environmental clearance documentation (if necessary), and information from the local sponsor necessary for prioritization of the project. Height limitation and land use zoning ordinances, operations manual, documentation that Part 139 and 5010 inspection discrepancies have been corrected, pavement maintenance plan, and a certified copy of the legal document creating the airport district or authority may also be requested before the process can continue. If any pertinent documentation is missing, the review process may cease and not continue until all information is made available to the Aviation Section. If all of the necessary documents are not received by the Aviation Section by November 1, the proposed project may not be allowed to compete for funding for that fiscal year being prioritized but may be considered for the following fiscal year.

B. Those projects which qualify for prioritization are then assigned point values to determine their relative priority. Those with insufficient information may be returned to the airport owner until required information can be provided. Once it has been determined that the project is eligible and all documentation has been provided, the next step is the assignment of point values. When point values are finalized, the project is placed into the priority system where it is ranked in relation to all other projects in the system.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project

will be restructured into usable units if necessary. An example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway so these may be considered as two projects in the priority system. On the other hand, the extension of the runway's lighting system would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting. See §915.B for further details.

D. The structure of the priority rating system is based on an evaluation of four categories:

1. Category I—Project Type;
2. Category II—Facility Usage;
3. Category III—Sponsor Compliance;
4. Category I—Special Considerations.

E. Points are awarded to a project based on evaluation criteria in each category and the total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a prioritized program of projects is developed by the Aviation Section and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves the program of projects which becomes the capital improvement projects that will be implemented by the Aviation Section in the next fiscal year. A project submitted after this approval with a ranking high enough to place the project on the program of projects cannot be added until a new program of projects is submitted to the committee the following year. However, a project receiving other than state funds may receive a state match in accordance with R.S. 2:803B, if funds are available as determined by the Aviation Section.

F. The Transportation Trust Fund legislation requires a priority system to prioritize projects in some logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy.

G. The only projects that should appear on the prioritization list are those that have a chance of being implemented in the foreseeable future. Ideally, this would be within a three-year period from the time the project appears on the priority list. Prioritized projects which have been approved for state funding but which, for lack of federal matching funds or other reasons, do not have a signed construction contract within three fiscal years may be deleted from the program. Funds which had been approved for a deleted project will be reallocated to any other prioritized project as needed. Normally such funds will be used to cover project overruns, "up front" engineering costs (FAA reimbursable engineering costs incurred by the airport owner prior to the issuance of a federal grant in aid), or "up front" land purchase costs (FAA reimbursable costs associated with survey, real estate and title fees, and purchase of land by the airport owner prior to the issuance of a federal grant-in-aid).

H. These funds may also be used to fund the next-in-line project on the four-year unfunded portion of the priority list if that project has received funding or for projects funded by other than state funds not covered by the Future FAA Obligations funds. As a general rule, funds originally

allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport four-year unfunded list. Funds allocated to general aviation airports will likewise be used to fund projects on the general aviation airport four-year unfunded list. In the event there are insufficient projects on either four-year unfunded list, funds originally allocated to one class of airport may be reallocated to the other class of airport.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803B and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§909. Nonprioritized Programs

A. Through the legislative approval process for the Priority Program, the Aviation Section may specify on the Priority Program, nonprioritized programs as needed. Such statewide programs may include, but are not limited to Planning, Navigational Aids, Discretionary Projects, Maintenance Reimbursement, Obstruction Removal Safety programs, Future FAA Obligations, Statewide Marking Program, and Statewide Sealcoat Program. These programs are an integral element of the state's aviation program. Projects cannot reach the facility improvement stage without going through the planning phase. Navigational aid projects enhance use of the overall state system. Discretionary projects provide the Aviation Section with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects. The Maintenance Reimbursement Program assists the general aviation airports in the high cost of maintaining an airport and allows the airport to maintain a safe and operational status. The Obstruction Removal Safety Program is needed to keep the state's airports safe from obstructions that penetrate the airports approach slopes, runway protection zones, FAR Part 77 and transitional surfaces. The Future FAA Obligations are needed to meet the funding requirements for the projects the Federal Aviation Administration (FAA) has funded after the priority program has been approved. This phenomenon is caused by the state's fiscal year being out of synchronization with the federal fiscal year by approximately three months. This special program precludes the loss of federal funds and improves the state's timely response. The Statewide Marking Program assists airports statewide in maintaining a safe visual marking aid environment on the airfield. The Statewide Sealcoat Program assists airports statewide in maintaining their pavement in good condition.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§911. Planning Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§913. Navigational Aid Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§915. Discretionary Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

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§917. Project Prioritization Process

Repealed.

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§911. Commercial Service Versus General Aviation Airports

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users, however, it primarily identifies projects that have the greater need, even if the airport serves less users than another airport. When airports are compared on the basis of persons served, airports offering scheduled or unscheduled commercial air service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service airports (those airports which enplane 2,500 or more passengers annually) as compared to general aviation airports make it difficult to compare the need for projects between the commercial service and general aviation airports.

B. Because of aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at commercial service airports have more demanding standards and thus more costly engineering and construction. Because of the significant differences between commercial service and general aviation airports project standards, each group's projects are prioritized separately.

C. The commercial service airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for airport improvement projects in a given year are allocated between commercial service and general aviation airport projects in a ratio of 65 percent for commercial service airports and 35 percent for general aviation airports. This balance is

adjusted, however, if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experience in the state's aviation program and the levels of state funding allocated to each type of airport. It also reflects the fact that commercial service airports have a far greater capability of generating revenue through means unavailable to general aviation airports such as: vendor leases, landing fees, airline contracts, passenger facility charges, and rental car lease agreements. Passenger Facility Charges (PFC) are charges passed on to a commercial service passenger, which can be collected by the airport to fund projects not otherwise funded. These projects are eligible to be approved by the FAA for 100 percent funding through the PFC collection. Therefore, PFC funds are not normally eligible to receive matching funds from the state.

D. The division of projects by commercial service or general aviation airport categories results in two project priority lists, one for each of the two types of airports. Each step of the prioritization process is identical for both commercial service and general aviation airport projects.

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§913. Preliminary Evaluation

A. The preliminary evaluation is used to screen potential projects and determine those which can realistically be implemented, assuming available funding.

1. The first step is to determine whether the project should be included in the priority process. There are three basic criteria:

- a. project type;
- b. project size;
- c. eligibility for federal matching funds.

2. The second step is to determine whether the information necessary for prioritization is available.

B. A review committee consisting of, at a minimum, the aviation director, grants manager, and aviation program manager for the airport concerned will make an initial determination of whether there is sufficient information to prioritize a project when a project request is received. Some of the information considered by the committee is required by either Title 2 of the Louisiana Revised Statutes, the Louisiana Aviation Needs and Project Priority System, or DOTD and Aviation Section policy.

C. The DOTD Aviation Section is responsible for assigning priority values to projects and determining if they are consistent with development plans in the master plan or action plan for the airport. If insufficient data is sent to the Aviation Section, correct prioritization of the project will not be possible. When insufficient data is provided, a request will be made for the additional information needed. Therefore, project applications and necessary documentation should be sent to the Aviation Section early enough to allow time for processing and possible return for additional information before the program can be presented to the legislature for approval. Any document package not meeting all requirements or not in Aviation Section hands by the

deadline may not be prioritized or included in the upcoming fiscal year's program.

D. Project Type. Generally, only airport improvement or preservation projects are included in the priority program. Some exceptions are:

1. land acquisition for obstruction removal or airport expansion;
2. Aircraft Rescue and Firefighting (ARFF) vehicles and equipment;
3. airport noise studies; and
4. FAA AIP eligible projects when FAA is providing funding.

E. Some projects may be of a type in which the Aviation Section might not participate. For example, construction of roads and utilities for an air industrial park development and other such land side projects are not undertaken by the priority system and will not be funded by the Aviation Trust Fund.

F. Project Size. To be included in the priority system, a project must require the use of \$25,000 (other than discretionary funds) or more in state funding. The \$25,000 requirement only applies to projects which receive no federal funding. Some projects may be too costly to be funded from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than \$1,000,000 in state funding may be programmed to a single commercial service airport and no more than \$250,000 in state funding may be programmed to a single general aviation airport through the aviation priority program per fiscal year. Projects in excess of these amounts may be funded more than two or more funding years. For example, a project for a commercial service airport may have a total cost of \$2,500,000. The project may be prioritized in the upcoming budget cycle for no more than \$1,000,000 but the remaining \$1,500,000 will receive top priority in the following two yearly budgets to insure project completion. The same is true for a general aviation airport project except that the project maximum cost is \$250,000 per budget year. This does not include projects that are prioritized as an FAA AIP grant unless it is known that the FAA will use a multi year funding approach. Regardless of project size, if the FAA uses multi year funding, the state will also use a multi year approach.

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§915. Project Support Documentation

A. Once it has been determined that a project is of the type and size to be considered in the priority system, an evaluation of required supporting documentation will be made. The project support documentation is a combination of documents and information necessary for the Aviation Section to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation may include the following items:

1. Project Resolution. The initial document the Aviation Section needs for consideration of any project is a resolution from the public body operating the airport

requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the local owner to participate in the cost of the project is also documented in the resolution. The resolution from the owner of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable provisions of state law. It is also a written commitment of support for the project by the owner. The Aviation Section requires a resolution (except from state-owned and operated airports) from the airport sponsor or owner before a project can receive state funds.

2. Funding Sources. Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program which provides funding grants for eligible projects at eligible airports. A request for 100 percent state funding will not be processed for a project that is eligible for AIP funding until it has been approved and prioritized in the state system as an FAA/state matching funds project and competed unsuccessfully in the federal system for at least three fiscal years. The three years in the federal priority system may be waived if the FAA verifies in writing that the proposed project will not receive AIP funding. On the other hand, if the FAA indicates that the project will be funded at some reasonable time beyond the initial three years, the project will remain in the system awaiting FAA matching funds rather than receiving 100 percent state funding which could deprive other airports of receiving funding assistance.

B. Project Components. In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening, widening, lighting, grooving, etc., of the primary runway. Projects are defined on a usable basis or unit. This means that, if a runway is widened, the relocation of runway lighting and striping are all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these may be considered as two projects in the priority system. Development of projects as a usable unit prevents projects of a lower priority being tagged onto a high priority project so they will be ranked higher. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects along with otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself if it is in especially poor condition. This can prevent damage to aircraft, provide a safe operational area for the necessary movement of aircraft, and take advantage of significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects, is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are

developed and for determining if special circumstances exist which would warrant combining unrelated projects.

C. Planning Data. The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is found in the master plan or action plan for the airport, but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway, or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point.

1. Submitting a master plan or action plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with a narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

2. The planning data for a project, at a minimum, must:

- a. document the need for the project;
- b. explain how the project meets the need;
- c. give the estimated cost; and
- d. include a sketch of the project on the airport's approved layout plan.

3. The documentation need not be lengthy but should focus on what is generating the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircraft that need to be parked on the apron would be adequate documentation. A description of how large an apron expansion is proposed and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or action plan development recommended for the airport. If the expansion of the apron is not consistent with that shown in the master plan or action plan, an explanation for the proposed deviation is necessary.

D. Environmental Requirements. Some proposed projects, because of their potential environmental impact, may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, a determination should be made whether or not environmental clearance is required. If the FAA Airports District Office or DOTD Aviation Section indicates environmental clearance is required, any documents that are available to show that environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be done before the project is placed in the priority system unless the environmental delineation and/or mitigation is part of or included in the project to be funded. Environmental clearance of projects can be a lengthy process and allowing a project to be dormant in the priority system while waiting for clearance could preclude another project or projects from being implemented.

E. Local Sponsor Requirements. The priority system recognizes the responsibility of the local government owners of the airport to operate the airport in a safe, professional manner. A category is included in the rating system that

assigns a value for sponsor responsibility. To be able to assign this value, certain information is required from the owner of the airport.

1. Two of the evaluation criteria in the "sponsor responsibility" category are whether the airport has height limitation zoning and land use zoning in effect at the airport. If the Aviation Section does not have a copy of the airport's zoning ordinances on file, the local owner is required to provide this. The lack of zoning at the airport will cause a lower ranking of the proposed project.

2. No airport may receive state funding from the DOTD, Aviation Section if officially declared in noncompliance with federal or state laws, regulations, rules, or policies by the FAA or DOTD, Aviation Section.

3. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the airport operations manual, and adequate airport maintenance are evaluated in the preliminary evaluation of a project because if they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before the project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve the project score. If the owner does not initiate and document corrective action that clearly shows that action is being taken to address these items and correct deficiencies in these areas, the project will not receive points in this category.

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§917. Project Priority Rating System

A. There are four categories of evaluation, each addressing one of the general areas in §925.A.1-4. The categories are as follows:

1. Category I—Project Type;
2. Category II—Facility Usage;
3. Category III—Sponsor Compliance;
4. Category IV—Special Considerations.

B. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by Aviation Section policy.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§919. Category I—Project Type (See Exhibit 1)

A. This category is designed to segregate projects by type defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type. These subcategories are:

1. Safety;
2. Airside Preservation;
3. Airside Improvements;
4. Landside Improvements.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly. Development of projects directly related to safety of aircraft operations is considered the highest priority because of the potential for loss of life and property should safety needs not be addressed. Preserving the existing airport system is next in importance because the existing facilities represent an investment of public dollars and there is a commitment to maintain those facilities that are in use. The airside improvement type of project is the next project priority and reflects a policy by the Aviation Section to develop facilities to the design standards established by DOTD and FAA to accommodate existing aviation activity at an airport. Projects for landside improvements at an airport are last in the project type priority because safety, airside preservation and airside improvements are all types of projects that need to be addressed in order to maintain a safe and operational airport.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. As an example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally regardless of what area of the airport they impact.

D. It should be noted that project types listed are generic. For example, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are shown in Exhibit 1. The type of project within each subcategory and its corresponding point value are displayed.

E. The Aviation Section may participate in revenue-generating projects such as fueling systems and hangars. Such projects are usually done after all other airside projects or issues have been completed. Certain areas of terminal buildings at General Aviation airports may be eligible. Areas such as the airport manager's office, flight planning area, pilot's lounge, and a small conference room would be considered eligible for funding. Areas such as a location for rental car agencies, restaurants, and Fixed Base Operators (FBO's) would not be considered eligible for funding. The size of the terminal building eligible for funding would also be limited to the needs for the size airport in which it would be located.

F. Safety (See Exhibit 1.A). Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, Aircraft Rescue and Firefighting (ARFF) equipment, and lighting. It can be argued that most aviation improvement projects increase safety at an airport, but caution is used to place only those projects in this subcategory that specifically affect the safety of aircraft using the airport. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. Projects in the "safety"

category are those developed specifically to address an unsafe condition and thus receive the highest evaluation points possible.

G. Airside Preservation (See Exhibit 1B). Projects that are required to maintain the functional integrity of existing facilities are evaluated in this subcategory. Projects such as reconstruction of a runway or taxiway or rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from preservation of existing facilities toward making improvements to airside facilities.

H. Airside Improvements (See Exhibit 1.C). Projects evaluated in this category are those the purpose of which is to upgrade a facility to a design standard based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system and the Aviation Section facility development standards. The airport role and standards are found in the Louisiana Airport System Plan and in appropriate FAA and state airport design manuals and advisories.

I. Landside Improvements (See Exhibit 1.D). Projects in this subcategory are those that are designed to facilitate the handling of issues dealing strictly with landside improvements. These projects receive the least amount of points in the prioritization process due to the fact that emphasis must be put on airside needs in order to maintain a safe and operational airport. Projects in this subcategory may be addressed once the major airside issues have been addressed and resolved.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§921. Category II—Facility Usage (See Exhibit 2)

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced, however, with the Aviation Section's goal of maintaining a viable statewide system of public use airports and maintaining aviation and public safety.

B. As previously discussed, for this reason commercial service and general aviation airports are prioritized separately.

C. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

D. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, is used to determine the relative level of use at an airport by general aviation interests. There are some drawbacks to this approach. The number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. Itinerant operations, which are very important to an airport, are not recognized by counting based aircraft.

Other operations by aircraft not based on the field, such as agricultural and military aircraft, are also missed. All of these factors affect the overall number of operations at an airport which is a much more accurate measure of airport use than based aircraft, but reliable operations counts at all nontowered airports are not available for general aviation airports. Should the Aviation Section develop a systematic program for counting operations at nontowered airports, the relative number of operations at an airport may replace based aircraft as the indicator of facility use. Until such a system is developed, counts of based aircraft are the only consistent way to measure general aviation use at the airports.

E. For commercial service airports, points are also awarded in this category for the number of commercial service enplanements. The number of enplanements is taken from the FAA's annual enplanement data.

F. Airports that do not have enplanements, but are designated as reliever airports, receive points in this category also. Reliever airports are important in the system for diverting general aviation operations from commercial service airports with operational capacity problems and thus receive points in the category. The sum of points awarded for general aviation-based aircraft, commercial service passenger enplanements (commercial service airports), and reliever airports status constitutes an airport's score for the "facility usage" category of the priority rating system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§923. Category III—Sponsor Compliance (See Exhibit 3)

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, in the total closure of the airport. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded in this category for having height hazard zoning ordinances in effect at an airport.

C. A related area evaluated in this category is compatible land use zoning. Height hazard zoning controls the height of

objects but has no impact on the actual use of the land. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport which may create pressures to restrict use of the airport. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. For this reason, the presence of land use zoning is evaluated in this category.

D. The final evaluation area in the "sponsor responsibility" category is maintenance. The local owners of the airport are responsible for routine maintenance such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing or filling pavement cracks, and refurbishing marking and painting stripes. If regular maintenance is not done, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified by letter of the problem and the corrective action to be taken. Until the airport corrects the problem, all projects evaluated in the priority system for the airport will lose points.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§925. Category IV—Special Considerations (See Exhibit 4)

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated with respect to each item to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. The first area of evaluation is "special programs". At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. Also, as a matter of policy, the Aviation Section may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria. An example of this type of project would be a phased project. Additional points will be awarded to assure that a consecutive phase of a project receive a higher priority than a project that is not phased.

C. Economic development potential is another evaluation area under the "special considerations" category. While it is acknowledged that any construction project generates economic development, there are some projects that are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development aspects of the project must be well documented and clearly demonstrate the potential economic impact of the project. Facilities developed to

accommodate the aviation needs of a business moving to the community is an example of an economic development type of project. The facilities would have to constitute a major factor in the business' decision to locate in the community. To receive bonus points in this area may require an economic impact study, the cost of which is the responsibility of the airport owner. Another example is a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business.

D. Commercial air service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract commercial air service to the airport. For a project to receive points under this category, it must be directly responsible for affecting commercial air service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. Another "special considerations" category is the provision of local matching funds in excess of Aviation Section match requirements. Any project for which at least \$5,000 in local funds are provided will receive bonus points in this category. For every \$5,000 contributed by the airport owner, 5 bonus points will be awarded, up to a total of 20 bonus points for \$20,000 contributed. Any amount above \$20,000 contributed by the sponsor will only receive a maximum of 20 bonus points. This is designed to give higher preference to projects that are financially supported by the local owner in excess of that which is required; therefore, no matching funds from other state sources will qualify for bonus points. Commitment for local funding support should be included in the resolution submitted by the local owner requesting assistance from the Aviation Section for the project.

F. The last evaluation criterion under the "special considerations" category is the GA Entitlement Loan Program. Under this category a NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement (NPE) funds to another NPIAS GA airport. The airport receiving the loan will in turn, loan their future NPE funds to the airport which gave them the loan. The participating airport loaning the funds will be awarded additional bonus points for their next priority project.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

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§927. New Airports

A. An airport that is constructed on a new site presents some different prioritization issues than improvements to existing airports. Generally, a new airport will fall into either of two categories.

1. The first is an airport that is proposed for an area of the state not served by a public airport.

2. The second is a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a process slightly different than that for an existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. At some point during its development, a new airport becomes an existing airport. For purposes of the priority process, an airport is considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. The completion of these elements allows aircraft to operate at the airport and thus, at this point, the airport is no longer considered "new" and future projects are prioritized using the standard prioritization process. Before this point is reached, however, the land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrade to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally-funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport should be prioritized under the project type "capacity increases" subcategory. These airports are primarily to increase the capacity of the Louisiana public airports system and thus are prioritized in the "capacity increases" subcategory. As previously discussed, land acquisition costs are usually reimbursed by the FAA and these projects should be prioritized accordingly.

F. For the "facility usage" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "sponsor responsibility" category, there are two areas that can be included in the prioritization process. The presence of height limitation zoning and land use zoning should be determined and points assigned accordingly. Most new airports will not have developed an operations manual for the airport. In cases where the airport has not developed an operations manual, the airport will be awarded five points based on the assumption that the elements of an operations manual will be in place when the airport is opened for operations.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing airport. If an airport is the first public airport in an area, a strong case can be made that the airport should receive

bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and thus should have a significant long-term economic impact on the area served. The remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

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§929. Prioritization of Projects

A. Once a determination has been made by the Aviation Section that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves. Subsequent questions about why the project received the evaluation score may be difficult to answer without the documentation to support the points assigned in each category.

B. Point values are assigned in each category using the worksheet that is included as Exhibit 5. The worksheet follows the priority rating system and provides the documentation of how the total score for a project was derived. The worksheet is maintained with the project file so that documentation of the value assigned in each category is available.

C. Occasionally, a change in a project or at the airport might occur requiring the point values for a project to be modified. The new values are put on the same worksheet with a note explaining the reasons for the change.

D. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

E. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a break is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the tie and, if still tied, Category II is used, etc. Should the projects still be tied after examining all four categories, the project at the airport with the largest number of based aircraft will be ranked higher.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§931. Priority Ranking System

A. After the total evaluation score for a project is determined, it is entered into a priority ranking system and its relative ranking is determined. This system ranks projects by descending score in the commercial service airport or general aviation airport priority program as appropriate.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§933. Program of Projects

A. The lists of projects for commercial service and general aviation airports prioritized by evaluation score represent the program of projects that the Aviation Section will seek to implement through its development program. The actual number of projects from each list that will ultimately be constructed is primarily dependent upon the level of funding that the Aviation Section receives each year.

B. The priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are the key to developing a program of projects.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II, etc.) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. This group of projects for which funding is available will not be changed until more funds become available. However, projects on the four-year unfunded list do not automatically move up to the funded list in the succeeding fiscal year. Rather, unfunded projects re compete for funding each fiscal year until they are either funded or dropped from the list after three years. Because needs, cost estimates, airport situation, and other data change regularly, after three years all projects which have not been started may be dropped from the program. If projects are dropped from the program, they must be resubmitted with updated information. They will then be reviewed and re-entered into the priority system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§935. Projects Eligible for FAA Funding

A. Special consideration for projects that will receive FAA funding is included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies. Utilization of the FAA's priorities to set state priorities is sometimes

inconsistent with a state prioritization process. This does not mean that the state should ignore potential FAA funding in its development program.

B. There are two decisions that the Aviation Section makes when seeking FAA funding for its program. Projects that are planned at National Plan of Integrated Airport Systems (NPIAS) airports and that are types in which FAA will participate are noted. This enables the Aviation Section to present a proposed program of projects to the FAA that are eligible for FAA funding and that reflect state priorities. The Aviation Section then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is that there will be projects the FAA will fund that do not appear in the implementation program based on priority rankings. Realistically, the Aviation Section cannot reject a project that will receive funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program or may be funded by Future FAA Obligation funds or funds available from cost underruns. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program coordinate their application with both the FAA and the Aviation Section.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§937. Exhibits

A. Exhibit 1

Exhibit 1	
Category I - Project Type	
A. Safety -Projects directly affecting operational safety.	
Points	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other action directly related to safety.
49	Repair of primary runway lighting system or approach lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstruction removal to meet FAA Part 152 clear zone and FAR Part 77 imaginary surface requirements.
46	ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Airside Preservation—Preserving the infrastructure of the airport dealing with air operations. Examples are preserving and maintaining the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
20	Primary runway
19	Taxiway serving primary runway
18	Apron
17	Secondary runway
16	Taxiway serving secondary runway
15	Stub taxiways and taxilanes

Exhibit 1	
Category I - Project Type	
C. Airside Improvements—Improving the infrastructure of the airport dealing with air operations. Examples are improving and upgrading the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
14	Primary runway
13	Primary taxiway
12	Apron
11	Perimeter fencing
10	Navigational Aids (NAVAIDS)
9	Secondary runway
8	Secondary taxiway
7	Agricultural loading area
6	Noise Mitigation / Terminal Building for Commercial Service Airports
5	New airport construction including runway, taxiway, and apron / Terminal Building for General Aviation Airports.
D. Land Side Improvements—Improvements that enhance an airport's infrastructure not related to the air side.	
4	Land acquisition for future expansion
3	Primary vehicle access road
2	Primary vehicle nonrevenue-generating parking.
1	Other Land Side Improvements

B. Exhibit 2

Exhibit 2	
Category II - Facility Usage	
Based Aircraft*	Points
91 or More	20
81 to 90	18
71 to 80	16
61 to 70	14
51 to 60	12
41 to 50	10
31 to 40	8
21 to 30	6
11 to 20	4
1 to 10	2
Additional points for Air Commercial Service Enplanements**	Points
500,000 or more	20
250,000 to 499,999	15
50,000 to 249,999	10
2,500 to 49,999 ***	5
If noncommercial reliever airport	10
* Taken from latest 5010 Inspection	
** Taken from Annual FAA Enplanement Data	
*** Less than 2,500 enplanement do not receive points	

C. Exhibit 3

Exhibit 3	
Category III - Sponsor Compliance	Points
Height Limitation Zoning	10
Land Use Zoning	5
5010 / Safety Inspection***	0 - 30
*** Points are not awarded based solely on the number of deficiencies. Also taken into consideration are the timeliness and appropriateness of corrective actions. Points may be awarded on a sliding scale relative to the progress toward correcting deficiencies.	

D. Exhibit 4

Exhibit 4	
Category IV - Special Considerations	Points
Designated as Special Program*	15
Economic Development Potential**	10
Maintain or Attract Commercial Service	10
Local Funding in Excess of Requirements***	5-20
GA Entitlement Loan Program****	25

* Special Program Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. If DOTD wishes to place emphasis on a particular type of project, e.g., hazard removal around the state, subsequent phase of a project continuation, these types of projects could receive Special Program points.

** Economic Development - Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.

*** Five points will be awarded for each \$5,000 of matching funds provided by the airport owner up to a maximum of 20 points for \$20,000. Any amount above \$20,000 will only receive the maximum of 20 points. Funds may not come from other state sources.

**** GA Entitlement Loan Program—A NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement funds to another NPIAS GA airport.

E. Exhibit 5

Project Priority Evaluation Worksheet	
Project Number	Date Evaluated
Airport Name	
Description of Work	
Category I: Project Type	Score
Safety	
Airside Preservation	
Airside Preservation	
Airside Improvements	
Landside Improvements	
	Total
Category II: Facility Usage	
Based Aircraft	
Enplanements	
Reliever Airport	
	Total
Category III: Sponsor Responsibility	
Height Limitation Zoning	
Land Use Zoning	
5010 / Safety Inspection	
	Total
Category IV: Special Considerations	
Special Program	
Economic Development	
Commercial Service	
Local Funding	
GA Entitlement Loan Program	
	Total
Project Total Evaluation Score	Total

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1515 (August 1998), amended by the

Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Chapter 11. Speed Restrictions for Railroad Traffic
§1101. General Procedure for Municipality Request

A. ...

B. In order to establish speed restrictions for railroad traffic within the specified areas of corporate limits of a municipality, the governing body of said municipality shall adopt a resolution and forward it to the director of Intermodal Transportation Division, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804. This written request in the form of a resolution shall contain the following:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:761 (July 1992), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

§1111. Public Hearing

A. A committee shall be formed within the department to conduct the public hearing, accept evidence, and render written reasons for its findings. This procedure shall be conducted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 48:389. Said committee shall be composed of representatives of the following sections appointed by the secretary of the department: Intermodal Transportation Division; legal section; maintenance section; traffic and planning section. The committee shall publish necessary rules in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:

Family Impact Statement

The proposed Rules for Louisiana Administrative Code LAC 70 Part IX, Aviation and Public Transportation will 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.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by L.A.C. 70 Part IX. Such comments must be received no later than 30 days from the date of publication of this Notice, and should be sent to David Slayter, LADOTD, Section 88, Post Office Box 94245, Baton Rouge, LA 70804-9245 or to fax (225) 274-4181. Copies of this proposed regulation can be

obtained at 8900 Jimmy Wedell Drive, Baton Rouge, LA. 70807, Room 123.

J. Michael Bridges
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Intermodal Transportation**

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

There will be no implementation costs associated with the proposed rule change. These amendments to existing rules will update wording, names of agencies and addresses to reflect current information and wording of R.S. 2:1 et seq., and to better align the DOTD Aviation Section with the processes of the Federal Aviation Administration (FAA).

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

The deletion of the rules for ultralight aircraft will decrease the revenue collections of the state by less than \$300 annually.

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

This rule change will result in a reduction in paperwork for processing applications and will require applicants to deal exclusively with the Federal Aviation Administration (FAA) in the future rather than multiple agencies. Ultralight operators will also benefit economically because they will no longer pay fees to DOTD.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition and employment.

Michael Bridges
Undersecretary
0611#061

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

Control of Outdoor Advertising
(LAC 70:III.127, 134, 135, 139, 141, and 143)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend a Rule entitled "Regulations for Control of Outdoor Advertising", in accordance with the provisions of R.S. 48:461 et seq.

Title 70

TRANSPORTATION

Part III. Outdoor Advertising

Chapter 1. Outdoor Advertising

Subchapter C. Regulations for Control of Outdoor Advertising

§127. Definitions

* * *

Day Care Facility—for purposes of outdoor advertising, a day care facility is considered a school when it includes a comprehensive child development program such as Early Headstart and Headstart.

* * *

Landscaped Area—landscaped areas of the commercial and industrial activity shall be areas within 50 feet of the commercial or industrial building/structure(s) that are planted and maintained in good health with commercially available ornamental and/or natural vegetation for the beautification of the commercial or industrial activity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), LR 31:944 (April 2005), LR 33:

§134. Spacing of Signs

A. ...

B. Interstate Highways and Freeways on the Federal-Aid Primary System and National Highway System (Control of Access Routes)

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), amended LR 33:

§135. Measurements for Spacing

A. Distance from the edge of the right-of-way to a subject sign for control purposes is measured horizontally along a line perpendicular to the centerline of the said highway.

B. Centerline of the highway means a line of equal distance from the edges of the median separating the main traveled ways of a divided highway or the centerline of the main traveled way of a non-divided highway.

C. The minimum distance between structures shall be measured horizontally along a line perpendicular to the edge of the main traveled way between points directly opposite the center of the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), LR 33:

§139. Determination of On-Premise Exemption

A. ...

B. Criteria. A sign, display or device will be considered to be an on-premise sign and exempt from controls, if it conforms to the following standards.

1. Premises. The sign must be situated on the same premises, as the principal or accessory activities, products, or services offered, or upon the property or land area advertised to be for sale or for lease. The structure or office housing the principal or accessory activities, products or services must meet the following requirements.

a. Area. Any structure to be used as a business must have an enclosed area of 600 square feet or more. For any structure containing multiple offices, each office may have an on-premise sign if the individual office has an enclosed area of 120 square feet or more.

b. Foundation. Any structure to be used as a business or office must be affixed on a slab, piers, or foundation.

c. Access. Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate customer parking lot adjacent to the business building.

d. Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the Department's authorized representative.

e. Identification. The name of the business must be displayed on premises.

2. Activity Requirements

a. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a minimum of five days each week.

b. The purported activity or enterprise must maintain and display all necessary business licenses, occupancy permits, and other records as may be required by applicable state, parish or local law or ordinance.

c. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it is available for purchase on the premise.

3. Purposes. The sign must have as its purpose:

a. the identification of the principal or accessory activities, products or services offered; or

b. the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

4. Premises Test. For purposes of determining whether outdoor advertising is exempt from control as on-premise advertising, the following definitions of property or premises shall apply.

a. The property or land upon which an activity is conducted is determined by physical facts rather than boundaries of ownership. Generally, premises are defined as the land area occupied by the buildings or other physical uses that are necessary or customarily incident to the activity, including such open spaces as are arranged and designated to be used in connection with such buildings or uses.

b. The following will not be considered to be a part of the premises on which the activity is conducted, and any signs located on such land areas will not be "on-premise" signs which are exempt from control.

i. Any land which is not used as an integral part of the principal activity. Such would include, but is not limited to, land which is separated from the activity by a public roadway or other obstruction and not used by the activity, and extensive undeveloped highway frontage contiguous to the land which is actually used by the commercial or industrial facility, even though such undeveloped land is commonly owned with the land area comprising the premises of the activity.

ii. Any land which is used for or devoted to a separate purpose unrelated to the advertised activity. For example:

- (a). land adjacent to or adjoining an automobile service station, but which is devoted to raising of crops;
- (b). residential use;
- (c). farm stead uses; or
- (d). another commercial or industrial use having no relationship to the service station activity would not be part of the premises of the said service station even though under common ownership or lease.

iii. Any land which is:

(a). developed or used only in the area of the sign site, or between the sign site and the principal activity; and

(b). occupied solely by structures or uses which are only incidental to the principal activity, and would serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for advertising purposes. For example:

- (i). such inexpensive facilities as a picnic, playground, or camping area;
- (ii). dog kennels;
- (iii). golf driving ranges;
- (iv). common or private roadways or easements;
- (v). walking paths;
- (vi). fences; and
- (vii). sign maintenance sheds.

(c). **Narrow Strips.** Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is: nonbuildable land, such as a swampland or wetland; or which is a common or private roadway; or held by easement or other lesser interest than the premises where the advertised activity is located.

c. **Purposes Test.** For purposes of determining whether an advertising sign display or device shall be exempted from control as an "on-premise" advertising, the following standards shall be used for determining whether a sign, display or device has as its purpose:

i. the identification of the activity conducted on the premises where the sign is situated or the products or services sold on said premises; or

ii. the sale or lease of the land or property on which the subject sign, display or device is situated, rather than the business of outdoor advertising:

(a). any sign, display or device which consists exclusively of the name of the activity conducted on the premises is an on-premise sign;

(b). any sign which exclusively identifies the principal or accessory products or services offered on the premises is an on-premise sign. An example of an accessory product would be a brand of tires offered for sale at a service station, but would not include products merely incidental such as cigarettes or beverages;

(c). when a sign brings rental income to the landowner or other occupant of the land; consists of brand name or trade name advertising, and the product or service advertised is only incidental to the principal activity, it shall be considered the business of outdoor advertising, and such signs shall be subject to control;

(d). a sign, display or device which does not exclusively advertise activities conducted upon the premises or services and principal and accessory products offered on the premises or exclusively advertise sale or lease of the premises or land whereon situated shall not be considered on-premise advertising which is exempt from control; but, rather, shall be considered and shall be outdoor advertising subject to control and regulation.

C. Public Facility Sign Restrictions

1. Signs on the premises of a public facility, including but not limited to the following: schools, civic centers, coliseums, sports arenas, parks, governmental buildings and amusement parks, that do not generate rental income to the owner of the public facility may advertise:

a. the name of the facility, including sponsors of the public sign; and

b. principal or accessory products or services offered on the property and activities conducted on the property as permitted by 23 CFR 750, 709, including:

i. events being conducted in the facility or upon the premises, including the sponsor of the current event; and

ii. products or services sold at the facility and activities conducted on the property that produce significant income to the operation of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 33:

§141. Destruction of Trees and Violations of Control of Access

A. The Louisiana Department of Transportation and Development shall not issue a permit for any sign which cannot be erected or maintained from private property without violating control of access boundaries. A permitted sign shall not be serviced, repaired or replaced from highway right-of-way.

B. The Louisiana Department of Transportation and Development shall not issue permits for any signs, the visibility of which will be obscured by existing vegetation, trees or landscaping on the highway from which subject sign is intended to be read.

C. When a tree, vegetation, or landscaping is destroyed on the highway right-of-way within 500 feet of an outdoor advertising sign, the sign owner shall be responsible for remediation of the area under the direction of the Department of Transportation and Development Landscape Architect.

AUTHORITY NOTE: Promulgated in accordance with R.S.48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191(June 1976), amended by Department of Transportation and Development, Office of Highways/Engineering, LR 33:

§143. Procedure and Policy for Issuing Permits for Controlled Outdoor Advertising

A. - B. ...

C. All permits for the erection of outdoor advertising shall be conditioned upon compliance with state law, and any action by or on behalf of the permit holder or sign owner contrary to state law and regulations shall be grounds for voiding any subject permit heretofore or hereafter issued.

D. The department shall void the permit for the sign wherein the violation took place and the department shall not issue future permits within the district where the violation occurred to the permit holder and/or sign owner and/or landowner until the illegal sign is removed.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permitted installation.

F. An original signature or a copy of the current lease agreement shall be submitted with each application.

G. Every applicant who seeks to situate a controlled advertising structure in a commercial or an industrial zone shall furnish evidence of the restrictive zoning of the subject land by an appropriate state or local authority.

H. Permit applications which are properly completed and executed and which are accompanied by all other required documentation or evidence shall be thereafter submitted by the district office to the appropriate permit office in Baton Rouge, Louisiana for review. Permits which are not in proper form or which are not complete or not accompanied by required documentation and evidence or do not meet the requirements of state law at the time of the submittal of the application shall be returned to the applicant by the district office with reasons for its return. Applications may be resubmitted at any time.

I. The appropriate permit-issuing officer designated by the director of highways shall review all permit applications. Thereafter, permits shall be issued or the application rejected and returned to the applicant with reasons for denial of the permit.

J. Copies of all permits shall be transmitted to the district office of the district where the sign is to be situated for subsequent surveillance by the district office.

K. Each permit shall specify a time delay of 6 months or 12 months (at the permittee's option) within which to erect the subject advertising device. The district office shall determine whether or not the device has been erected within the specified time delay.

L. If a sign has not been erected within the delay provided by the subject permit, the permit may be voided by the Louisiana Department of Highways and the applicant or permittee so notified. On the day following the posting of notice to any such applicant or permittee of the voiding of the permit to the last known address as furnished by the applicant, the subject sign location shall be available to any other applicant.

M. If a sign has been erected within the delays allowed by the permit, but the subject sign does not conform to the specifications of the permit, the Louisiana Department of Transportation and Development shall notify the applicant or permittee in writing to cause the sign to conform to the permit. The applicant or permittee shall have 30 days to cause the sign to conform to the permit. The time delay begins on the day following the posting of written notice to

said applicant or permittee at the last known address as furnished by the applicant or permittee. Extensions of time within which the applicant or permittee may bring the sign into legal conformity may be granted by the department when the department determines that good cause has been demonstrated. The department will void any permit when the permittee fails to conform the sign within the time delay or extensions provided. Thereafter the sign must be removed at the sign owner's expense. The sign owner may prevent such removal only by securing a new permit for the subject sign, which did not conform to the previous permit. A new permit may be obtained upon appropriate application including payment of all fees in connection therewith. Nevertheless, once a permit has been voided the sign location is available to any applicant.

N. If a sign is erected without first obtaining a permit from the department and the department notifies the owner that the sign is illegal, the owner of the sign will have a period of 30 days from the date of receipt of the department's letter to bring the sign into legal compliance and make proper application for the permit. Extensions of time within which the applicant or permittee may bring the sign into conformity may be granted by the department when the department determines that good cause has been demonstrated.

O. When a permitted outdoor advertising sign or device is knocked down or destroyed, or modified, the sign or device cannot be reinstalled or rebuilt without first obtaining a new outdoor advertising permit pursuant to the procedures established in this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191(June 1976), amended by the Department of Transportation, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 31:945 (April 2005), amended LR 33:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;
2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;
3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;
4. the implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget;
5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;
6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to

Cedric Grant
Deputy Secretary

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

RULE TITLE: Control of Outdoor Advertising

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

There will be no implementation costs associated with this proposed rule. Implementation of the proposed rule will place the Department in compliance with Federal law and make the existing rules more clear and workable for both the Department and the outdoor advertising industry. Essentially, these rules more clearly define terms, make technical changes in existing rules on spacing of billboards, clarify the definition of "on premise" signs, clarify the rule on the destruction of trees when placing billboards along highway rights-of-way, and make more specific and clear the rules on removal of illegal signs.

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

If this rule change is implemented, there will be no effect on revenue collections of state or local governmental units. The portion of the rule change concerning erection of illegal signs has been requested by the Federal Highway Administration.

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

The outdoor advertising industry will be most directly affected by this rule change. The changes in the rule will make it more clear and detailed for the industry. New definitions have been added and language has been revised to make more specific the conditions for issuance and maintenance of outdoor advertising permits. The rule also more clearly details actions which could cause permit revocation by the Department or the need for remediation by the permittee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment. The proposed rule applies equally to all facets of the outdoor advertising industry.

Johnny B. Bradberry
Secretary
0611#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

**Traffic Impact Policy for New Access Requests
(LAC 70:I.1101)**

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 promulgate a Rule entitled "Traffic Impact Policy for New Access Requests", in accordance with R.S. 32:2 and R.S. 48:344 et seq.

Title 70

TRANSPORTATION

Part I. Highway Construction

**Chapter 11. Traffic Impact Policy for New Access
Requests Affecting Traffic on State
Highways**

§1101. Traffic Impact

A. Purpose

1. The Louisiana Department of Transportation and Development (LADOTD) has a responsibility to design, operate and maintain highway facilities that are reasonably safe and efficient for prudent drivers using the highway system. At the same time DOTD must allow all property owners reasonable access to the highway system.

2. In an effort to balance these often conflicting needs, this Section was developed to ensure that new or expansion of existing developments generating significant traffic on state highways are evaluated in a consistent manner by using objective data to facilitate decision-making.

3. The department shall review the effectiveness, applicability and efficiency of this rule annually. Changes to this Section shall be promulgated as applicable. Recommendations for change shall be forwarded to the DOTD traffic impact engineer.

B. Applicability

1. This Section applies to new or expanding developments, typically generating 100 hourly trips in the peak direction on state highways.

2. This Section also applies to developments on local public or private streets, with an access point within 0.25 of a mile of a state highway.

3. These developments include, but are not limited to:

- a. new businesses;
- b. new subdivisions;
- c. new apartment complexes;
- d. additions to existing subdivisions;
- e. additions to existing apartment complexes;
- f. new streets and/or traffic control devices;
- g. new schools;
- h. minor developments in traffic networks that are already congested;
- i. hospitals; and
- j. large commercial or industrial complexes.

4. Additional requirements (such as analysis of nearby major intersections as determined by DOTD) may be necessary for large commercial centers and regional shopping malls.

5. This Section, in certain situations, may apply to new, smaller developments located on congested highway corridors, as determined by the district traffic operations engineer. Congested highways are discussed in the traffic impact policy referenced in Paragraph E.1.

6. The district traffic operations engineer may, in his discretion, waive the requirement for a traffic impact study for developments marginally meeting minimum traffic thresholds.

C. This Section does not apply to the following:

1. access to interstate and other controlled-access facilities;

2. individuals requesting single-family residential access; or

3. access to local public and private streets for developments which are greater than 0.25 of a mile from the state system.

D. Pre-Application Procedure

1. Prior to any permit requests, land developers shall meet with the DOTD district traffic operations engineer and the district permit specialist for a pre-application meeting during preliminary site planning for the development. The purpose of this meeting is to discuss the proposed development and determine if a traffic impact study is warranted.

2. The developer shall be notified within seven calendar days after the pre-application meeting whether or not a traffic impact study is required. The decision will be based on the preliminary site plan layout and anticipated additional traffic.

3. The DOTD will coordinate with the appropriate local authorities for developments not abutting the state highway system.

E. Traffic Impact Study

1. When a traffic impact study is required by DOTD, it shall be prepared and sealed by a professional engineer licensed by LAPELS, before an application for access is submitted. The study will include all information as outlined in the DOTD traffic impact policy, a detailed guidance document which includes forms, roadway classification, traffic volume criteria and mitigation strategies. This document may be obtained from the district office, or the department's website, or from DOTD headquarters in the office of the traffic impacts engineer. The purpose of the traffic impact study is to:

- a. determine existing traffic conditions on the network surrounding the proposed development;
- b. estimate the traffic likely to be generated by the proposed development which is within the sole purview of the Department of Transportation and Development;
- c. assess the impact of additional traffic on the existing and future road network system at full build out and the anticipated construction phasing; and
- d. identify effective roadway improvements and/or changes in the site plan of the proposed development that will minimize impact to the state highway system.

F. Responsibilities of the Developer

1. The developer is responsible for mitigating traffic caused by the development.

2. All road improvements constructed by the developer shall comply with the latest DOTD standards and specifications.

G. Letters of Compliance

1. No permit applications will be accepted until DOTD provides the developer with a letter of compliance indicating the approval of the traffic impact study and the traffic mitigation required.

2. The letter shall be attached to any permit application.

H. Traffic Mitigation

1. Traffic Mitigation is a roadway improvement or improvements designed to minimize congestion and improve the safety of the highway system.

2. The required mitigation shall be constructed prior to completion of the new development.

3. Types of mitigation include, but are not limited to:

- a. turn lanes;
- b. traffic signal upgrades;
- c. traffic control devices;
- d. signal phasing/timing/interconnect;
- e. raised medians;
- f. roadway widening;
- g. restricted turning movements;
- h. right-of-way donation; and
- i. roadway resurfacing.

I. Approval Process

1. The office of the DOTD district traffic operations engineer and the DOTD Headquarters (HQ) traffic impact engineer, if requested for a joint review, will review the traffic impact study. The department shall take one of the following actions.

a. Approve the traffic impact study submitted by the developer and recommend mitigation to minimize traffic impacts. The DOTD HQ traffic impact engineer will provide the developer with a letter of compliance to indicate approved traffic impact study and mitigation. The developer may apply for access, driveway, project, or traffic signal permits.

b. Recommend alternative mitigation procedures to minimize traffic impacts.

c. Deny the traffic impact study and/or the recommended mitigation. If it is denied, no further reviews will be made. The developer may request a new review based on revisions to the traffic impact study and recommended mitigation for the proposed development, or the developer may appeal the decision.

J. First Level Appeals Process

1. Following are provisions for a first level appeal of the traffic impact review process for developers which disagree with the DOTD decision on traffic mitigation.

2. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD. Each member may appoint a substitute if he or she is unable to attend a meeting:

- a. maintenance (access management engineer or his designee) (nonvoting);
- b. legal;
- c. traffic engineering (two or more personnel/designees); and
- d. district traffic operations engineer or his designee from the particular district in which the development is located (nonvoting).

3. The traffic impact review committee, pursuant to a majority vote, may arbitrate and resolve disputes which arise during the review process and grant or deny relief to appealing parties.

4. The appealing party must bring his/her complaint before the traffic impact review committee no later than 30 calendar days after notification of the decision of DOTD.

5. Upon receipt of the appeal, the traffic impact review committee will schedule a meeting to review the appeal. The meeting will be scheduled not earlier than 14 calendar days and not more than 39 calendar days after receipt of the appeal. The traffic impact review committee

shall give due notice of the meeting time and place to those filing the appeal and shall render a decision on its action within 14 calendar days of its meeting. The maintenance division shall also be notified of the pending requirements for permit purposes.

6. The party appealing the decision shall submit the written reason for the appeal, together with any supporting documents deemed applicable by the developer, to the Department of Transportation and Development, Traffic Engineering Development Section, 1201 Capitol Access Road, Baton Rouge, LA 70802. Such submittal must be received at least 14 calendar days before the Traffic Impact Review Committee meeting.

7. The submittal will be checked by the department within 14 calendar days of its receipt. If the information deemed necessary for a proper review is not complete, the appealing party will be notified and the appeal will then be postponed at least one month.

8. The party submitting the appeal may appear before the traffic impact review committee to offer a brief explanation of the complaint.

9. Failure to submit an appeal in a timely manner shall constitute a denial of the traffic impact appeal.

K. Second Level Appeals Process

1. Should the appeal of the developer be rejected by the traffic impact review committee, the developer may appeal the decision in writing within 30 calendar days from receipt of the initial decision to the Department of Transportation and Development, Attn: Deputy Secretary, 1201 Capitol Access Road, Baton Rouge, LA 70802.

2. The second traffic impact review committee shall be composed of the following:

- a. the chief engineer or his designee;
- b. the deputy secretary or his designee; and
- c. the general counsel or his designee.

3. A decision will be based upon a majority vote and shall be made within 14 calendar days from the date that the appeal was received. It shall be served on the appealing party by registered or certified mail.

4. The second level appeal shall include any correspondence from the first level traffic impact review committee.

L. Third Level Appeals Process—the Secretary

1. The secretary or his designee shall have the authority to review any appeal by an aggrieved party from a determination pursuant to the foregoing appeals processes.

2. Such review may be made pursuant to an appeal filed by the developer within 30 calendar days from his receipt of the second level decision or it may be made on the secretary's own motion.

3. A decision shall be made within 14 calendar days from the day that the appeal was received and shall be served on the appealing party by registered or certified mail.

4. This appeal shall include any correspondence from the first and second level traffic impact review committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, and R.S. 48:344 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Transportation and Development, Office of Highways/Engineering, LR 33:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by

R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1359.

Cedric S. Grant
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Traffic Impact Policy for New Access Requests**

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

The Department should realize a savings because developers which generate high traffic volume and locate on already highly congested highway corridors will install turning lanes and traffic control devices which are now installed by the Department.

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. Any permits issued pursuant to this rule-making are issued by DOTD at no charge.

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

This rule applies to developers of businesses on or within .25 miles of a state highway which generate such substantial traffic flows that access to the state highways must be mitigated by one or more of the methods prescribed in the rule and based on a traffic impact study. The rule also applies to smaller developers which locate on already congested highway corridors. Costs to these groups include (1) the cost of a typical traffic impact study which is \$1,500 to \$4,000 for small developments and \$10,000 to \$15,000 for large developments (Most developers already fund such studies); (2) the cost of a typical roadway improvement consisting of a short left turn lane which is \$200,000; and (3) the cost of a typical traffic signal which is \$80,000 to \$150,000 (depending upon intersection configuration). Although some of these costs may be passed on to the public in the form of higher property costs,

the public will benefit by having reduced travel times, lower vehicle emissions and reduced fuel costs. Costs for restricting turning movements are usually part of the initial site development and are negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change should have no impact on competition or employment.

Cedric S. Grant
Deputy Secretary
0611#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Public Works**

**Hurricane Flood Control Protection Program
(LAC 56:III.901)**

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 promulgate a rule entitled "Hurricane Flood Control Protection Program Rules", in accordance with the provisions of R.S. 38:241-248.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, Telephone 225 237 1359.

Cedric S. Grant
Deputy Secretary

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

**RULE TITLE: Hurricane Flood
Control Protection Program**

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

There will be no implementation costs associated with this proposed rule. The proposed rule merely sets forth the Department's guidelines for selection of applicants for the Hurricane Flood Construction and Development Priority Program. The Legislature in Act 6 of the 1st Extraordinary Session of 2006 established the Hurricane Flood Construction and Development Priority Program whereby funding applications may be made to the Department by parish, municipal or other governing authorities in the coastal Zone (as defined in R.S. 214.24) which are seeking to implement projects which would reduce damages caused by hurricane flooding.

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

If this rule change is implemented, 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 are no estimated costs and-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 will be no effect on competition and employment as a result of this rule change.

Cedric S. Grant
Deputy Secretary
0611#063

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Invasive Noxious Aquatic Plants (LAC 76:VII.1101)

The Department of Wildlife and Fisheries, Office of Fisheries hereby advertises their intent to promulgate rules to control, eradicate, and prevent the spread or dissemination within the state of Louisiana all invasive noxious aquatic plants that pose a threat to the wildlife or fisheries resources of the state.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 11. Invasive Noxious Aquatic Plants

§1101. Invasive Noxious Aquatic Plants

A. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this Section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the Department.

Invasive Noxious Aquatic Plant Permit—the official document that identifies the terms of and allows for the importation, transportation or possession of any of the listed prohibited aquatic plants.

Listed Plant—any of the listed invasive noxious aquatic plants.

Permittee—person or organization that possesses a valid permit to possess, import or transport invasive noxious aquatic plants. A permittee may represent himself, a business, corporation or organization. The permittee is responsible for compliance with all stipulations in the permit.

Secretary—the Secretary of the Louisiana Department of Wildlife and Fisheries.

B. Importation, transportation and possession of invasive noxious aquatic plants; permit required.

1. No person shall at any time import or cause to be transported into the jurisdiction of the state of Louisiana, from any other state or country any of the invasive noxious aquatic plants listed below, without first obtaining an Invasive Noxious Aquatic Plant permit from the department. Prohibited invasive noxious aquatic plants:

- a. *Eichhornia azurea* (rooting or anchoring hyacinth)
- b. *Elodea canadensis* (Elodea)
- c. *Hydrilla verticillata* (Hydrilla)
- d. *Lagarosiphon muscoides* and *Lagarosiphon major* (African Elodea)
- e. *Myriophyllum spicatum* (Eurasian watermilfoil)
- f. *Najas marina* (Marine naiad)
- g. *Najas minor* (Slender naiad)
- h. *Panicum repens* (torpedograss)
- i. *Pontederia rotundifolia* (Pickerelweed)
- j. *Spirodela oligorrhiza* (giant duckweed)
- k. *Trapa natans* (waterchestnut)
- l. *Melaleuca quinquenervia* (kapok tree)
- m. *Pistia stratiotes* (Water lettuce)
- n. *Salvinia spp.* (Salvinia)
- o. *Lythrum salicaria* (Purple loosestrife)
- p. *Eichhornia crassipes* (Water hyacinth)
- q. *Limnophila sessiliflora* (Asian marshweed)
- r. *Hygrophila polysperma* (Indian swampweed)
- s. *Solanum tampicense* (Aquatic soda apple or Wetland nightshade)
- t. *Urochloa mutica* (Paragrass)
- u. *Nymphoides indica* and *Nymphoides cristata* (Little floating hearts)
- v. *Rotala rotundifolia* (roundleaf toothcup)
- w. *Marsilea mutica* (Australian water clover)
- x. *Marsilea minuta* (Asian water clover)

C. Permits may be issued by the Secretary of the Department of Wildlife and Fisheries or his designee for the importation, transportation or possession of any invasive noxious aquatic plant for the purpose of conducting scientific investigations.

1. Application Requirements

a. Individuals wishing to import, transport, or possess any listed plant for the purpose of conducting scientific investigations in Louisiana must first request an

Invasive Noxious Aquatic Plant permit from the department through an application form furnished by the department.

b. Site visits will be made to inspect the facility and determine if all possible safeguards have been taken to prevent escape into the natural habitat.

c. The department shall ensure that the applicant is furnished with a copy of the terms and conditions pertaining to the importation, transportation or possession of any of the listed plants.

d. The secretary or his designee shall notify the applicant in writing as to whether or not the permit has been granted and if not, the reasons therefore. In the event of disapproval, applicants may re-apply after meeting department requirements.

2. Terms and Conditions of Permit

a. Permits are not transferable from person to person or from site location to site location.

b. Specimens of the listed plant(s) shall be handled deliberately, cautiously, and in controlled settings to avoid contamination of state habitats.

c. Specimens shall be processed and grown within the confines of controlled facilities (growth chambers, greenhouses, laboratories, etc.).

d. Reproductive parts of plants (seeds, tubers, roots, etc.) that are collected in the field shall be transported in double zip lock bags such that the reproductive part cannot escape en route.

e. A U.S. Department of Agriculture (USDA) permit shall be required to import and possess specimens of prohibited plants from other countries and such plants shall be sent through a USDA inspection center at a port of entry as described by the USDA permit.

f. Before processing, the plants or plant parts shall be stored in a locked office or laboratory. Only qualified individuals shall have access to these materials.

g. Any part of the plant used for molecular work shall be subjected to a departmentally approved procedure that will render the plant material incapable of further growth or reproduction.

h. Specimens to be used for environmental studies (e.g., climate, shading, etc.) shall be grown in pots within the confines of growth chambers or greenhouses.

i. After the experimental work is completed, all plant materials, and the soil within the growth pots, and the pots shall be sterilized in some manner (e.g., autoclaved) to kill any remaining seeds or living plant material to render the plant material incapable of further growth or reproduction.

j. All collections by and shipments to or from the permittee shall be reported to the department one week prior to said collections or shipments. Information to be included shall be the type of material (whole plant, leaves, seeds, etc.) and the quantity collected or shipped.

k. The disposition of the plant material at the conclusion of the experimental work shall be reported to the department.

l. Personnel from the department shall have the authority to inspect the facility and operation with 24 hours notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:328 (C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 33:

Family Impact Statement

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Mr. Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than January 4, 2007.

Janice A. Lansing
Acting Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Invasive Noxious Aquatic Plants

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

Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.

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 provides regulations to control the spread or dissemination of invasive noxious aquatic plants within the state. It includes the current list of prohibited invasive noxious aquatic plants and outlines the application requirements to obtain a permit for the importation, transportation or possession of any prohibited noxious aquatic plant for the purpose of conducting scientific investigations, as well as the terms and conditions of the permit.

The proposed rule does not change any existing regulation and will not affect any persons or non-governmental groups. It does, however, fulfill the requirements of Act 400 of the 2006 Regular Session, which mandates that the Louisiana Department of Wildlife and Fisheries shall maintain and promulgate, under the Administrative Procedure Act, a list of prohibited invasive noxious aquatic plants. The rule also establishes a permitting process that allows the Department to issue permits for the importation of prohibited aquatic species into the state for the purpose of conducting scientific investigations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0611#028

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Flotation Devices (LAC 76:XI.103)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend and reenact provisions relating to personal flotation devices on recreational boats.

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

Chapter 1. Flotation Devices, Fire Extinguishers, Flame Arrestors and Ventilation

§103. Flotation Devices

A. In accordance with R.S. 34:851.24(F)1, the provisions of this Act shall apply on all waters within the jurisdiction of this state.

B. Definitions

Operate—to navigate or otherwise control the movement of a vessel, including controlling the vessel's propulsion system.

Operator—any person who navigates or is otherwise in control or in charge of the movement of a vessel, including the vessel's propulsion system.

Owner—a person, other than the lienholder, having the property in or registration to the vessel.

Personal Flotation Device or *PF**D*—a device approved by the United States Coast Guard under 46 CFR Part 160, which is labeled with such approval and with the appropriate size for the person intended and which is in serviceable condition.

Readily Accessible—easily located and retrieved without searching, delay, hindrance or being in a locked area.

Serviceable Condition—a condition as defined by the United States Coast Guard under 33 CFR Part 175.23.

Trick Water-Skier—a trick water-skier is a person whose equipment and activities have all of the following characteristics:

a. type of skis: for standard double trick skis, a length of no more than 46 inches and width of at least 8 inches, with no keels on the bottom; for single trick boards, a length of no more than 56 inches and width of at least 22 inches, with no keel on bottom; and

b. tow rope no longer than 50 feet.

Vessel—watercraft and airboats of every description, other than seaplane(s), located on the water and, used or capable of being used as a means of transportation on the water.

Watersports—activities that involve being towed by, or riding in the wake of, a vessel and include but are not limited to water skiing, wake boarding, wake surfing, and tubing.

C. Personal Flotation Device Requirements

1. Every operator of a vessel shall ensure that the vessel is carrying at least one readily accessible Type I, II, or

III wearable personal flotation device for each person on board. In addition, vessels 16 feet or over in length shall carry at least one Type IV throwable personal flotation device.

2. A United States Coast Guard approved Type V PFD may be used in lieu of a Type I, II, or III PFD required by this Part provided:

a. the approval label on the Type V PFD indicates that the device is approved by the United States Coast Guard:

i. for the activity for which the vessel is being used; or

ii. as a substitute for a PFD of the Type required by this act on the vessel in use; and

b. the PFD is used in accordance with any requirements of its approval label; and

c. the PFD is used in accordance with requirements in its owner's manual, if its approval label makes reference to such manual.

3. Persons engaged in watersports shall wear a Type I, II, III or V PFD. No vessel operator shall tow a watersports participant who is not wearing such a device. No person shall use an inflatable PFD to meet the requirements of this section. Exceptions to the requirements of this subsection are allowed under the following conditions:

a. a skier engaged in barefoot water-skiing who wears a barefoot wetsuit designed specifically for such activity;

b. a skier engaged in trick water-skiing whose movements would be restricted or impeded by the bulk of a PFD.

c. the operator of a vessel towing a trick water-skier or barefoot water-skier shall make a PFD readily available aboard the tow vessel for each such skier who elects not to wear such a device while skiing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 11:705 (July 1985), amended LR 26:1493 (July 2000), 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).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Col. Winton Vidrine, Administrator, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than January 4, 2007.

Terry D. Denmon
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Flotation Devices

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

Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.

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 will directly affect recreational and commercial boaters and watersports participants. The rule rewrites the existing rule for floatation devices, adds definitions for clarification of the rule, allows the use of a Type V PFD in lieu of a Type I, II, or III, and adds new requirements for watersports including allowable exceptions for certain activities.

Boaters and watersports participants will benefit from the rule since it provides additional PFD alternatives and safety requirements for watersports activities. No additional costs, workload or paperwork will be incurred as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0611#027

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

White Lake Wetlands Conservation Area (LAC 76:III.335)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate as a Rule the general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area for the 2006-2007 Season.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries
 Chapter 3. Particular Game and Fish Preserves,
 Wildlife Management Areas, Refuges and
 Conservation Areas

§335. White Lake Wetlands Conservation Area

A. The general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area Management Plan for the 2006-2007 season is as follows.

White Lake Wetlands Conservation Area Management Plan
 General Framework for Public Use of Consumptive Resources
 2006-2007 Season

Specific Activities	Season	Number/Quantity	Cost (\$), each
Alligators			
Wild Alligator Harvest	Sept. 6-Oct. 5	375 alligators	40% of sale price
Alligator Egg Collection	June and July	10,000 eggs	Bid \$20.10
Waterfowl			
Teal Lottery Hunts	LDWF Season	108 hunters	\$100 per gun
Youth/Physically Challenged Hunts	First Weekend	14 hunters	no cost
Marsh Lottery Hunts	LDWF Season	120 hunters	\$150 per gun
Rice Lottery Hunts	LDWF Season	207 hunters	\$150 per hunt (up to 3 per hunted area)
Group Hunts	LDWF Season	12 groups	\$25,000 per group
Fishing	March 15-August 1	75 permits	\$30 per group
Negotiated - Natural or Facilities (i.e. services involving personnel, equipment, and/or structures)			

AUTHORITY NOTE: Promulgated in accordance with Act 613 of the 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated 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).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to L. Brandt Savoie, Deputy Assistant Secretary, Office of Wildlife, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than January 4, 2007.

Earl P. King, Jr.
 Vice-Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: White Lake Wetlands
 Conservation Area**

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

Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.

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

The proposed rule is anticipated to have a positive effect on state revenue collections that are deposited in the White Lake Property Fund. Revenue collections could increase by as much as \$86,621 in Fiscal Year (FY) 2006-2007 compared to revenue collected in FY 2005-2006. This can be partially attributed to the longer 2006-2007 hunting season and the impact of Hurricane Rita in FY 2005-2006. Revenue collections of local governmental units are not anticipated to be impacted significantly.

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

The proposed rule establishes the White Lake Wetlands Conservation Area Management Plan for 2006-2007 hunting and fishing seasons. The proposed rule establishes the maximum number of participants in recreational and commercial hunting and fishing activities on White Lake Property. It also establishes the costs/fees to participate in each activity.

Hunters and anglers who participate in these activities will benefit from the increased opportunity to hunt and fish and enjoy the unique outdoor activities that this area has to offer. Businesses that supply goods and services to these hunters and fishers may also benefit through the sale of outdoor-related equipment and associated items (food, fuel, clothing, shotgun shells, bait, rods, reels, etc.). Participants who participate in recreational and commercial activities available on the White Lake Wetlands Conservation Area will be required to pay a fee and, in some cases, participate in a lottery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have little or no effect on competition and employment in the public and private sectors.

Wynette Kees
 Deputy Undersecretary
 0611#029

Robert E. Hosse
 Staff Director
 Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given January 22-26, 2007, at 9:30 a.m. in the Nelson Memorial Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 8, 2006. No applications will be accepted after December 8, 2006.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to December 8, 2006. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0611#025

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Final Settlement Agreement North Pass Crude Oil Discharge

Action: Notice of Availability of a Final Settlement Agreement.

Agencies: Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); National Oceanic and Atmospheric Administration (NOAA); and United States Department of the Interior (USDOI), which is represented by the U.S. Fish and Wildlife Service (USFWS).

Authorities: The Oil Pollution Act of 1990 (OPA) (33 USC 2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (R.S. 30:2451 et seq.) 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 oil-spill incidents in Louisiana. In accordance with OPA and OSPRA, the agencies listed above (hereafter referred to as the "Trustees") have conducted a Natural Resource Damage Assessment (NRDA) for the September 22, 2002 discharge of crude oil into a coastal marsh located along North Pass in the Mississippi River delta, Plaquemines Parish, Louisiana (hereafter referred to as the "incident").

Summary: Notice is hereby given that a document entitled "North Pass Settlement Agreement" (hereafter referred to as the "Final Settlement Agreement") is final and available to the public as of October 20, 2006. This document has been agreed to by Devon Louisiana Corporation (Devon) and the Trustees to address natural resources damage claims associated with the incident. On June 20, 2003, the Trustees published a Notice of Intent (NOI) to conduct restoration planning for the incident in the *Louisiana Register* (Vol. 29, No. 06, pp. 1029-1030) to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the incident. On June 20, 2005, the Trustees published a Notice of Availability of a Final Damage Assessment and Restoration Plan/Environmental Assessment (Final DARP/EA) in the *Louisiana Register* (Vol. 31, No. 06, p. 1434), which identifies the natural resources and services that were determined to be injured by the incident, describes the assessment procedures used to quantify injury, outlines the scaling techniques and restoration alternative selection process, and presents the finalized plan to restore, replace, or acquire resources or services equivalent to those lost as a basis for compensating the public for injuries to natural resources and services resulting from the incident. The Final Settlement Agreement and its attachment, the Restoration Implementation and Monitoring Plan (RIMP), describe the agreement between Devon and the Trustees to settle natural resource damage claims in the State of Louisiana for the incident and identify the performance criteria, construction schedule, performance monitoring, and reporting requirements for the Octave Pass crevasse splay compensatory restoration project to be constructed along the southern bank of Octave Pass in the Delta National Wildlife Refuge, Plaquemines Parish, Louisiana. By signing the Final Settlement Agreement, Devon has agreed to pay all costs associated with the implementation of the Final DARP/EA.

Interested members of the public are invited to view the Final Settlement Agreement and RIMP via the internet at <http://www.losco.state.la.us> (look under News Flash for North Pass Oil Spill) or by requesting a copy of the documents from Chuck Armbruster at the address given below:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office,
150 Third Street, Suite 405
Baton Rouge, LA 70801

For Further Information: Contact Chuck Armbruster at (225) 219-5800, or by email at charles.armbruster@la.gov.

Roland Guidry
Oil Spill Coordinator

0611#044

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Restoration Planning—Plaquemines Parish
Breton Island Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office/Office of the Governor (LOSCO) as the trustee coordinator for the State of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustee, the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS); have determined that the impacts of the discharge of crude oil from a Hess Corporation (formerly Amerada Hess Corporation) offshore platform, over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On or about June 12, 2005, a storage tank on an offshore platform located in Breton Sound Block 51, owned and operated by Hess Corporation, discharged an estimated 12 barrels of crude oil into Breton Sound, Plaquemines Parish, Louisiana. An undetermined amount of critical sandy beach nesting habitat, black mangrove marsh, and fauna inhabiting West Point Breton Island may have been exposed to crude oil as a result of this discharge. The trustees have determined that Hess Corporation is the Responsible Party (RP) for this incident pursuant to the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. §2701 *et seq.* and the Louisiana Oil Spill Prevention and Response Act (OSPR) R.S. 30:2451 *et seq.*

Breton National Wildlife Refuge is located within the Breton Sound. Breton Sound and the remaining barrier islands serve as the remnants of the St. Bernard River Delta. It is comprised of soft organic sediment and sand. Tidal amplitude is small and often driven primarily by wind. Breton Sound and the Breton Island Complex are critical nursery habitat for numerous species and provide many other ecological services.

Aquatic organisms present include, but are not limited to, finfish, crustaceans, and shellfish. Wildlife species that may be present in the Breton Sound area include, but are not limited to, resident and migratory birds, furbearers, aquatic mammals, and turtles. Some of the species that may be present have threatened or endangered status.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to, replanting native wetland vegetation in appropriate areas, and creation, enhancement or protection of marsh to re-establish brown pelican resting, nesting, and roosting habitat.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes state trust

resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. The DOI, through the involvement of the USFWS, is trustee for natural resources described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), which include the following and their supporting ecosystems: migratory birds, anadromous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over, or under land administered by DOI.

Trustees' Determinations

Following the notice of the discharge, the trustees have made the following determinations required by 15 C.F.R. §990.41(a):

The natural resource trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act (OPA), 33 U.S.C. §§2702 and 2706(c) and the OSPRA, R.S. 30:2451, *et seq.* The trustees have further determined that the discharge of crude oil into the Breton Sound area on or about June 12, 2005 was an incident, as defined in 15 C.F.R. §990.30 and the State NRDA Regulations at LAC 43:XXIX.109.

This discharge was not permitted under state, federal, or local law.

This discharge was not from a public vessel.

This discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, *et seq.*

Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be toxic to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and aquatic organisms may have been exposed to the oil from this discharge, and mortalities to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) and LAC 43:XXIX.101 to proceed with preassessment. Hess Corporation, at the invitation of the trustees, agreed to participate in the preassessment, pursuant to 15 C.F.R. §990.14(c) and LAC 43:XXIX.115.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by 15 C.F.R. §990.42(a) and are providing notice pursuant to 15 C.F.R. §990.44 and LAC 43:XXIX.123 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The trustees base this determination upon data, which is collected and analyzed pursuant to 15 C.F.R. §990.43 and LAC 43:XXIX:119, which demonstrate that resources and services have been injured from this incident. Natural resources and natural resource services injured or lost as a result of the discharge and the response may include, but are not limited to, aquatic organisms, infauna, birds, vegetation,

benthic communities, water quality, fish and wildlife, and recreational use opportunity.

The nature of the discharge and the sensitivity of the environment precluded prevention of some injuries to natural resources. The trustees believe that injured natural resources could eventually return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to bird enhancement, barrier feature beach and dune creation or enhancement, replanting native dune or wetland vegetation in appropriate areas, and creation, enhancement or protection of marsh.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are habitat injury assessment studies to be used in conjunction with the Habitat Equivalency Analysis, to determine compensation for injuries to marsh habitat. Models, comparisons to observations of injury resulting from similar releases, and/or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and LAC 43:XXIX.135, the trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft Damage Assessment and Restoration Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 3rd Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan); gina.saizan@la.gov.

The Louisiana Oil Spill Coordinator, as the Lead Administrative trustee, and on behalf of the natural resource trustees of the State of Louisiana and USDOJ/USFWS, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and LAC 43:XXIX.135, hereby provides Hess Corporation this notice to conduct restoration planning and invites their participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinato

0611#045

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Emerald Oil Co.	Tigre Lagoon	L	Landry-Meaux	1	115607
Brooks and Lee	Caddo Pine Island	S	Pardue Christian	6	098238
Scogin Exploration Inc.	Bayou San Miguel	S	Archie M Simon et al	1	161937
C L Morris Inc.	Caddo Pine Island	S	Fuller Pat 2SF	2-7	132732
C L Morris Inc.	Caddo Pine Island	S	Fuller Pat 2SF	2-3	132729
Energy Exploration Company	Tew Lake	M	Finley-Trichéll	1	198579

James H. Welsh
Commissioner

0611#023

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 8 claims in the amount of \$30,354.81 were received for payment during the period October 1, 2006-October 31, 2006.

There were 7 claims paid and 1 claim denied.

Loran Coordinates of reported underwater obstructions are:

28552	46878	Jefferson
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Latitude/Longitude Coordinates of reported underwater obstructions are:

2906.640	9057.990	Terrebonne
2913.250	8959.670	Terrebonne
2916.080	9003.230	Jefferson
2925.097	8959.484	Jefferson
2930.286	8927.806	St. Bernard
2930.581	8928.892	Jefferson
2938.410	8922.281	St. Bernard

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
Secretary

0611#026

POTPOURRI

Department of Public Safety and Corrections State Uniform Construction Code Council

Public Hearing—Proposed Changes
to Uniform Construction Code
(LAC 55:VI.Chapters 1-11)

In accordance with the provisions of R.S. 49:968(H)(2), the Louisiana State Uniform Construction Code Council will hold a public hearing:

Date: Wednesday, December 20, 2006

Time: 10:00 a.m.

Location: State Fire Marshal's Building, large conference room
8181 Independence Boulevard, Baton Rouge

Anyone wishing to obtain further information regarding this public hearing may contact Paeton Burkett at (225) 925-4925.

Below are the proposed changes to the Notice of Intent published in the September 20, 2006 edition of the *Louisiana Register* on pages 1704-1709.

§301. Louisiana State Uniform Construction Code

A.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 R301.2.1.1 (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 & 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.

§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.

§503. Farm or Recreational Structures

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.

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

B. Definitions

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

C.2.b.v. Commercial Energy Requirements—shall be enforced by the Office of the State Fire Marshal.

§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.

§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.

Jill Boudreaux
Acting Undersecretary

0611#022

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