CONTENTS April 2006

I. EXECUTIVE ORDERS

KBB 06-12 Emergency Filing Procedures for Notary Bonds 519
KBB 06-13 Emergency Suspension of Time Limits for Municipal Civil Service Employee Testing for Firefighters and Police Officers 519
KBB 06-14 Temporary Housing of Displaced Inmates—Amends Executive Order No. KBB 05-59 520
KBB 06-15 Gulf Opportunity Zone Advance Refunding Bond Allocation—Louisiana Stadium and Exposition District 521
KBB 06-16 Royal Street Project Advisory Board—Rescinds Executive Order No. KBB 04-26 521
KBB 06-17 Statewide Interoperable Communication System Executive Committee—Rescinds KKB 06-04 521
KBB 06-18 Bond Allocation—The Finance Authority of New Orleans 523
KBB 06-19 DOTD Guidelines for Vehicles, Trucks, and Loads 524

II. EMERGENCY RULES

Agriculture and Forestry
Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides—Aerial Applications of 2, 4-D or Products Containing 2, 4-D (LAC 7:XXIII.143) 525
Office of the Commissioner—Fluoroquinolones in Seafood (LAC 7:XXXV.147) 526

Environmental Quality
Office of the Secretary, Legal Affairs Division—Expedited Penalty Agreement (LAC 33:I.801, 803, 805, and 807)(OS054E9) 528
Remediation of Sites with Contaminated Media (LAC 33:V.109)(HW084E8) 534

Governor
Manufactured Housing Commission—Definition of Code, Modular Home and Factory Built Home (LAC 55:V.501) 535
Motor Vehicle Commission—Display Showroom Requirement (LAC 46:V.1301) 536

Health and Hospitals
Office of the Secretary, Bureau of Health Services Financing—Third Party Liability—Data Match with Insurance Carriers (LAC 50:I.8315) 537
Division of Long Term Supports and Services—Home and Community Based Services Waivers Termination of Services for Displaced Recipients (LAC 50:XXI.301) 537
Office for Citizens with Developmental Disabilities—Home and Community Based Services Waivers Termination of Services for Displaced Recipients (LAC 50:XXI.301) 537

Social Services
Bureau of Licensing—Class B Child Day Care Minimum Standards After-School Enrichment Program Module (LAC 48:I:5387-5397) 538
Office of Family Support—Electronic Disbursement of Child Support Payments (LAC 67:III.2518) 541

Wildlife and Fisheries
Wildlife and Fisheries Commission—Shrimp Season Extension and Partial Reopening 541

III. RULES

Education
Board of Elementary and Secondary Education—Bulletin111—The Louisiana School, District, and State Accountability System—Inclusion of All Districts (LAC 28:LXXXIII.4301 and 4901-4911) 543
Bulletin 741—Louisiana Handbook for School Administrators—Compulsory Attendance (LAC 28:CXV.1103) 545
Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education (LAC 28:CXV.2377) 546
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Educational Leader Certification Policy (LAC 28:I.903) 547
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Out-of-State Certification Policy (LAC 28:I.903) 548

This public document was published at a total cost of $1,950.00. Five hundred copies of this public document were published in this monthly printing at a cost of $1,950.00. The total cost of all printings of this document including reprints is $1,950.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audiocassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Practitioner Teacher Program Policy (LAC 28:I.903) 549
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Louisiana Requirements PRAXIS/NTE Scores (LAC 28:I.903) 552
Bulletin 115—Trade and Industrial Education Content Standards Curriculum Framework: Drafting; Electricity; and Heating, Ventilating, Air Conditioning, and Refrigeration (LAC 28:CV.Chapters 1-27) 555

Environmental Quality
Office of the Secretary, Legal Affairs Division—2005 Incorporation by Reference (LAC 33:I.3931; V.3099; IX.2301, 4901,and 4903; and XV.1517)(OS068ft) 603
Hazardous Waste Recyclable Materials (LAC 33:V.105, 108, 109, 1501, 1705, 1717, 2247, 3001, 3873, 4101, 4103, 4105, 4107, 4109, 4111, 4113, 4115, 4117, 4119, 4121, 4123, 4125, 4127, 4129, 4131, 4133, 4135, 4139, 4141, 4143, 4145, and 4301)(HW089ft) 605

Governor
Division of Administration, Office of State Lands—Receipt of Donation of Immovable Property (LAC 43:XXVII.Chapter 32) 612
Pilotage Fee Commission—Rules of Practice and Procedure 614

Health and Hospitals
Board of Optometry Examiners—Optometry Regulations (LAC 46:LI, Chapters 1-8) 629
Board of Pharmacy—Pharmacy Interns—Practical Experience (LAC 46:LIII.705) 636
Board of Practical Nurse Examiners—Temporary Permits (LAC 46:XLVII.501 and 1705) 636

Public Safety and Corrections
Division of Youth Services, Office of Youth Development—Correspondence and Packages (LAC 22:I.765) 637
Tobacco-Free and No Smoking Policy (LAC 22:I.705) 640
Office of State Police—Motor Carrier Safety and Hazardous Materials (LAC 33:V.10303) 641

Revenue
Policy Services Division—Presidential Disaster Relief (LAC 61:I.601) 641

Social Services
Office of Community Services—Developmental and Socialization Activities for Foster Children (LAC 67:V.3507) 644
Reimbursement Rates for Residential Facilities (LAC 67:V.3503) 645
Office of Family Support— Food Stamp Program and FITAP—Lump Sum Payment as a Resource Exclusion (LAC 67:III.1235 and 1949) 645

Wildlife and Fisheries
Office of the Secretary—Reserve Enforcement Agents (LAC 76:I.307) 646
Wildlife and Fisheries—Possession of Potentially Dangerous Quadrupeds and Non-Human Primates (LAC 76:V.115) 647

IV. NOTICES OF INTENT

Education
Board of Elementary and Secondary Education—Bulletin 111—Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.Chapter 45) 649
Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28:CXV.2319, 2377, and 2387) 652
Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Initial Classification and Instructional Staff (LAC 28:LXXIX.109 and 303) 654
Bulletin 741—Louisiana Handbook for School Administrators—Louisiana Educational Leaders Induction (LELI) Program (LAC 28:CXV.507) 655
Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.109, 111, 303, 313, 333, 341, 345, 349, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 1117, 1303, 1315, 1703, 1705, 1707, 2101, 3211, 2505, 2507, 2509, 2523 and 3109) 656
Re-Employment within State and Statewide Retirement Systems (LAC 58:IV.101) 671
Tuition Trust Authority, Office of Student Financial Assistance—START Savings Program—Education Savings Account (LAC 28:VI.315) 672

Environmental Quality
Office of the Secretary, Legal Affairs Division—Pretreatment Streamlining (LAC 33:IX.2903, 6105, 6109, 6111, 6113, 6115, 6123, 6129, and 7127)(WQ067ft) 673

Governor
Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway River Port Pilots—Pilot Apprentice Applicant Requirements, Pilotage Certification, Charges and Fees (LAC 46:LXX.9107, 9111 and 9117) 684
Recreational and Used Motor Vehicle Commission—Procedure for Adjudications (LAC 46:V.Chapter 47) 685

Health and Hospitals
Board of Examiners of Psychologists—Certificate of Prescriptive Authority (LAC 46:LXIII.403) ... 688
Change of Address (LAC 46:LXIII.903) ... 688
Continuing Education (LAC 46:LXIII.Chapter 8) ... 689
Office for Citizens with Developmental Disabilities—Single Point of Entry into the System (LAC 48:IX.Chapter 7) ... 691
Office of the Secretary, Bureau of Health Services Financing—Direct Service Worker Registry (LAC 48:I.Chapter 92) ... 696
Medicaid Eligibility—Treatment of Loans, Mortgages, Promissory Notes and Other Property Agreements ... 702
Pharmacy Benefits Management Program—Erectile Dysfunction Drug Coverage ... 703
Office of the Secretary, Division of Long Term Supports and Services—Home and Community Based Services Waivers—Elderly and Disabled Adults Waiver (LAC 50:XXI.Chapters 81-89) ... 704
Nursing Facilities—Standards for Payment—Level of Care Determination (LAC 50:II.10154) ... 707
Justice
Office of the Attorney General—Database Security Breach Notification Reporting Requirements (LAC 16:III.701) ... 708
Public Safety and Corrections
Board of Private Investigator Examiners—Fees (LAC 46:LVII.517) ... 708
Scope of Representation (LAC 46:LVII.703) ... 709
Corrections Services—Louisiana Risk Review Panel (LAC 22:I.107) ... 710
Gaming Control Board—Devices (LAC 42:XI.2413) ... 711
Youth Services, Office of Youth Development—Equine Health Management (LAC 22:I.769) ... 712
Research (LAC 22:I.767) ... 714
Revenue
Policy Services Division—Oilfield Site Restoration Fee (LAC 61:I.5301) ... 715
Treasury
Board of Trustees of the Louisiana State Employees' Retirement System—Emergency Refunds (LAC 58:I.1301) ... 716

V. ADMINISTRATIVE CODE UPDATE
Cumulative—January 2006 through March 2006 ... 718

VI. POTPOURRI
Agriculture and Forestry
Horticulture Commission—Annual Quarantine Listing—2006 ... 719
Environmental Quality
Office of the Secretary, Legal Affairs Division—2002 Base Year Emissions Inventory for the Baton Rouge 8-Hour Ozone Nonattainment Area ... 720
Beauregard Parish Ozone Maintenance Plan ... 721
Natural Resources
Office of Conservation—Orphaned Oilfield Sites ... 721
Revenue
Policy Services Division—Natural Gas Severance Tax Rate ... 722

VII. INDEX ... 723

Executive Orders

EXECUTIVE ORDER KBB 05-95

Emergency Procedures for Conducting
State Business for the Louisiana Superdome

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation Nos. 54 KBB 2005, 61 KBB 2005, and 68 KBB 2005;

WHEREAS, Hurricane Katrina has caused unprecedented and extensive damage in the state of Louisiana and this tragic event has significant consequences on the financial conditions of the state;

WHEREAS, the Louisiana Superdome is a unique assest and an integral part of the economic vitality and recovery of the state, fostering tourism, generating revenue for the hotel, travel, and restaurant industry, and garnering recognition nationally and globally as a premier destination for sporting events, conventions, and shows;

WHEREAS, any delay in the restoration of the Louisiana Superdome to a full service facility may force continued cancellation of sporting events, conventions and shows, thus, severely decreasing tourism and ultimately affecting the overall economic recovery of the state;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana; and

WHEREAS, the Louisiana Superdome, through the Louisiana Stadium and Exposition District (hereafter "LSED"), and the Office of Facility Planning and Control (hereafter "FP&C"), have requested that time-lines be abbreviated to expedite procurement of certain items, including but not limited to, the services of general contractors, construction managers, subcontractors, laborers, materialmen, suppliers, and other goods and services for the construction, repair, and replacement of damage at the Louisiana Superdome from Hurricane Katrina and its aftermath, so that the Louisiana Superdome is made ready to host sporting events, conventions, and shows, as soon as possible, which will produce significant tax revenues and increased tourism for the state of Louisiana and will signal the revitalization and rebuilding of the city of New Orleans;

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

SECTION 1: That such statutes or regulations which might prevent the Louisiana Superdome, through the LSED, as a political subdivision of the state of Louisiana, or the FP&C from being authorized and empowered to contract for services of general contractors, construction managers, subcontractors, laborers, materialmen, suppliers, and for other goods and services for the construction, repair, and replacement of all damages at the Louisiana Superdome as a result from Hurricane Katrina and its aftermath, specifically R.S. 38:2181, et seq., R.S. 39:1481, et seq., R.S. 39:1551, et seq., and Title 34 of the Louisiana Administrative Code, are hereby suspended. The Louisiana Superdome, LSED, and FP&C shall maintain documentation which shall include the vendor's names and addresses, goods or services purchased, prices paid, invoices and other emergency related reasons for those purchases or contracts. Strict compliance with R.S. 38:2181, et seq., R.S. 39:1481, et seq., R.S. 39:1551, et seq., and Title 34 of the Louisiana Administrative Code shall not be required.

SECTION 2: The FP&C in the Division of Administration shall administer the project and may issue requests for proposals for the competitive selection of a construction management firm and other suppliers of goods and services as described in Section 1 above, shall be allowed to negotiate prices with the firm(s) and suppliers of goods and services, through expedited and competitive requests for proposals process. Strict compliance with R.S. 38:2181, et seq., R.S. 39:1481, et seq., R.S. 39:1503, et seq., R.S. 39:1551, et seq., and Title 34 of the Louisiana Administrative Code shall not be required.

SECTION 3: Notwithstanding any provisions of this Order, when procurements are made which would otherwise be subject to the provisions of R.S. 38:2181, et seq., R.S. 39:1481, et seq., R.S. 39:1551, et seq., or Title 34 of the Louisiana Administrative Code, procedures and requirements set forth in R.S. 38:2212(D)(2) shall be complied with. Additionally, the Louisiana Superdome, LSED, and FP&C shall at a minimum:

A. Establish a centralized point of contact that monitors all transactions conducted without strict statutory compliance and maintains copies of all documentation;

B. Solicit competitive quotes and/or offers from at least three potential offerers, whenever possible, and take the necessary steps to assess that fair and equitable pricing is being offered; and

C. Only issue payments to contractors, suppliers, or vendors after verification that all goods, services, and repairs meet contract requirements.

SECTION 4: The inspector general is directed and authorized to monitor those transactions conducted outside the scope of regulatory statutes, orders, rules and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and if any inappropriate transactions are noted, those situations shall be reported directly to the governor.

SECTION 5: This Order is effective upon signature and shall continue in effect until amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#093

EXECUTIVE ORDER KBB 05-96

Delay of the Qualifying Period and the February 4, 2006 and March 4, 2006 Elections in the Parish of Orleans

WHEREAS, "in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process," the Louisiana Legislature enacted R.S. 18:401.1 to provide "a procedure for the emergency suspension or delay and rescheduling of absentee voting in person and elections"; and

WHEREAS, on December 2, 2005, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state certified to the governor that as a result of Hurricane Katrina a state of emergency exists in the parish of Orleans and recommends that the qualifying period scheduled for December 14, 2005 through December 16, 2005, and the proposition election and primary elections scheduled to be held on Saturday, February 4, 2006, and the general elections scheduled to be held on Saturday, March 4, 2006, be postponed and delayed;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the December 2, 2005, certification of the secretary of state that a state of emergency exists in the parish of Orleans, and the recommendation that the qualifying period, proposition and primary elections, and the general elections in the parish of Orleans be postponed and delayed; the qualifying period scheduled for December 14, 2005 through December 16, 2005, the proposition election and primary elections scheduled for February 4, 2006, and the general elections scheduled for March 4, 2006, in the parish of Orleans, are hereby postponed and delayed and shall resume or be rescheduled as soon as practicable.

SECTION 2: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#094

EXECUTIVE ORDER KBB 05-97

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 2005 (hereafter "the 2005 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2005 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 2005 Ceiling to be used to finance the acquisition, construction, installation, and equipping of solid waste disposal facilities, recycling facilities, resource recovery facilities or industrial sewage and wastewater treatment 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 2005 Ceiling in the amount shown.

Amount of Allocation	Name of Issuer	Name of Project
$35,000,000	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,

2005, provided that such bonds are delivered to the initial purchasers thereof on or before December 29, 2005.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: 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 19th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#095

EXECUTIVE ORDER KBB 05-98

Suspension of Certain Residency
Requirements for Certain Boards

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of Louisiana;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation Nos. 54 KBB 2005, 60 KBB 2005 and 68 KBB 2005;

WHEREAS, Hurricane Katrina struck the state of Louisiana on August 29, 2005, causing severe and extreme flooding and damage to the southeastern part of the state;

WHEREAS, Hurricane Katrina and its aftermath have resulted in several parishes of southeast Louisiana being subject to mandatory or voluntary evacuations and thousands of residents thereafter securing temporary residency outside of their original parish;

WHEREAS, R.S. 29:724(D)(1) authorizes the governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, R.S. 38:304(A) provides parish residency requirements and the mass displacement of residents of the most affected parishes has impacted the applicant pool and continued service of commissioners of levee districts and levee and drainage districts.

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

SECTION 1: R.S. 38:304(A) regarding residency requirements for appointment to and service on levee districts or levee and drainage districts is hereby suspended. All other subsections of R.S. 38:304 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#096

EXECUTIVE ORDER KBB 05-99

Emergency Suspension of In-State Licensure
Laws for Out-of-State Towing Operators
Extends Executive Order No. KBB 05-60

WHEREAS, Executive Order No. KBB 2005-60, issued on October13, 2005, suspended certain specifications of the Towing and Storage Act, R.S. 32:1715(A), solely with regard to the requirement of the display of a towing license plate, and R.S. 32:1716(B), and only those rules promulgated pursuant specifically thereto in the affected areas so that a temporary tow truck license plate issued by the Department of Public Safety and Corrections may be accepted in lieu of a license tag, provided that the tow truck is properly registered and licensed in the state of origin; and

WHEREAS, The Department of Public Safety and Corrections has requested the Order be extended until March 31, 2006;

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

SECTION 1: Section 7 of Executive Order No. KBB 2005-60, issued on October 13, 2005, is amended as follows:

This Order is effective upon signature and shall continue in effect until Friday, March 31, 2006, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-60, issued on October 13, 2005, shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until Friday, March 31, 2006, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#097

EXECUTIVE ORDER KBB 05-100

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

WHEREAS, Executive Order No. KBB 2005-52, issued on September 29, 2005, suspended portions of R.S. 23:1124 regarding consequences for failure to timely submit to a medical examination and portions of R.S. 23:1203(A) to the extent that such statute differentiates between in-state and out-of-state providers and facilities, due to the mass displacement of claimants across the state of Louisiana and the nation; and

WHEREAS, Executive Order No. KBB 2005-74, issued on October 25, 2005, extended the effective date until Monday, November 28, 2005; and

WHEREAS, Executive Order No. KBB 2005-88, issued on November 21, 2005, extended the effective date until Sunday, January 1, 2006;

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

SECTION 1: Section 3 of Executive Order No. KBB 2005-52, issued on September 29, 2005, as amended by Executive Order No. KBB 2005-74, issued on October 25, 2005, is amended as follows:

> This Order is effective upon signature and shall apply retroactively from Monday, August 29, 2005, through Tuesday, February 28, 2006, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to Tuesday, February 28, 2006.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-52, issued on September 29, 2005, as amended by Executive Order No. KBB 2005-74, issued on October 25, 2005, shall remain in full force and effect.

SECTION 3: Executive Order No. KBB 2005-88, issued on November 21, 2005, is hereby rescinded and terminated.

SECTION 4: This Order is effective upon signature and shall continue in effect until Tuesday, February 28, 2006, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#098

EXECUTIVE ORDER KBB 05-101

2005 Carry-Forward Bond Allocation
Louisiana Housing Finance Agency
Multi-Family Mortgage Revenue Bond Program

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2005 (hereafter "the 2005 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2005 Ceiling; and

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

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

WHEREAS, Executive Order No. KBB 2005-85, issued on November 15, 2005, allocated four million one hundred fifty thousand dollars ($4,150,000) from the 2005 Ceiling to the Louisiana Public Facilities Authority in connection with North Park Apartments, a mixed income multi-family housing project, but fifty thousand dollars ($50,000) of the allocation was returned unused to the 2005 Ceiling;

WHEREAS, Hurricanes Katrina and Rita have

(1) displaced hundreds of thousands of households from core disaster areas determined by the president to warrant individual and public assistance from the federal government under Section 401 of the Robert T. Stafford Act;

(2) created a critical shortfall in the labor force jeopardizing vital industries and businesses in such core disaster areas;

(3) destroyed thousands of residential housing units in the core disaster areas that are critical to housing the labor force serving vital industries and businesses in the core disaster areas; and

(4) substantially damaged tens of thousands of other residential units in the core disaster areas that must be rehabilitated in order for the population base and labor force to be able to return to the core disaster areas to service the economic generators and industries of such disaster areas;

WHEREAS, the Louisiana Recovery Authority and its permanent housing task force are working closely with the Louisiana Housing Finance Agency to develop a comprehensive statewide housing plan, including the use of private activity volume cap as outlined in this Order, to address the challenges and needs presented by Hurricanes Katrina and Rita;

WHEREAS, the governor desires to allocate private activity volume cap on a priority basis to the core disaster areas to stimulate the investment of funds for affordable housing in such areas; and

WHEREAS, the governor desires to allocate eighty million seven hundred one thousand five hundred twenty dollars ($80,701,520) of the excess 2005 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2005 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount, to increase the availability of housing for citizens displaced by Hurricanes Katrina and Rita:

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Multi-Family Mortgage Revenue Bond Program	$80,701,520

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

SECTION 3: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#099

EXECUTIVE ORDER KBB 05-102

2005 Carry-Forward Bond Allocation
Louisiana Public Facilities Authority
Student Loan Revenue Bonds

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 2005 (hereafter "the 2005 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2005 Ceiling; and

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

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

WHEREAS, the governor desires to allocate seventy-nine million dollars ($79,000,000) of the excess 2005 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2005 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount:

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Public Facilities Authority	Student Loan Revenue Bonds	$79,000,000

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

SECTION 3: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of December, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0601#100

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Advisory Commission on Pesticides

Antimicrobial Pest Control (LAC 7:XXIII.125)

The Commissioner of Agriculture and Forestry adopts by emergency regulation, the following amendment to an existing regulation clarifying which commercial applicators may engage in antimicrobial pest control using restricted use pesticides. This Rule is being adopted in accordance with R.S. 3:3202 (A) and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The flooding and other water damage inflicted by Hurricane Katrina on the state of Louisiana coupled with Louisiana's climate has caused the pandemic growth of microbial organisms, such as toxic black mold. This pandemic growth of microbial organisms is creating a serious health risk to all persons who come into contact with such organisms. These microbial organisms have been declared to be a pest under the Louisiana Pesticide Law and are, therefore, subject to being controlled by licensed commercial applicators using restricted use pesticides.

However, confusion has arisen as to whether pest control operators licensed by the Structural Pest Control Commission are commercial applicators who may engage in antimicrobial pest control. The commissioner has, therefore, determined that these emergency rules are necessary to alleviate the confusion and to ensure that there are sufficient licensed commercial applicators to help bring the pandemic growth of microbial organisms under control and reduce the health risk to the citizens of this state. The presence of adequate numbers of commercial applicators, including pest control operators, licensed by this state will help ensure that citizens requiring antimicrobial pest control will receive such services from reputable persons answerable to a state regulatory body. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being "ripped off" by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.

The commissioner has, therefore, determined that these emergency rules are necessary to protect the health of Louisiana citizens and to help reduce economic loss by citizens and residents who cannot afford any further economic loss. This Rule becomes effective on January 14, 2006 and remains in effect for 120 days.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide
Chapter 1. Advisory Commission on Pesticides
Subchapter F. Certification
§125. Certification of Commercial Applicators

A. - B.2.h.iv. ...

v. Antimicrobial Pest Control (Subcategory 8e). This subcategory is for commercial applicators, including those in Category 7(a) found at LAC 7:XIII.125.B.2.g.i, engaged in antimicrobial pest control using restricted use pesticides.

B.2.h.vi. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 28:39 (January 2002), LR 32:

Bob Odom
Commissioner

0601#038

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of the Commissioner

Chloramphenicol in Crabs and Crabmeat—Testing and Sale (LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of crab or crabmeat in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in crab or crabmeat that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All crab or crabmeat sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

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

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded

during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, FDA, the states of Alabama and Louisiana have found chloramphenicol in crab or crabmeat imported from other countries. The department has found chloramphenicol in crab or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export chloramphenicol-contaminated crab or crabmeat to the U.S.A.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of crab or crabmeat containing chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of crab or crabmeat for chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature, January 7, 2006, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7
AGRICULTURE AND ANIMALS
Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§143. Chloramphenicol in Crab and Crabmeat Prohibited; Testing and Sale

A. Definitions

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

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

Packaged Crab—any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Crab—any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains chloramphenicol.

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

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

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

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

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

1. Sampling

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

i. two samples are to be taken of crab or crabmeat that are in lots of 50 pounds or less.

ii. four samples are to be taken of crab or crabmeat that are in lots of 51 to 100 pounds.

iii. twelve samples are to be taken of crab or crabmeat that are in lots of 101 pounds up to 50 tons.

iv. twelve samples for each 50 tons are to be taken of crab or crabmeat that are in lots of over 50 tons.

b. For packaged crab or crabmeat, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately one pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat to be sampled are not packaged, but are segregated in such a way as to

constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

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

4. Sample Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The geographic area or areas are:

a. the countries of Vietnam, Thailand, Mexico, Malaysia and China.

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

O. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the Department.

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

Q. The effective date of this Section is March 14, 2003.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§145. Labeling of Foreign Crab and Crabmeat by Country of Origin

A. Definitions.

Foreign Crab or Crabmeat—any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Crab or Crabmeat—any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

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

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

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

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Bob Odom
Commissioner

0601#040

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of the Commissioner

Chloramphenicol in Honey—Testing and Sale
(LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to chloramphenicol in honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All

honey sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

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

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

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to dhloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing dhloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of honey for chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with chloramphenicol. This Emergency Rule becomes effective upon signature, January 7, 2006, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7
AGRICULTURE AND ANIMALS
Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited; Testing and Sale of

A. Definitions

Food Producing Animal—both animals that are produced or used for food and animals, including bees, which produce material used as food.

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

Honey—any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains chloramphenicol.

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

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

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

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

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

1. Sampling

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

i. two samples are to be taken of honey that is in lots of 50 pounds or less;

ii. four samples are to be taken of honey that is in lots of 51 to 100 pounds;

iii. twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons.

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

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

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

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

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

4. Sample Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

I. The department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

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

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

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

1. The geographic area or areas are:
   a. the country of the People's Republic of China;
   b. the country of Thailand;
2. All honey harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Bob Odom
Commissioner

0601#041

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish―Testing and Sale (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The Legislature has also urged and requested the commissioner to promulgate rules and regulations necessary to implement the standards relating to chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for chloramphenicol in food.

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

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are known to use antibiotics, such as chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially

severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of shrimp and crawfish for chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule become effective upon signature, January 7, 2006, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in shrimp and crawfish Prohibited; Testing and Sale of

A. Definitions

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

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

Packaged Shrimp or Crawfish—any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish—any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English.

1. The records and information required are:

a. the quantity and species of shrimp and crawfish acquired or sold;

b. the date the shrimp or crawfish was acquired or sold;

c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;

d. the geographic area where the shrimp or crawfish was harvested;

e. the geographic area where the shrimp or crawfish was produced processed or packed;

f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and

g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where chloramphenicol is being used on or found in food producing animals, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

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

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

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

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

1. Sampling

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

i. two samples are to be taken of shrimp or crawfish that are in lots of 50 pounds or less.

ii. four samples are to be taken of shrimp or crawfish that are in lots of 51-100 hundred pounds.

iii. twelve samples are to be taken of shrimp or crawfish that are in lots of 101 pounds up to fifty tons.

iv. twelve samples for each 50 tons are to be taken of shrimp or crawfish that are in lots of over 50 tons.

b. For packaged shrimp or crawfish, each sample shall be at least 8 ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately 1 pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.

c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but

labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

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

4. Sample Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

L. The department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the commissioner finds that the shrimp or crawfish presents an imminent peril to the

public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

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

1. The geographic area or areas are:

a. the country of the People's Republic of China.

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

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the Department.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Foreign Shrimp or Crawfish—any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish—any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

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

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

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

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Bob Odom
Commissioner

0601#039

DECLARATION OF EMERGENCY

Department of Economic Development
Office of the Secretary

Capital Companies Tax Credit Program
(LAC 10:XV.320)

The Louisiana Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), adopts the following amendment to the Rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1929. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective December 21, 2005, and shall remain in

effect for the maximum period allowed under the act, or until the adoption of a permanent Rule, whichever occurs first.

Because of catastrophic extenuating adverse circumstances created by hurricanes Katrina and Rita and their aftermath, both of which caused great physical damage, unprecedented interruption and economic injury to the citizens and businesses operating in affected areas of the state of Louisiana, the Department of Economic Development, Office of the Secretary, has found an immediate need to amend Subsection D, of Section 320 of Chapter 3, of the Capital Companies Tax Credit Program by extending the deadline to March 31, 2006 for investments of funds in qualified investments which would have fallen between the dates of August 25, 2005 and March 30, 2006. Without this Emergency Rule the public welfare may be harmed as a result of a reduction or loss of capital available to be invested in qualified Louisiana technology-based businesses.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§320. Investment in Approved Funds

A. - D.3. ….

4. Notwithstanding any other provisions of this Section to the contrary, and considering the adverse impact of Hurricanes Katrina and Rita on the state of Louisiana, all deadlines for the investment of funds in qualified investments required by Subsection D of this Section which would have fallen between the dates of August 25, 2005 and March 30, 2006 shall be and they are hereby extended to March 31, 2006.

E. - J. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:675 (May 2001), amended LR 28:989 (May 2002), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004), amended by the Department of Economic Development, Office of the Secretary, LR 32:

Michael J. Olivier
Secretary

0601#011

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary
Legal Services Division

New or Revised Emissions Estimation Methods
(LAC 33:III.501)(AQ240E4)

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

This is a renewal of Emergency Rule AQ240E3, which was effective on August 25, 2005, and published in the *Louisiana Register* on September 20, 2005. The department has proposed a rule to promulgate these regulation changes. This Emergency Rule clarifies requirements set forth in LAC 33:III.919, concerning emissions inventory, and LAC 33:III.507.H, concerning annual compliance certifications. LAC 33:III.919.C requires that emissions reported in the emissions inventory shall be calculated using the best available information.

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

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

This Emergency Rule is effective on December 23, 2005, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning AQ240E4 you may contact the Regulation Development Section at (225) 219-3550.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - C.10. ...

11. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be

promulgated or revised. Emissions increases due solely to a change in AP-42 factors do not constitute violations of the air permit. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of the Secretary, Legal Affairs Division LR 31:2436 (October 2005), LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0601#007

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Sewage Sludge Regulatory Management
(LAC 33:VII.301 and 303, and IX:107, 6901, 6903, 6905, 6907, 6909, 6911, and 7135)(OS066E1)

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 prevent the unauthorized disposal of sewage sludge in treatment works treating domestic sewage and other areas unprepared to receive the waste stream. This is a renewal of Emergency Rule OS066E, which was effective on September 1, 2005, and published in the Louisiana Register on September 20, 2005. This version of the Emergency Rule has been revised to improve clarity and consistency, to be more in accordance with the federal regulations, to make corrections to the regulations concerning buffer zones, and to clarify compliance dates for surface disposal.

Prior to the Emergency Rule issued September 1, 2005, sewage sludge was managed by three different programs within the state and the EPA. The multiple permitting process was a cumbersome and expensive process for both the state and the regulated community, hence, inadequately permitted and/or designed facilities to accept the waste, which is produced in a persistent manner. The potential for dumping of sewage sludge presents a potential health risk to the public and the environment in areas of the state that are under-developed for receiving the waste. This Emergency Rule attempts to streamline and expedite the permitting process by removing the solid waste requirements for the management of sewage sludge from the solid waste regulations (LAC 33:Part VII). Sewage sludge will be managed by LAC 33:IX.Chapter 69 that is reflective of and equivalent to the Clean Water Act Section 503 program at the federal level.

This Emergency Rule is effective on December 30, 2005, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning OS066E1 you may contact the Regulation Development Section at (225) 219-3550.

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

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

A. - A.8. …

9. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed in accordance with LAC 33:IX.Chapter 69. Provisions addressing sewage sludge and domestic septage found throughout these regulations will no longer apply.

B. - B.6. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 32:

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following solid wastes, when processed or disposed of in an environmentally sound manner, are not subject to the permitting requirements or processing or disposal standards of these regulations:

A. - J.2. …

K. solid wastes re-used in a manner protective of human health and the environment, as demonstrated by a soil re-use plan prepared in accordance with LAC 33:I.Chapter 13 and approved by the administrative authority;

L. other wastes deemed acceptable by the administrative authority based on possible environmental impact; and

M. mixtures of solid wastes and sewage sludge, when such mixtures meet the requirements of LAC 33:IX.Chapter 69.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 32:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

* * *

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

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

Chapter 69. Standards for the Use or Disposal of Sewage Sludge

§6901. General Provisions

A. Purpose and Applicability

1. Purpose

a. This Chapter establishes standards, which consist of general and other requirements, pollutant limits, general and other management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works and of domestic septage. Standards are included in this Chapter for sewage sludge and domestic septage (hereafter referred to collectively as *sewage sludge* for the purposes of this Chapter) and a material derived from sewage sludge that is applied to the land and sewage sludge fired in a sewage sludge incinerator. Also included in this Chapter are pathogen and alternative vector attraction reduction requirements for sewage sludge and a material derived from sewage sludge applied to the land; the siting, operation, and financial assurance requirements for commercial preparers or land appliers of sewage sludge and a material derived from sewage sludge; and the standards for transporters of sewage sludge and for vehicles of transporters of sewage sludge.

b. The standards in this Chapter include the frequency of monitoring, recordkeeping requirements, and reporting requirements for Class I sludge management facilities as defined in Subsection I of this Section.

c. This Chapter establishes requirements for the person who prepares sewage sludge, including dewatering and solidification, that is disposed in a Municipal Solid Waste Landfill.

d. …

2. Applicability

a. This Chapter applies to:

i. any person who prepares sewage sludge or a material derived from sewage sludge, including the dewatering and solidification of sewage sludge;

ii. any person who applies sewage sludge or a material derived from sewage sludge to the land;

iii. any person who prepares sewage sludge, including dewatering and solidification, that is disposed in a Municipal Solid Waste Landfill;

iv. the owner/operator of a surface disposal site;

v. the owner/operator of a sewage sludge incinerator; and

vi. the transporter of sewage sludge and the vehicle being utilized to transport the sewage sludge.

b. This Chapter applies to sewage sludge or a material derived from sewage sludge that is applied to the land or placed on a surface disposal site, to the land where the sewage sludge and a material derived from sewage sludge is applied, and to a surface disposal site.

c. …

d. This Chapter applies to the sewage sludge that is disposed in a Municipal Solid Waste Landfill.

B. Compliance Period

1. - 3.a. …

b. Compliance with the requirements in Paragraphs F.2, 3, and 4 of this Section shall be achieved as follows.

i. A facility presently meeting all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph F.2 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

ii. A facility that does not meet all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph F.2 of this Section on December 30, 2005.

iii. All facilities must comply with the requirements in Paragraphs F.3 and 4 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

c. As of December 30, 2005, those persons who have been:

i. granted an exemption under LAC 33:Part VII for any form of use or disposal of sewage sludge will have 180 days to submit an application for permit coverage under these regulations;

ii. issued a standard solid waste permit under LAC 33: Part VII for the use, disposal, treatment, or processing of sewage sludge, with the exception of a standard solid waste permit issued for a type of *surface disposal* as defined in Subsection I of this Section, may continue operations under the standard solid waste permit until such time as a permit has been reissued under these regulations by the administrative authority or for a period not to exceed five years, whichever is less;

iii. issued a standard solid waste permit for a type of *surface disposal* as defined in Subsection I of this Section shall comply with the requirements in Subparagraph B.3.b of this Section.

d. Those persons who are allowed to continue operation for a 5-year period under a standard solid waste permit under LAC 33:Part VII as allowed under Clause B.3.c.ii of this Section and who have not been reissued a permit under these regulations by the administrative authority shall submit to the administrative authority an application for permit issuance under these regulations at least 180 days prior to expiration of the 5-year period, if they intend to continue operations after that date.

e. Operation under the standard solid waste permit issued under LAC 33:Part VII may be reduced to a period of less than the five years allowed in Clause B.3.c.ii of this Section if deemed necessary by the administrative authority for the protection of human health and/or the environment.

f. Upon assumption of a sewage sludge management program from the Environmental Protection Agency, those persons who:

i. are presently operating under a permit issued under these regulations shall continue operation under the issued permit if they choose to continue operation;

ii. do not have a permit issued under these regulations shall have a period of no greater than 180 days after assumption of the sewage sludge management program to submit an application for permit coverage under these regulations.

C. Permits and Permitting Requirements

1.a. Except as exempted in Paragraph C.2 of this Section, no person shall prepare sewage sludge or a material derived from sewage sludge, apply sewage sludge or a material derived from sewage sludge to the land, or own or operate a sewage sludge incinerator without first obtaining a permit that authorizes such practice in accordance with the applicable requirements of this Chapter and LAC 33:III.Chapter 5, in the case of sewage sludge incinerators.

b. The person who prepares sewage sludge or a material derived from sewage sludge and the person who applies sewage sludge or a material derived from sewage sludge to the land shall use the application forms indicated in LAC 33:IX.2501.A.2 and furnish the information requested in LAC 33:IX.2501.Q.

c. …

2.a. The person who applies bagged sewage sludge or a bagged material derived from sewage sludge to the land is exempt from the requirement of obtaining a permit if the person applies bagged sewage sludge or a bagged material derived from sewage sludge that is *Exceptional Quality* as defined in Subsection I of this Section.

b. The person who applies bulk sewage sludge or a bulk material derived from sewage sludge to the land is exempt from the requirement of obtaining a permit if the person applies bulk sewage sludge or a bulk material derived from sewage sludge that was obtained from a facility that possesses an Exceptional Quality Permit under LAC 33:IX.6903.J.

c. The administrative authority may exempt any other person who applies sewage sludge or a material derived from sewage sludge to the land from the requirement of obtaining a permit, on a case-by-case basis, after determining that human health and the environment will not be adversely affected by the application of sewage sludge or a material derived from sewage sludge to the land.

3.a. The person who prepares sewage sludge, the person who applies sewage sludge to the land, the commercial preparer or land applier of sewage sludge, and the owner and/or operator of a sewage sludge incinerator who desires to maintain a permit shall obtain adequate training and certification in the processing, treatment, land application, and incineration of sewage sludge.

b. Upon certification, the person who prepares sewage sludge, the person who applies sewage sludge to the land, the commercial preparer or land applier of sewage sludge, and the owner and/or operator of a sewage sludge incinerator shall provide proof to the administrative authority of continued training of at least eight continuing education units on an annual basis in the form of classes, seminars, conferences, or conventions approved by the administrative authority.

4. The person who transports sewage sludge shall only transport the sewage sludge to a facility that is permitted to either treat, process, incinerate, or dispose the sewage sludge or to a site that is permitted for the land application of treated sewage sludge.

5. A transporter of sewage sludge shall notify the Office of Environmental Services, Water and Waste Permits Division, prior to engaging in such activities, utilizing a form that is obtained from the Office of Environmental Services, Water and Waste Permits Division.

6. Environmental Impact Supplementary Information. In addition to the requirements of this Chapter, all sewage sludge use or disposal permit applications must include a response to each of the following:

a. a detailed discussion demonstrating that the potential and real adverse environmental effects of the proposed facility have been avoided to the maximum extent possible;

b. a cost benefit analysis that balances the environmental impact costs against the social and economic benefits of the facility and demonstrates that the latter outweigh the former;

c. a discussion and description of possible alternative projects that would offer more protection to the environment than the proposed facility without unduly curtailing non-environmental benefits;

d. a detailed discussion of possible alternative sites that would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits; and

e. a discussion and description of mitigating measures that would offer more protection to the environment than the facility as proposed without unduly curtailing non-environmental benefits.

D. Sewage Sludge Disposed in a Municipal Solid Waste Landfill

1. - 2. …

3.a. The person who prepares sewage sludge that is disposed in a Municipal Solid Waste Landfill shall provide proof to the administrative authority that the sewage sludge is being disposed at an approved landfill by furnishing the name, address, and permit number of the landfill to the administrative authority.

b. The person who produces sewage sludge shall provide to the administrative authority copies of all records of sampling and laboratory analyses of the sewage sludge that are required by the owner/operator of the Municipal Solid Waste Landfill where the sewage sludge is disposed.

E. Standards for Vehicles of Transporters of Sewage Sludge

1. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the roads and streets that must be traveled during the transporting of sewage sludge.

2. The bodies of vehicles must be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the sewage sludge, inhibits access by vectors, prevents the sewage sludge from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

3. The bodies of vehicles that are utilized to transport liquefied sewage sludge or a sewage sludge that is capable of producing a leachate shall be constructed and/or enclosed with an appropriate material that will completely prevent the leakage or spillage of the liquid.

F. Prohibitions, Restrictions, and Additional or More Stringent Requirements

1.a. No person shall use or dispose of sewage sludge or a material derived from sewage sludge through any practice for which requirements have not been established in this Chapter.

b. No person shall use or dispose of sewage sludge or a material derived from sewage sludge except in accordance with the requirements in this Chapter.

2. *Surface disposal*, as defined in Subsection I of this Section, is prohibited as a use or disposal method of sewage sludge or of a material derived from sewage sludge.

3.a. *Storage of sewage sludge*, as defined in Subsection I of this Section, is allowed for a period not to exceed six consecutive months when:

i. necessary for the upgrade, repair, or maintenance of a treatment works treating domestic sewage or for agricultural storage purposes when the sewage sludge is to be used for *beneficial use* as defined in Subsection I of this Section;

ii. notification has been made by the person who wishes to store the sewage sludge to the administrative authority; and

iii. subsequent approval by the administrative authority has been received.

b.i. The administrative authority may approve the storage of sewage sludge for commercial preparers or land appliers of sewage sludge or for purposes other than those listed in Subparagraph F.3.a of this Section, for a period greater than six consecutive months, if the person who stores the sewage sludge demonstrates that the storage of the sewage sludge will not adversely affect human health and the environment.

ii. The demonstration shall be in the form of an official request forwarded to the administrative authority at least 90 days prior to the storage of the sewage sludge and shall include, but is not limited to:

(a). the name and address of the person who prepared the sewage sludge;

(b). the name and address of the person who either owns the land or leases the land where the sewage sludge is to be stored, if different from the person who prepared the sewage sludge;

(c). the location, by either street address or latitude and longitude, of the land;

(d). an explanation of why the sewage sludge needs to remain on the land;

(e). an explanation of how human health and the environment will not be affected;

(f). the approximate date when the sewage sludge will be stored on the land and the approximate length of time the sewage sludge will be stored on the land; and

(g). the final use and disposal method after the storage period has expired.

iii.(a). The administrative authority shall make a determination as to whether or not the information submitted is complete and shall issue the determination within 30 days of having received the request. If the information is deemed incomplete, the administrative authority will issue a notice of deficiency. The commercial preparer or land applier of sewage sludge shall have 45 days, thereafter, to respond to the notice of deficiency.

(b). Within 30 days after deeming the information complete, the administrative authority will then make and issue a determination to grant or deny the request for the storage of sewage sludge.

4.a. The use of ponds or lagoons is allowed for the *treatment of sewage sludge*, as defined in Subsection I of this Section, only after a permit has been granted under these regulations and the applicable air and water discharge permits have been applied for and granted by the administrative authority.

b. The person who makes use of a pond or lagoon to treat or for treatment of sewage sludge shall provide documentation to the administrative authority that indicates the final use or disposal method for the sewage sludge and shall apply for the appropriate permit for the chosen final use or disposal in accordance with this Chapter.

c. The person who makes use of a pond or lagoon to treat or for treatment of sewage sludge shall provide documentation by a qualified groundwater scientist to the administrative authority that indicates that the area where the pond or lagoon is located will adequately protect against potential groundwater contamination either by natural soil conditions or by a constructed soil or synthetic liner that has a hydraulic conductivity of $1x10^{-7}$ centimeters per second or less, and protect from the potential to *contaminate an aquifer* as defined in Subsection I of this Section.

5. Materials Prohibited from Feedstock or Supplements that are Blended, Composted, or Mixed with Sewage Sludge

a.i. The person who generates, transports, or treats sewage sludge shall not blend, compost, or mix hazardous waste with sewage sludge.

ii. The blending, composting, or mixing of sewage sludge with feedstock or supplements containing any of the materials listed in Table 1 of LAC 33:IX.6901.F is prohibited.

b. The administrative authority may prohibit the use of other materials as feedstock or supplements if the use of such materials has a potential to adversely affect human health or the environment, as determined by the administrative authority.

c. Material utilized as feedstock or supplements and blended, composted, or mixed with sewage sludge must be sampled and analyzed on an annual basis to determine if the material is nonhazardous by a hazardous waste determination in accordance with 40 CFR 261 and/or LAC 33:Part V.

d. Results of the sampling and analysis required in Subparagraph F.5.c of this Section must be submitted to the administrative authority on an annual basis.

Table 1 of LAC 33:IX.6901.F
Materials Prohibited from Feedstock or Supplements That Are Blended, Composted, or Mixed with Sewage Sludge
Antifreeze
Automotive (lead-acid) batteries
Brake fluid
Cleaners (drain, oven, toilet)
Gasoline and gasoline cans
Herbicides
Household (dry cell) batteries
Oil-based paint
Pesticides
Photographic supplies
Propane cylinders
Treated wood containing the preservatives CCA and/or PCP
Tubes and buckets of adhesives, caulking, etc.
Swimming pool chemicals
Unmarked containers
Used motor oil

6.a. Sewage sludge composting operations shall not be located on airport property unless an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration.

b. If an exemption or approval is granted by the U.S. Department of Transportation’s Federal Aviation Administration to allow a sewage sludge composting operation to be located on airport property, the location restrictions at LAC 33:IX.6905.A.1.f and g for off-airport property operations shall apply.

7.a. The use of raw or untreated sewage sludge as daily, interim, or final cover at a Municipal Solid Waste Landfill is prohibited.

b. The use of sewage sludge as daily, interim, or final cover at a Municipal Solid Waste Landfill is allowed only if the sewage sludge meets the requirements and is used in accordance with the requirements in LAC 33:IX.Chapter 69.

8. No person shall introduce sewage sludge that is blended or mixed with *grease*, as defined in Subsection I of this Section, that was pumped or collected from a *food service facility*, as defined in Subsection I of this Section, into any part of a *treatment works,* as defined in Subsection I of this Section, including its collection system.

9. On a case-by-case basis, the permitting authority may impose requirements in addition to or more stringent than the requirements in this Chapter when necessary to protect human health and the environment from any adverse effect of a pollutant in the sewage sludge.

G. Exclusions

1. Co-Firing of Sewage Sludge

a. Except for the co-firing of sewage sludge with *auxiliary fuel*, as defined in LAC 33:IX.6911.B, this Chapter does not establish requirements for sewage sludge co-fired in an incinerator with other wastes or for the incinerator in which sewage sludge and other wastes are co-fired.

b. This Chapter does not establish requirements for sewage sludge co-fired with auxiliary fuel if the auxiliary fuel exceeds 30 percent of the dry weight of the sewage sludge and auxiliary fuel mixture.

2. Sludge Generated at an Industrial Facility. This Chapter does not establish requirements for the use or disposal of sludge generated at an industrial facility during the treatment of industrial wastewater, including sewage sludge generated during the treatment of industrial wastewater combined with domestic sewage.

3. Hazardous Sewage Sludge. This Chapter does not establish requirements for the use or disposal of sewage sludge or a material derived from sewage sludge that is hazardous under 40 CFR Part 261 and/or LAC 33:Part V.

4. Sewage Sludge with High PCB Concentration. This Chapter does not establish requirements for the use or disposal of sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis).

5. Incinerator Ash. This Chapter does not establish requirements for the use or disposal of ash generated during the firing of sewage sludge in a sewage sludge incinerator.

6. Grit and Screenings. This Chapter does not establish requirements for the use or disposal of grit (e.g., sand, gravel, cinders, or other materials with a high specific gravity) or screenings (e.g., relatively large materials such as rags) generated during preliminary treatment of domestic sewage in a treatment works.

7. Drinking Water Treatment Sludge. This Chapter does not establish requirements for the use or disposal of sludge generated during the treatment of either surface water or groundwater used for drinking water.

8. Commercial and Industrial Septage. This Chapter does not establish requirements for the use or disposal of commercial septage or industrial septage, a mixture of domestic septage and commercial septage, or a mixture of domestic septage and industrial septage, excluding portable toilet waste.

H. Sampling and Analysis

1. Sampling

a. The permittee shall collect and analyze representative samples of sewage sludge or a material derived from sewage sludge that is applied to the land, and sewage sludge fired in a sewage sludge incinerator.

b. The permittee shall create and maintain records of sampling and monitoring information that shall include:

i. the date, exact place, and time of sampling or measurements;

ii. the individual(s) who performed the sampling or measurements;

iii. the date(s) analyses were performed;

iv. the individual(s) who performed the analysis;

v. the analytical techniques or methods used; and

vi. the results of such analysis.

2. Methods. The materials listed below are incorporated by reference in this Chapter. The materials are

incorporated as they exist on the date of approval, and notice of any change in these materials will be published in the *Louisiana Register*. They are available for inspection at the Office of the Federal Register, 7th Floor, Suite 700, 800 North Capitol Street, NW, Washington, DC, and at the Office of Water Docket, Room L-102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. Copies may be obtained from the standard producer or publisher listed in the regulation. Information regarding other sources of these documents is available from the Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division. Methods in the materials listed below shall be used to analyze samples of sewage sludge.

a. Enteric Viruses. ASTM Designation: D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludges," 1992 Annual Book of ASTM Standards: Section 11—Water and Environmental Technology, ASTM, 1916 Race Street, Philadelphia, PA 19103-1187.

b. Fecal Coliform. Part 9221 E or Part 9222 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

c. Helminth Ova. Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB 88-154273/AS).

d. Inorganic Pollutants. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987). Second Edition and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB-87-120-291). Third Edition and Revision I are available from Superintendent of Documents, Government Printing Office, 941 North Capitol Street, NE, Washington, DC 20002 (Document Number 955-001-00000-1).

e. *Salmonella sp*. Bacteria. Part 9260 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas Aeruginosa," Journal of the Water Pollution Control Federation, Vol. 46, No. 9, September 1974, pp. 2163-2171. Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314.

f. Specific Oxygen Uptake Rate. Part 2710 B, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

g. Total, Fixed, and Volatile Solids. Part 2540 G, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

h. Incineration of Sewage Sludge—Standards of Performance and Particulate Matter. Materials and Methods at 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.

i. Incineration of Sewage Sludge—National Emission Standards for Beryllium and for Mercury. Materials, Methods, and Standards at 40 CFR Part 61 as incorporated by reference at LAC 33:III.5116.

j. Composting of Sewage Sludge. *Test Methods for the Examination of Composting and Compost*, The US Composting Council Research and Education Foundation and USDA, TMECC Website: http://tmecc.org /tmecc/index.html.

k. *Nutrients—Methods of Soil Analysis*, Soil Science Society of America Series (Most Recent Editions).

I. General Definitions. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Air Operations Area—any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An *air operations area* includes paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft, in addition to those areas' associated runways, taxiways, or aprons.

Apply Sewage Sludge or Sewage Sludge Applied to the Land—land application of sewage sludge.

Base Flood—a flood that has a 1 percent chance of occurring in any given year (i.e., a flood with a magnitude equaled once in 100 years).

Beneficial Use—using sewage sludge or a material derived from sewage sludge for the purpose of soil conditioning or crop or vegetative fertilization in a manner that does not pose adverse effects upon human health and the environment or cause any deterioration of land surfaces, soils, surface waters, or groundwater.

Bulk Sewage Sludge—sewage sludge that is not sold or given away in a bag or other container for application to the land.

Class I Sludge Management Facility—for the purpose of this Chapter:

a. any *publicly owned treatment works (POTW)* or *privately owned sanitary wastewater treatment facility (POSWTF)*, as defined in this Subsection, regardless of ownership, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage;

b. the person who prepares sewage sludge or a material derived from sewage sludge, including commercial preparers of sewage sludge;

c. the owner/operator of a sewage sludge incinerator; and

d. the person who applies sewage sludge or a material derived from sewage sludge to the land (includes commercial land appliers of sewage sludge).

Commercial Preparer or *Land Applier of Sewage Sludge*—any person who prepares or land-applies sewage sludge or a material derived from sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the person.

Contaminate an Aquifer—to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the groundwater, or that causes the existing concentration of nitrate in groundwater to increase when existing concentration exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

Cover Crop—a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Domestic Septage—either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. *Domestic septage* does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater, and does not include grease removed from a grease trap at a restaurant.

Domestic Sewage—waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry Weight Basis—calculated on the basis of having been dried at 105°C until reaching a constant mass (i.e., essentially 100 percent solids content).

Exceptional Quality—sewage sludge or a material derived from sewage sludge that meets the ceiling concentrations in Table 1 of LAC 33:IX.6903.D, the pollutant concentrations in Table 3 of LAC 33:IX.6903.D, the pathogen requirements in LAC 33:IX.6909.C.1, one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h, and the concentration of PCBs of less than 10 mg/kg of total solids (dry weight).

Feed Crops—crops produced primarily for consumption by animals.

Feedstock—primarily biologically decomposable organic material that is blended, mixed, or composted with sewage sludge.

Fiber Crops—crops such as flax and cotton.

Food Crops—crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

Food Service Facility—any facility that prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. *Food service facilities* include, but are not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and all other *food service facilities* not listed above.

Grease—a material, either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. The terms *fats*, *oils*, *and grease*; *oil and grease;* and *oil and grease substances* shall all be included within this definition.

Groundwater—water below the land surface in the saturated zone.

Industrial Park—an area that is legally zoned for the purpose of the construction and operation of a group of industries and businesses and entered as legally zoned for such purpose in the public records of the state, parish, city, town, or community where the park is located.

Industrial Wastewater—wastewater generated in a commercial or industrial process.

Land Application—the beneficial use of sewage sludge or a material derived from sewage sludge by either spraying or spreading onto the land surface, injection below the land surface, or incorporation into the soil.

Other Container—either an open or closed receptacle. This includes, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of one metric ton or less.

Permitting Authority—either EPA or a state with an EPA-approved sludge management program.

Person Who Prepares Sewage Sludge—the person who generates sewage sludge during the treatment of domestic sewage in a treatment works, the person who treats sewage sludge, or the person who derives a material from sewage sludge.

Pollutant—an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the administrative authority, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

Pollutant Limit—a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

Private Land Applier—a person who land-applies sewage sludge or a material derived from sewage sludge for private benefit purposes, where the land application is not for monetary profit or other financial consideration and either the person did not generate or prepare the sewage sludge or a material derived from sewage sludge, or the facility or facilities from which the sewage sludge or a material derived from sewage sludge was obtained are not owned by or associated with the private land applier.

Privately Owned Sanitary Wastewater Treatment Facility (POSWTF)—a privately owned treatment works that is utilized to treat sanitary wastewater and is not a *publicly owned treatment works (POTW)*, as defined in this Subsection.

Publicly Owned Treatment Works (POTW)—a treatment works, as defined by Section 212 of the Clean Water Act, that is owned by a *state* or *municipality* as defined by Section 504(2) of the Clean Water Act. This includes all devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW; and the municipality, as defined by Section 502(4) of the Clean Water Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Qualified Groundwater Scientist—an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering who has sufficient training and experience in

groundwater hydrology, subsurface geology, and/or related fields, as may be demonstrated by state registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding groundwater monitoring, pollutant fate and transport, and corrective action.

Runoff—rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Surface Disposal—the use or disposal of sewage sludge that does not meet the criteria of *land application* as defined in this Subsection. This may include, but is not limited to, ponds, lagoons, sewage sludge only landfills (monofills), or landfarms.

Supplements—for the purpose of this Chapter, materials blended, composted, or mixed with sewage sludge or other feedstock and sewage sludge in order to raise the moisture level and/or to adjust the carbon to nitrogen ratio, and materials added during composting or to compost to provide attributes required by customers for certain compost products.

To Store, or *Storage of, Sewage Sludge*—the temporary placement of sewage sludge on land.

To Treat, or *Treatment of, Sewage Sludge*—the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, blending, mixing, composting, thickening, stabilization, and dewatering and solidification of sewage sludge. This does not include storage of sewage sludge.

Transporter of Sewage Sludge—any person who moves sewage sludge off-site or moves sewage sludge to a storage site, treatment or processing site, disposal site, or land application site.

Treatment Works—a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 32:

§6903. Land Application

A. Applicability

1. This Section applies to any person who prepares sewage sludge or a material derived from sewage sludge that is applied to the land, to any person who applies sewage sludge or a material derived from sewage sludge to the land, to sewage sludge or a material derived from sewage sludge that is applied to the land, and to the land on which sewage sludge or a material derived from sewage sludge is applied.

2.a.i. The general requirements in Paragraph C.1 of this Section, the other requirements in Paragraph E.1 of this Section, the general management practices in Subparagraph C.2.a of this Section, and the other management practices in Paragraph E.2 of this Section do not apply when bulk sewage sludge is applied to the land if the bulk sewage sludge is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

ii. The general requirements in Paragraph C.1 of this Section, the other requirements in Paragraph E.1 of this Section, the general management practices in Subparagraph C.2.a of this Section, and the other management practices in Paragraph E.2 of this Section do not apply when a bulk material derived from sewage sludge is applied to the land if the derived bulk material is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

b. …

3.a.i. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply if sewage sludge sold or given away in a bag or other container is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

ii. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply if a material derived from sewage sludge is sold or given away in a bag or other container and the material is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

iii. The general requirements in Paragraph C.1 of this Section and the general management practices in Paragraph C.2 of this Section do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge from which the material is derived is *Exceptional Quality* as defined in LAC 33:IX.6901.I and the preparer has received and maintains an Exceptional Quality Permit under the requirements in Subsection J of this Section.

A.3.b. - C.1.a.ii.(c). ...

b. No person shall apply sewage sludge or a material derived from sewage sludge to the land except in accordance with the requirements in this Chapter.

c. The person who applies sewage sludge or a material derived from sewage sludge to the land shall obtain information needed to comply with the requirements in this Chapter.

d. Sewage sludge or a material derived from sewage sludge shall not be applied to the land until a determination has been made by the administrative authority that the land application site is a legitimate beneficial use site.

2. General Management Practices

a. All Sewage Sludge or Material Derived from Sewage Sludge

i. …

ii. Sewage sludge or material derived from sewage sludge shall be applied to the land only in accordance with the requirements pertaining to slope in Table 1 of LAC 33:IX.6903.C.

iii. In addition to the restrictions addressed in Clause C.2.a.ii of this Section, all sewage sludge or material derived from sewage sludge having a concentration of PCBs equal to or greater than 10 mg/kg of total solids (dry wt.) must be incorporated into the soil regardless of slope.

iv. When sewage sludge or a material derived from sewage sludge is applied to agricultural land, forest, or a reclamation site, the following buffer zones shall be established for each application area, unless otherwise specified by the administrative authority:

(a). - (b). …

(c). established school, hospital, institution, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment—1,000 feet, unless special permission is granted by a qualified representative of the established school, hospital, institution, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment. The permission must be in the form of a notarized affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the application area be located less than 200 feet from any of the above establishments;

(d). property boundary—100 feet, unless special permission is granted by the property owner(s); and

(e). occupied residential home or structure—500 feet, unless special permission is granted by the owner and/or lessee of the occupied residential home or structure. The permission must be in the form of a notarized affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall land application of sewage sludge be conducted less than 200 feet from the occupied residential home or structure.

v. Sewage sludge or a material derived from sewage sludge shall not be applied to agricultural land, forest, or a reclamation site during the months when the water table is less than or at two feet below the soil surface as indicated in the Parish Soil Surveys or the Water Features Data published by the Natural Resources Conservation Service (NRCS); or some form of monitoring device shall be provided to ensure that the annual high water table is greater than two feet below the soil surface at the time of application.

vi. The person who applies sewage sludge or a material derived from sewage sludge to agricultural or forest land shall provide proof to the administrative authority that a full nutrient management plan has been developed for the agricultural or forest land where the sewage sludge or a material derived from sewage sludge is applied. The full nutrient management plan shall be developed by the Natural Resource Conservation Service, a certified soil scientist, a certified crop advisor, or a local LSU Agricultural Center Cooperative Extension Service agent.

b. - b.ii.(d). …

Table 1 of LAC 33:IX.6903.C	
Slope Limitations for Land Application of Sewage Sludge	
Slope Percent	**Application Restriction**
0-3	None, except drainage to prevent standing water shall be provided.
3-6	A 100-foot vegetated runoff area should be provided at the down slope end of the application area if a liquid is applied. Measures should be taken to prevent erosion.
6-12	Liquid material must be injected into the soil. Solid material must be incorporated into the soil if the site is not covered with vegetation. A 100-foot vegetated runoff area is required at the down slope end of the application area for all applications. Measures must be taken to prevent erosion. Terracing may be required if deemed a necessity by the administrative authority to prevent runoff from the land application site and erosion.
>12	Unsuitable for application unless terraces are constructed and a 200-foot vegetated buffer area with a slope of less than 3 percent is provided at the down slope edge of the application area and the material is incorporated (solid material) and injected (liquid material) into the soil. Measures must be taken to prevent runoff from the land application site and to prevent erosion.

D. - D.2.d.Table 4. ...

3. Repealed.

Equation (1). Repealed.

E. - F.1.c. ...

2. Vector Attraction Reduction—Sewage Sludge

a. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h shall be met when sewage sludge or a material derived from sewage sludge is applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h shall be met when sewage sludge is sold or given away in a bag or other container for application to the land.

G. Frequency of Monitoring

1. The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3, and Table 4 of LAC 33:IX.6903.D; the frequency of monitoring for pathogen density requirements in LAC 33:IX.6909.C.1 and 2.b; and the frequency of monitoring for vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-d and g-h shall be the frequency specified in Table 1 of LAC 33:IX.6903.G.

Table 1 of LAC 33:IX.6903.G	
Frequency of Monitoring—Land Application	
Amount of Sewage Sludge[1] (metric tons per 365-day period)	**Frequency**
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)
[1]Either the amount of bulk sewage sludge applied to the land or the amount of sewage sludge prepared for sale or give-away in a bag or other container for application to the land (dry weight basis).	

2. After the sewage sludge has been monitored for two years at the frequency in Table 1 of LAC 33:IX.6903.G, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in LAC 33:IX.6909.C.1.e.ii and iii.

H. Recordkeeping

1. ...

2. Additional Recordkeeping

a. The recordkeeping requirements for the person who prepares the sewage sludge or a material derived from sewage sludge that is land applied and meets the criteria in Subparagraph A.2.a or 3.a of this Section are those indicated in Subparagraph J.4.a of this Section.

b. - b.ii.(c),Certification. ...

c. For bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site and that meets the pollutant concentrations in Table 3 of LAC 33:IX.6903.D, the Class B pathogen requirements in LAC 33:IX.6909.C.2, and one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j:

i. - ii.(b). ...

(c). when the vector attraction reduction requirement in either LAC 33:IX.6909.D.2.i or j is met, a description of how the vector attraction reduction requirement is met;

(d). - (e),Certification. ...

d. For bulk sewage sludge applied to the land that is agricultural land, forest, a public contact site, or a reclamation site whose cumulative loading rate for each pollutant does not exceed the cumulative pollutant loading rate for each pollutant in Table 2 of LAC 33:IX.6903.D and that meets the Exceptional Quality or Class B pathogen requirements in LAC 33:IX.6909.C, and the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-j:

d.i. - e.ii.(b),Certification ...

I. Reporting

1. …

2. Additional Reporting Requirements

a. Reporting requirements for a person who prepares the sewage sludge or a material derived from sewage sludge having an Exceptional Quality Permit are as indicated in Subparagraph J.4.b of this Section.

b. All other Class I sludge management facilities, as defined in LAC 33:IX.2313, that apply bulk sewage sludge to the land and are required to obtain a permit under LAC 33:IX.6901.C, shall submit the information in Paragraph H.2 of this Section for the appropriate requirements, to the administrative authority as indicated in the following clauses.

i. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.6903.G of once per year, the reporting period and the report due date shall be as specified in Table 1 of LAC 33:IX.6903.I.

ii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX6903.G of once per quarter (four times per year), the reporting period and the report due date shall be as specified in Table 2 of LAC 33:IX.6903.I.

iii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX6903.G of once per 60 days (six times per year), the reporting period and the report due date shall be as specified in Table 3 of LAC 33:IX.6903.I.

iv. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX6903.G of once per month (12 times per year), the reporting period and the report due date shall be as specified in Table 4 of LAC 33:IX.6903.I.

Table 1 of LAC 33:IX.6903.I
Reporting—Land Application

Monitoring Period (Once per Year)	Report Due Date
January - December	February 28

Table 2 of LAC 33:IX.6903.I
Reporting—Land Application

Monitoring Period[1] (Once per Quarter)	Report Due Date
January, February, March	August 28
April, May, June	
July, August, September	February 28
October, November, December	

[1]Separate reports must be submitted for each monitoring period.

Table 3 of LAC 33:IX.6903.I
Reporting—Land Application

Monitoring Period[1] (Once per 60 Days)	Report Due Date
January, February	June 28
March, April	
May, June	October 28
July, August	
September, October	February 28
November, December	

[1]Separate reports must be submitted for each monitoring period.

Table 4 of LAC 33:IX.6903.I
Reporting—Land Application

Monitoring Period[1] (Once per Month)	Report Due Date
January	May 28
February	
March	
April	August 28
May	
June	
July	November 28
August	
September	
October	February 28
November	
December	

[1]Separate reports must be submitted for each monitoring period.

3. The administrative authority may require any facility indicated in Subparagraph I.2.a of this Section to report any or all of the information required in Subparagraph I.2.b of this Section if deemed necessary for the protection of human health or the environment.

J. Exceptional Quality Permit

1.a. The person who prepares the sewage sludge or a material derived from sewage sludge who desires to receive an Exceptional Quality Permit must prepare sewage sludge that is of *Exceptional Quality* as defined in LAC 33:IX.6901.I and shall forward to the administrative authority an Exceptional Quality Permit Request Form having the following information:

i. - vi.(h). …

b. Samples required to be collected in accordance with Clauses J.1.a.i-v of this Section shall be from at least four representative samplings of the sewage sludge or the material derived from sewage sludge taken at least 60 days apart within the 12 months prior to the date of the submittal of an Exceptional Quality Permit Request Form.

2. Any Exceptional Quality Permit shall have a term of not more than five years.

3.a. For the term of the Exceptional Quality Permit, the preparer of the sewage sludge or material derived from sewage sludge shall conduct continued sampling at the frequency of monitoring specified in Paragraph G.1 of this Section. The samples shall be analyzed for the parameters specified in Clauses J.1.a.i-iii of this Section, and for the pathogen and vector attraction reduction requirements in Clauses J.1.a.iv and v, as required by LAC 33:IX.6909.

b. If results of the sampling indicate that the sewage sludge or the material derived from sewage sludge no longer is *Exceptional Quality* as defined in LAC 33:IX.6901.I, then the preparer must cease any land application of the sewage sludge as an Exceptional Quality sewage sludge.

c. If the sewage sludge that is no longer of Exceptional Quality is used or disposed, the exemption for Exceptional Quality sewage sludge no longer applies and the sewage sludge must meet all the requirements and restrictions of this Chapter that apply to a sewage sludge that is not Exceptional Quality.

d. The sewage sludge or material derived from sewage sludge shall not be applied to the land as an Exceptional Quality sewage sludge until the sample analyses have shown that the sewage sludge or material derived from sewage sludge meets the criteria for *Exceptional Quality* as defined in LAC 33:IX.6901.I.

4.a. Recordkeeping. The person who prepares the sewage sludge or a material derived from sewage sludge shall develop the following information and shall retain the information for five years:

i. the results of the sample analysis required in Subparagraph J.3.a of this Section; and

ii. the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality pathogen requirements in LAC 33:IX.6909.C.1 and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.6909.D.2.a-h] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

b. Reporting. The person who prepares the sewage sludge or a material derived from sewage sludge shall forward the information required in Subparagraph J.4.a. of this Section to the administrative authority on a quarterly basis. The schedule for quarterly submission is contained in the following table.

Schedule For Quarterly Submission	
Monitoring Period	**Report Due Date**
January, February, March	May 28
April, May, June	August 28
July, August, September	November 28
October, November, December	February 28

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074.B.(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:785 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§6905. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge

A. Exemption. A *publicly owned treatment works (POTW)*, as defined in LAC 33:IX.6901.I, shall be exempted from the siting requirements in LAC 33:IX.6909.B and the facility closure requirements in Paragraph C.3 of this Section if the POTW prepares sewage sludge or a sewage sludge treatment facility is located within the POTW's perimeter.

B. Siting

1. Location Characteristics

a. Facilities shall not be located less than 200 feet from a property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowners and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property.

b. Facilities that are not located within the boundaries of a legally zoned and established industrial park:

i. shall not be located less than 1,000 feet from an established school, hospital, institution, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment unless special permission is granted by the owner of the established school, hospital, institution, day-care facility, nursing home, hotel/motel, playground, park, golf course, or restaurant/food establishment. The permission must be in the form of an affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the facility be located less than 200 feet from any of the above establishments;

ii. shall not be located less than 500 feet from an established home residence unless special permission has been granted by the owner and/or lessee of the established home residence in the form of an affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall the facility be located less than 200 feet from an established home residence.

c. Facilities shall not be located less than 300 feet from a private potable water supply or a private water supply elevated storage tank or ground storage tank unless special permission is granted by the private potable water supply owner.

d. Facilities shall not be located less than 300 feet from a public potable water supply or a public water supply elevated storage tank or ground storage tank unless special permission is granted by the Department of Health and Hospitals.

e. Untreated sewage sludge and/or supplement or feedstock material to be utilized at a facility shall not be located less than 25 feet from a subsurface drainage pipe or drainage ditch that discharges directly to waters of the state.

f. Facilities that prepare or compost only sewage sludge or blend, mix, or compost sewage sludge and have only woodchips or yard waste (e.g., leaves, lawn clippings,

or branches) as feedstock or supplements shall not be located closer than the greater of the following distances:

i. 1,200 feet from any aircraft's approach or departure airspace or *air operations area* as defined in LAC 33:IX.6901.I; or

ii. the distance called for by the U. S. Department of Transportation Federal Aviation Administration's airport design requirements.

g. Facilities that blend, mix, or compost sewage sludge that include food or other municipal solid waste as feedstock or supplements shall not be located closer than:

i. 5,000 feet from any airport property boundary (including any aircraft's approach or departure airspace or air operations area) if the airport does not sell Jet-A fuel and serves only piston-powered aircrafts; or

ii. 10,000 feet from any airport property boundary (including any aircraft's approach or departure airspace or air operations area) if the airport sells Jet-A fuel and serves turbine-powered aircrafts or sells Jet-A fuel and is designed to serve turbine-powered and/or piston-powered aircrafts.

h. Facilities shall not be located less than 100 feet from wetlands, surface waters (streams, ponds, lakes), or areas historically subject to overflow from floods.

i. Facilities shall only be located in a hydrologic section where the historic high water table is at a minimum of a three-foot depth below the surface, or the water table at the facility shall be controlled to a minimum of a three-foot depth below this zone.

j. Storage and processing of sewage sludge or any material derived from sewage sludge is prohibited within any of the buffer zones indicated in Subparagraphs B.1.a-i of this Section.

k. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations.

l. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

m. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

2. Facility Characteristics

a. Perimeter Barriers, Security, and Signs

i. All facilities must have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

ii. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

iii. During non-operating hours, each facility entry point shall be locked.

iv. All facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

b. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

c. Receiving and Monitoring Sewage Sludge, Other Feedstock, or Supplements Used

i. Each processing or treatment facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the sewage sludge or other feedstock or supplements to be mixed with the sewage were generated in-state or out-of-state), and types of feedstock or supplements. The facility shall also be equipped with a device or method to control entry of sewage sludge, other feedstock, or supplements coming on-site and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, industrial, unauthorized, or unpermitted solid waste).

ii. Each processing or treatment facility shall be equipped with a central control and recordkeeping system for tabulating the information required in Clause B.2.c.i of this Section.

3. Facility Surface Hydrology

a. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the facility to adjoining areas during a 24-hour/25-year storm event. When rainfall records are not available, the design standard shall be 12 inches of rainfall below 3l degrees north latitude and 9 inches of rainfall above 3l degrees north latitude. If the 24-hour/25-year storm event level is lower, the design standard shall be required.

b. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

c. All storm water and wastewater from a facility must conform to applicable requirements of LAC 33:IX.Chapters 23-67.

4. Facility Geology

a. Except as provided in Subparagraph B.4.c of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifer.

b. The natural soil surface must be capable of supporting heavy equipment operation during and after prolonged periods of rain.

c. A design for surfacing natural soils that do not meet the requirements in Subparagraphs B.4.a and b of this Section shall be prepared under the supervision of a registered engineer, licensed in the state of Louisiana with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subparagraphs B.4.a and b of this Section shall be provided.

5. Facility Plans and Specifications. Facility plans and specifications represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of, and certified by, a registered engineer, licensed in the state of Louisiana.

6. Facility Administrative Procedures

a. Permit Modifications. Permit modifications shall be in accordance with the requirements of this Chapter.

b. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

C. Operations

1. Composters, Mixers, Blenders, and Preparers

a. Facility Operations and Maintenance Manual

i. A Facility Operations and Maintenance Manual shall be developed and forwarded with the permit application to the administrative authority.

ii. The Facility Operations and Maintenance Manual must describe, in specific detail, how the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge (if applicable) will be managed during all phases of processing operations. At a minimum, the manual shall address the following:

(a). site and project description;

(b). regulatory interfaces;

(c). process management plan;

(d). pathogen treatment plan;

(e). odor management plan;

(f). worker health and safety management plan;

(g). housekeeping and nuisance management plan;

(h). emergency preparedness plan;

(i). security, community relations, and public access plan;

(j). regulated chemicals (list and location of regulated chemicals kept on-site);

(k). recordkeeping procedures;

(l). feedstock, supplements, and process management;

(m). product distribution records;

(n). operator certification; and

(o). administration of the operations and maintenance manual.

iii. The Facility Operations and Maintenance Manual shall be keep on-site and readily available to employees and, if requested, to the administrative authority or his/her duly authorized representative.

b. Facility Operational Standards

i. The facility must include a receiving area, mixing area, curing area, compost storage area for composting operations, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

ii. All containers shall provide containment of the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge and thereby control litter and other pollution of adjoining areas.

iii. Provisions shall be made for the daily cleanup of the facility, including equipment and waste-handling areas.

iv. Treatment facilities for washdown and contaminated water shall be provided or the wastewater contained, collected, and transported off-site to an approved wastewater treatment facility.

v. Leachate Management. Leachate produced in the composting process:

(a). must be collected and disposed off-site at a permitted facility; or

(b). must be collected, treated, and discharged on-site in accordance with LAC 33:IX.Chapters 23-67; or

(c). may be reused in the composting process as a source of moisture.

vi. Sufficient equipment shall be provided and maintained at all facilities to meet their operational needs.

vii. Odor Management

(a). The production of odor shall be minimized.

(b). Processed air and other sources of odor shall be contained and, if necessary, treated in order to remove odor before discharging to the atmosphere.

viii. Other feedstock and supplements that are blended, composted, or mixed with sewage sludge shall be treated for the effective removal of sharps including, but not limited to, sewing needles, straight pins, hypodermic needles, telephone wires, and metal bracelets.

2. Composters Only

a. Any compost made from sewage sludge that cannot be used according to these regulations shall be reprocessed or disposed in an approved solid waste facility.

b. Composted sewage sludge shall be used, sold, or disposed at a permitted disposal facility within 36 months of completion of the composting process.

3. Facility Closure Requirements

a. Notification of Intent to Close a Facility. All permit holders shall notify the administrative authority in writing at least 90 days before closure or intent to close, seal, or abandon any individual unit within a facility and shall provide the following information:

i. date of planned closure;

ii. changes, if any, requested in the approved closure plan; and

iii. closure schedule and estimated cost.

b. Closure Requirements

i. An insect and rodent inspection is required before closure. Extermination measures, if required, must be provided.

ii. All remaining sewage sludge or a material derived from sewage sludge, other feedstock, and supplements shall be removed to a permitted facility for disposal.

iii. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the requirements of Subparagraph C.3.c of this Section must be provided to the administrative authority.

c. Remediation/Removal Program

i. Surface liquids and sewage sludges containing free liquids shall be dewatered or removed.

ii. If a clean closure is achieved, there are no further post-closure requirements. The plan for clean closure must reflect a method for determining that all waste has been removed, and such a plan shall, at a minimum, include the following:

(a). identification (analysis) of the sewage sludge, other feedstock, and supplements that have entered the facility;

(b). selection of the indicator parameters to be sampled that are intrinsic to the sewage sludge, other feedstock, and supplements that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

(c). sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided;

(d). a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

(e). a discussion of a comparison of the sample(s) from the area of the excavated facility to the background sample. Concentrations of the selected parameter(s) of the bottom and side soil samples of the facility must be equal to or less than the background sample to meet clean closure criteria;

(f). analyses to be sent to the Office of Environmental Services, Water and Waste Permits Division, confirming that the requirements of Subparagraph C.3.b of this Section have been satisfied;

(g). identification of the facility to be used for the disposal of the excavated waste; and

(h). a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Water and Waste Permits Division, before backfilling takes place. The administrative authority will determine whether the facility has been closed properly.

iii. If sewage sludge or a material derived from sewage sludge or other feedstock and supplements used in the blending, composting, or mixing process remains at the facility, the closure and post-closure requirements for industrial (Type I) solid waste landfills or non-industrial landfills (Type II), as provided in LAC 33:Part VII, shall apply.

iv. If the permit holder demonstrates that removal of most of the sewage sludge or a material derived from sewage sludge or other feedstock and supplements to achieve an alternate level of contaminants based on indicator parameters in the contaminated soil will be adequately protective of human health and the environment (including groundwater) in accordance with LAC 33:I.Chapter 13, the administrative authority may decrease or eliminate the post-closure requirements.

(a). If levels of contamination at the time of closure meet residential standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Clause C.3.c.iv of this Section shall not apply.

(b). Excepting those sites closed in accordance with Subclause C.3.c.iv.(a) of this Section, within 90 days after a closure is completed, the permit holder must have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

v. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 32:

§6907. Financial Assurance Requirements for Commercial Preparers or Land Appliers of Sewage Sludge

A. - A.2. ...

a. Evidence of liability insurance may consist of either a signed duplicate original of a commercial preparer or land applier of sewage sludge liability endorsement, or a certificate of insurance. All liability endorsements and certificates of insurance must include:

2.a.i. - 5.a.i. …

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer or land applier of sewage sludge facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

A.5.a.iii. - B.8.d. ...

i. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

ii. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

iii. a list of the commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure and/or post-closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

iv. a list of commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

e. - i.i. …

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer or land applier of sewage sludge facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana commercial preparer or land applier of sewage sludge rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

8.i.iv. - 12.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 32:

§6909. Pathogens and Vector Attraction Reduction

A. Scope. This Section contains the following:

1. ...

2. the site restrictions for land on which a Class B sewage sludge is applied; and

3. the alternative vector attraction reduction requirements for sewage sludge that is applied to the land.

B. Special Definitions. In addition to the terms referenced and defined at LAC 33:IX.6901.I, the following definitions apply to this Section.

* * *

C. Pathogens

1. Sewage Sludge—Exceptional Quality

a. - b. ...

c. Exceptional Quality—Alternative 1

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

c.ii. - d. ...

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii.(a). - ii.(c). ...

e. Exceptional Quality—Alternative 3

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii.(a). - iii.(d). ...

f. Exceptional Quality—Alternative 4

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii. …

iii. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

g. Exceptional Quality—Alternative 5

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

ii. ...

h. Exceptional Quality—Alternative 6

i. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed, at the time the sewage sludge is prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is

prepared to meet the requirements of *Exceptional Quality* as defined in LAC 33:IX.6901.I.

1.h.ii. - 2.e.v. …

vi. Turf grown on land where sewage sludge is applied shall not be harvested for one year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the administrative authority.

vii. - viii. …

3. Repealed.

a. Repealed.

b. Repealed.

D. - D.1.c. ...

d. Repealed.

2.a. - 2.j.ii. ...

k. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:806 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§6911. Incineration

A. - A.2. …

B. Special Definitions. All terms not defined below shall have the meaning given them in LAC 33:IX.6901.I and in LAC 33:III.111.

* * *

C. - C.2.f. ...

3. In conducting the performance tests required in Paragraph C.2 of this Section, the owner or operator shall use as reference methods and procedures the test methods referenced in LAC 33:IX.6901.H or other methods and procedures as specified in this Section, except as provided for in Subparagraph C.2.b of this Section.

C.4.a. - D.6.b.iv. ...

v. samples of the sewage sludge charged to the incinerator shall be collected in nonporous jars at the beginning of each run and at approximately 1-hour intervals thereafter until the test ends, and "2540 G Total Fixed and Volatile Solids in Solid and Semisolid Samples" shall be used to determine dry sewage sludge content of each sample (total solids residue), except that:

D.6.v.(a). - I.3.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:809 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 71. Appendices

§7135. Appendix R—Financial Assurances Documents

Document 1. Liability Endorsement

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE
LIABILITY ENDORSEMENT

* * *

[See Prior Text in Liability Endorsement]

Document 2. Certificate of Insurance

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY
CERTIFICATE OF LIABILITY INSURANCE

* * *

[See Prior Text in Certificate of Liability Insurance]

Document 3. Letter of Credit

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT

* * *

[See Prior Text in Irrevocable Letter of Credit]

(A). A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the commercial preparer or land applier of sewage sludge site at the [name of permit holder or applicant] at[site location] as set forth in the Louisiana Administrative Code (LAC), Title 33, Part IX.6907.A.

* * *

[See Prior Text in Irrevocable Letter of Credit]

Document 4. Trust Agreement

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY
TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement (the "Agreement") is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or a "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a commercial preparer or land applier of sewage sludge processing facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

* * *

[See Prior Text in Trust Agreement]

Document 5. Surety Bond

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY
FINANCIAL GUARANTEE BOND

Date bond was executed:________________________

Effective date:_______________________________

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:_________________________

Surety: [name and business address]

[agency interest number, site name, facility name, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: $ ______________________

Surety's bond number: ______________________

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer or land applier of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code* (LAC), Title 33, Part IX.6907, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:IX.6907.B and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety,

THEN, this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety has received written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.6907.B and the conditions of the commercial preparer or land applier of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

* * *

[See Prior Text in Financial Guarantee Bond]

Document 6. Performance Bond

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY
PERFORMANCE BOND

Date bond was executed:________________________

Effective date:_______________________________

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:_______________________

Surety: [name(s) and business address(es)]

[agency interest number, site name, facility name, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: $_______________

Surety's bond number: _________________

Know All Persons by These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001, et seq. and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer or land applier of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.6907.B and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:IX.6905.C.3, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of the LAC 33:IX.6905.C.3, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance, as specified in LAC 33:IX.6907.B, and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.6907.B and the conditions of the commercial preparer or land applier of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

* * *

[See Prior Text in Facility Performance Bond]

Document 7. Letter of Credit

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY

IRREVOCABLE LETTER OF CREDIT

* * *

[See Prior Text in Irrevocable Letter of Credit]

Document 8. Certificate of Insurance

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY

CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

* * *

[See Prior Text in Certificate of Insurance]

Document 9. Letter from the Chief Financial Officer

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY

LETTER FROM THE CHIEF FINANCIAL OFFICER (LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE)

* * *

[See Prior Text in Letter]

(A). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:IX.6907.A. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

(B). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is demonstrated through a financial test similar to that specified in LAC 33:IX.6907.B or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

(C). This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:IX.6907.B" or "LAC 33:IX.6907.A and B"], [insert "liability coverage," "closure," "post-closure," or "closure and post-closure"] care of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

(D). This firm is the owner or operator of the following commercial preparer or land applier of sewage sludge facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:IX.6907.A and/or B. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

* * *

[See Prior Text in Letter]

Document 10. Corporate Guarantee

COMMERCIAL PREPARER OR LAND APPLIER OF SEWAGE SLUDGE FACILITY

CORPORATE GUARANTEE FOR LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE CARE

* * *

[See Prior Text in Corporate Guarantee]

(B). [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following commercial preparer or land applier of sewage sludge facility covered by this guarantee: [List the agency interest number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs (C) and (D) below if the guarantee is for closure and/or post-closure.]

* * *

[See Prior Text in Corporate Guarantee]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005), LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0601#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Dentistry

Provisional Licensure for Dental Healthcare Providers (LAC 46:XXXIII.128)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Louisiana State Board of Dentistry to use emergency procedures to establish rules, and under the authority of R.S. 37:760 (6), the Board of Dentistry hereby declares that an emergency action is necessary in order to provide pro bono dental services to victims of Hurricanes Katrina and Rita by volunteer dental health care workers from other states. Further, Executive Order KBB 05-72 is expiring on December 31, 2005 and is not expected to be renewed. This Emergency Rule becomes effective on January 1, 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 this Emergency Rule, you may contact Mr. C. Barry Ogden, Executive Director at (504) 568-8574.

This Emergency Rule is available on the internet at www.doa.state.la.us/osr/osr.htm, and is available for inspection at the board office from 8:00 AM until 4:30 PM Monday through Friday, 365 Canal Street, Suite 2680, New Orleans, LA 70130. Copies of this Emergency Rule may also be requested via telephone.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 1. General Provisions
§128. Provisional Licensure for Dental Healthcare Workers Providing Gratuitous Services

A. The Board of Dentistry may grant a provisional license not to exceed 60 days in duration for any dentist or dental hygienist who is in good standing in the state of their licensure and who wishes to provide gratuitous services to the citizens of Louisiana at sites specified by the Department of Health and Hospitals provided:

1. the applicant is verified by the board to be in good standing in the state of licensure where the applicant is licensed;

2. the applicant provides satisfactory documentation to the board that the dental healthcare provider is assigned to provide gratuitous services at sites specified by the Department of Health and Hospitals;

3. the applicant agrees to render services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of dental services within the state of Louisiana.

B. The board may renew this provisional license for no more than an additional 60 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(6) and (8) and R.S. 49:953(B)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 32:

C. Barry Ogden
Executive Director

0601#074

DECLARATION OF EMERGENCY

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

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

Editor's Note: This Emergency Rule, originally promulgated in the December 20, 2005 edition of the Louisiana Register on page 3031, is being repromulgated for corrections.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:XVII.133 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement in the Durable Medical Equipment Program for medical equipment and supplies. Reimbursement for these services is either the lesser of billed charges or 70 percent of either the Medicare fee schedule or the manufacturer's suggested retail price (MSRP), or the lowest cost at which the item has been determined to be widely available.

The governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the state general fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates paid for medical equipment and supplies. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $715,794 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement for durable medical equipment and supplies.

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

Chapter 1. Standard Administrative Procedures

Subchapter D. Reimbursement

§133. Reimbursement

A. - B. …

C. Effective for dates of service on or after January 1, 2006, the fee amounts on file as of December 31, 2005 for ambulatory equipment, bathroom equipment, hospital beds, mattresses and related equipment, specialized wheelchairs and for the cost of parts used in the repair of durable medical equipment shall be reduced by 9 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:86 (January 2005), amended LR 32:

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

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

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

0601#065

DECLARATION OF EMERGENCY

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

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

Editor's Note: This Emergency Rule, originally promulgated in the December 20, 2005 edition of the Louisiana Register on page 3032, is being repromulgated for corrections.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:XV.6903 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

The governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the Commissioner of Administration to reduce the state general fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates paid for dental services in the EPSDT Program. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $2,130,371 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement fees for EPSDT dental services provided to recipients under age 21.

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

Chapter 69. Dental Services

§6903. Reimbursement

A. …

B. Effective for dates of service on or after January 1, 2006, the fee amounts on file as of December 31, 2005 shall be reduced by 10 percent for EPSDT dental 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 29:176 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 32:

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

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

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

0601#063

DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:XV.8501 and 8703 under the Medical Assistance Program as authorized by 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for eyeglasses and hearing aids under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program for Medicaid recipients up to age twenty-one. Claims for EPSDT eyeglasses and hearing aids are reimbursed in accordance with the established Medicaid fee schedule.

The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the Department proposes to reduce the reimbursement rates paid for eyeglasses and hearing aids in the EPSDT Program. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures in the Medicaid Program by approximately $729,244 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the Department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement fees for EPSDT eyeglasses and hearing aids provided to recipients up to age 21.

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

Chapter 85. Durable Medical Equipment-Eyeglasses

§8501. Eye Care

A. - B. …

C. Effective for dates of service on or after January 1, 2006, the fee amounts on file as of December 31, 2005 shall be reduced by 10 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003), amended LR 30:1211 (June 2004), LR 31:

Chapter 87. Durable Medical Equipment-Hearing Devices

Subchapter A. Hearing Aids

§8703. Reimbursement

A. - B. …

C. Effective for dates of service on or after January 1, 2006, the fee amounts on file as of December 31, 2005 shall be reduced by 9 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:181 (February 2003), amended LR 31:

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

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

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

0601#006

DECLARATION OF EMERGENCY

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

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

Editor's Note: This Emergency Rule, originally promulgated in the December 20, 2005 edition of the Louisiana Register on page 3034, is being repromulgated for corrections.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:XV.16107 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing expanded coverage of certain designated dental services to include Medicaid eligible pregnant women, 21 years of age or older, who evidenced the need for periodontal treatment (*Louisiana Register,* Volume 30, Number *3*). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

The governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget unit by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the state general fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates paid for dental services provided to Medicaid eligible pregnant women. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $15,189 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the March 20, 2004 rule governing reimbursement fees for dental services provided to Medicaid eligible pregnant women, 21 years of age or older, who are in need of periodontal treatment.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16107. Reimbursement

A. Reimbursement for these services is a flat fee based on the fee schedule established by the bureau for the Early and Periodic Screening, Diagnosis and Treatment Program minus the amount which any third party coverage would pay. Effective for dates of service on or after January 1, 2006, the fee amounts on file as of December 31, 2005 shall be reduced by 10 percent for dental services rendered to Medicaid eligible pregnant women.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 32:

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

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

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

0601#064

DECLARATION OF EMERGENCY

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

Facility Need Review
(LAC 48:I.12501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 48:I.12501 as authorized by R.S. 40:2116, and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 341 of the 2005 Regular Session of the Louisiana Legislature amended R.S. 40:2116 to eliminate the need for approval through the Facility Need Review process for the emergency replacement of existing nursing facilities destroyed by fire or as a result of a natural disaster, and for facilities owned by a government agency which require replacement as a result of a potential health hazard.

In compliance with the directives of Act 341, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to establish provisions governing the exemption from the Facility Need Review process for emergency replacement of facilities destroyed by fire, a natural disaster, or potential health hazard. This action is being taken to avoid imminent peril to the health, safety or welfare of residents in nursing facilities. It is anticipated that the implementation of this Emergency Rule will be cost neutral for state fiscal year 2005-2006.

Effective January 20, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions to Facility Need Review as follows.

Title 48
PUBLIC HEALTH GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. - G.14. …

H. Exemptions from the Facility Need Review process shall be made for:

1. a nursing facility which needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or

2. a nursing facility and/or facility building owned by a government agency which is replaced due to a potential health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:

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

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

0601#058

DECLARATION OF EMERGENCY

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

Home Health Agencies—Emergency Preparedness
(LAC 48:I.9121)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 48:I.9121 as authorized by R.S. 36:254 and R.S. 40:2116.31-40. 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 revising the regulations governing the licensure of home health agencies in February of 1995 (*Louisiana Register*, Volume 21, Number 2). This Rule was subsequently amended in November of 1996 to revise the provisions contained in §§9165-9169, 9173, 9177 and 9193 (*Louisiana Register*, Volume 22, Number 11) and in December 2001 to amend provisions of the February 1995 and November 20, 1996 Rules (*Louisiana Register*, Volume 27, Number 12). The December 20, 2001 Rule was amended by Emergency Rule to revise the provisions governing emergency preparedness requirements for home health agencies (*Louisiana Register*, Volume 31, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 15, 2005 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens that have been evacuated as a result of declared disasters or other emergencies.

Effective February 13, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the December 20, 2001 Rule governing emergency preparedness requirements for home health agencies.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 91. Minimum Standards for Home Health Agencies

§9121. Emergency Preparedness

A. The home health agency shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the home health agency' ability to provide care and treatment or threaten the lives or safety of its clients. The home health agency is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency clients who require community assistance as well as for those with available caregivers to another location;

2. the delivery of essential care and services to agency clients whether they are in a shelter or other locations;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions;

4. a plan for coordinating transportation services required for evacuating agency clients to another location; and

5. assurance that the agency will notify the client' family or caregiver if the client is evacuated to another location.

C. The home health agency' plan shall be activated at least annually, either in response to an emergency or in a planned drill. The home health agency' performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if the agency' performance during an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the home health agency' plan by utilizing community wide resources.

E. As a result of an evacuation order issued by the parish Office of Emergency Preparedness (OEP), it may be necessary for a home health agency to temporarily relocate outside of its licensed geographic service area. In such a case, the agency may request a waiver to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients and/or other evacuees of the affected areas. The agency must provide documentation as required by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2249(December 2001), LR 32:

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

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

0601#069

DECLARATION OF EMERGENCY

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

Inpatient Hospitals—Private Hospitals
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session of the Louisiana Legislature, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 that established the prospective reimbursement methodology for inpatient services provided in private (nonstate) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the state General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates paid for inpatient services rendered in private (non-state) acute hospitals, including rehabilitation hospitals, long term hospitals, and distinct part psychiatric units. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) are excluded from this reimbursement reduction. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $25,698,609 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the Federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Emergency Rule

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for inpatient services rendered in private (non-state) acute hospitals, including rehabilitation hospitals, long term hospitals, and distinct part psychiatric units. The reimbursement rate on file as of December 31, 2005 shall be reduced by 12.8 percent. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction.

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

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

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

0601#055

DECLARATION OF EMERGENCY

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

Inpatient Hospitals—Private Psychiatric Hospital Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 16 of the 2005 Regular Session of the Louisiana Legislature, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for private 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 Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the Medicaid prospective per diem rates for private inpatient psychiatric services at free-standing psychiatric hospitals. This action is being taken in order to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this emergency rule will reduce expenditures for the inpatient psychiatric services by approximately $308,818 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the Federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Emergency Rule

Effective for dates of service on or after January 1, 2006 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for inpatient psychiatric services rendered in private free-standing psychiatric hospitals by 11 percent of the per diem rate on file as of December 31, 2005.

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

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

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

0601#059

DECLARATION OF EMERGENCY

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

Intermediate Care Facilities for the Mentally Retarded
Community Homes Licensing—Emergency Preparedness
(LAC 48:I.51188)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.51188 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. 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 governing licensing requirements for community homes for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 13, Number 4). The April 20, 1987 Rule was amended by Emergency Rule to adopt provisions governing emergency preparedness requirements for community homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR) (*Louisiana Register*, Volume 31, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of community homes that have been evacuated as a result of declared disasters or other emergencies.

Effective February 16, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing emergency preparedness requirements for community homes.

Title 48
PUBLIC HEALTH – GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 51. Licensing Requirements for Community Homes

§51188. Emergency Preparedness

A. The community home, also known as an intermediate care facility for the mentally retarded (ICF/MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the community home's ability to provide care and treatment or threatens the lives or safety of the community home residents. The community home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the community home shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the community home or to another location;

2. the delivery of essential care and services to community home residents, whether the residents are housed off-site or when additional residents are housed in the community home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the community home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

C. The community home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The community home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the community home's performance during the planned drill.

D. The community home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a community home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the community home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the community home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a community home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the community home may be reopened.

G.1. Before reopening at its licensed location, the community home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the community home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. If it is necessary for a community home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the community home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Paragraphs I.1-2.

I. The permanent relocation of community home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

1. the new location has either the same number or fewer of the previously licensed beds; and

2. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

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

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

0601#067

DECLARATION OF EMERGENCY

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

Intermediate Care Facilities for the Mentally Retarded
Group Homes Licensing—Emergency Preparedness
(LAC 48:I.63188)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 48:I.63188 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. 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 governing licensing requirements for group homes for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 13, Number 4). The April 20, 1987 Rule was amended by Emergency Rule to adopt provisions governing emergency preparedness requirements for group homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR) (*Louisiana Register*, Volume 31, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of group homes that have been evacuated as a result of declared disasters or other emergencies.

Effective February 16, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing emergency preparedness requirements for group homes.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 63. Licensing Requirements for Group Homes

§63188. Emergency Preparedness

A. The group home, also known as an intermediate care facility for the mentally retarded (ICF/MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the group home's ability to provide care and treatment or threatens the lives or safety of the group home residents. The group home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the group home shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the group home or to another location;

2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the group home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the group home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

C. The group home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The group home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the group home's performance during the planned drill.

D. The group home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a group home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the group home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the group home is in compliance with the licensing standards in the areas of the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services, and necessary supplies.

2. If a group home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the group home may be reopened.

G.1. Before reopening at its licensed location, the group home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the group home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. If it is necessary for a group home to temporarily relocate beds and/or increase in the number of beds in the home as a result of a declared disaster, the group home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Paragraphs I.1-2.

I. The permanent relocation of group home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

1. the new location has either the same number or fewer of the previously licensed beds; and

2. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

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

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

0601#068

DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:VII.32903 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session of the Louisiana Legislature, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule on July 20, 2005 which amended the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICFs-MR) to include Inventory for Client and Agency Planning (ICAP) instruments for use in developing individualized rates for ICFs-MR residents (*Louisiana Register*, Volume 31, Number 7).

The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget unit by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session, the Department proposes to reduce the Medicaid rates paid to private intermediate care facilities for the mentally retarded. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures to intermediate care facilities for the mentally retarded by approximately $7,496,546 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006,

the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the Federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement

Subchapter A. Reimbursement Methodology

§32903. Rate Determination

A. - H.2. ...

I. Effective for dates of service on or after January 1, 2006, the reimbursement rates on file as of December 31, 2005 shall be reduced by 10.8 percent for payments made to private intermediate care facilities for the mentally retarded.

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

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

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

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

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

0601#060

DECLARATION OF EMERGENCY

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

Intermediate Care Facilities for the Mentally Retarded
Residential Homes Licensing—Emergency Preparedness
(LAC 48:I.7927)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 48:I.7927 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. 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 governing licensing requirements for residential homes for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 13, Number 4). The April 20, 1987 Rule was amended by Emergency Rule to adopt provisions governing emergency preparedness requirements for residential homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR) (*Louisiana Register*, Volume 31, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who reside in residential homes that have been evacuated as a result of declared disasters or other emergencies.

Effective February 16, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services adopts the following amendments governing emergency preparedness requirements for residential homes.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Licensing Requirements for Residential Homes

§7927. Core Requirements

A. - G.6. …

H. Emergency Preparedness

1. The residential home, also known as an intermediate care facility for the mentally retarded (ICFs-MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the residential home's ability to provide care and treatment or threatens the lives or safety of the residential home residents. The residential home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

2. At a minimum, the residential home shall have a written plan that describes:

a. the evacuation of residents to a safe place either within the residential home or to another location;

b. the delivery of essential care and services to residential home residents, whether the residents are housed off-site or when additional residents are housed in the residential home during an emergency;

c. provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the residential home or at another location;

d. a plan for coordinating transportation services required for evacuating residents to another location; and

e. procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

3. The residential home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The residential home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the residential home's performance during the planned drill.

4. The residential home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

5. The plan shall be available to representatives of the Office of the State Fire Marshal.

6.a. In the event a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding, or power outages longer than 48 hours, the residential home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

i. The purpose of these surveys is to assure that the residential home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

ii. The Health Standards Section will determine the facility's access to the community service infrastructure such as hospitals, transportation, physicians, professional services, and necessary supplies.

b. If a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the residential home may be reopened.

7. Before reopening at its licensed location, the residential home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

8. Before reopening, the residential home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

9. If it is necessary for a residential home to temporarily relocate beds and/or increase in the number of beds in the home as a result of a declared disaster, the residential home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Subparagraphs 10.a.-b.

10. The permanent relocation of residential home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

a. the new location has either the same number or fewer of the previously licensed beds; and

b. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Interested persons may submit written comments to Jerry Phillips, 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

0601#071

DECLARATION OF EMERGENCY

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 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 adopt the revised provisions governing the

administration of the Mental Health Rehabilitation (MHR) Program (*Louisiana Register*, Volume 31, Number 5). The bureau subsequently promulgated an Emergency Rule to delay the implementation of the provisions contained in the May 20, 2005 Rule and rescinded the language prohibiting the provision of certain mental health rehabilitation services to children and adolescents in the custody of the Office of Community Services or the Office of Youth Services (*Louisiana Register*, Volume 31, Number 6). The May 20, 2005 Rule was further amended to adopt revised medical necessity criteria for mental health rehabilitation services and to clarify Medicaid policy governing provision of services in off-site locations and staffing requirements (*Louisiana Register*, Volume 31, Number 8). This Emergency Rule is being promulgated to continue provisions contained in the June 1, 2005 and August 1, 2005 Emergency Rules. This action is being taken to promote the health and well being of Medicaid recipients who are receiving mental health rehabilitation services by assuring continuity of services during the transition period to the restructured Mental Health Rehabilitation Program.

Effective January 28, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the May 20, 2005 Rule to adopt revised medical necessity criteria for mental health rehabilitation services, to clarify Medicaid policy governing provision of services in off-site locations and staffing requirements and rescinds the language prohibiting the provision of certain mental health rehabilitation services to children and adolescents in the custody of the Office of Community Services or the Office of Youth Services.

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:

§103. Definitions and Acronyms

* * *

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 site 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.

* * *

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:

§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:

Chapter 3. Covered Services and Staffing Requirements

Subchapter A. Service Delivery

§301. Introduction

A. - B. …

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:

Subchapter B. Mandatory Services

§311. Assessment

A. - B.1. …

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 Office of Mental Health (OMH); and

c. sign and date the assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 32:

§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 Individualized Service Recovery Plan (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. …

C. Service Exclusions. This service may not be combined on an ISRP with Parent/Family Intervention (Intensive). 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:

§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.1 - 2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31: 1084 (May 2005), amended LR 32:

§321. Individual Intervention/Supportive Counseling

A. Individual intervention and supportive counseling are verbal interactions between the counselor therapist and the recipient receiving services that are brief, face-to-face, and structured. Individual intervention (child) and supportive counseling (adult) are services provided to eliminate the psychosocial barriers that impede the skills necessary to function in the community.

A.1 - B.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1084 (May 2005), amended LR 32:

§323. Parent/Family Intervention (Counseling)

A. - C.4. …

D. Service Exclusion. This service may not be combined on a service agreement with Parent/Family Intervention (Intensive).

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 31:1084 (May 2005), amended LR 32:

§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 to gain 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. Service Exclusions. This service may not be combined on a service agreement with the following services:

1. Parent/Family Intervention (Intensive); or
2. Psychosocial Skills Training-Group (Adult).

D. …

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:

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. This service is comprehensive and inclusive of certain other rehabilitative services as noted in the "Services Exclusions" sections of those services.

B. - B.3. …

C. Service Exclusions. This service may not be combined on a service agreement with the following services:

1. Community Support;
2. Psychosocial Skills Training-Group (Adult);
3. Psychosocial Skills Training-Group (Youth);
4. Individual Intervention/Supportive Counseling;
   a. an exception may be considered for a recipient with unique needs;
5. Group Counseling; or
6. Parent/Family Intervention (Counseling).

D. …

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:

§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. - D. …

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:

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 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 assessment shall be based on current circumstances (within 30 days) and face-to-face interviews 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 30-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. For authorization and reauthorization requests received on or after August 1, 2005, lengths of stay in the MHR Program beyond 270 days (nine months) shall be independently reviewed by the bureau or its designee for reconsideration of appropriateness, efficacy, and medical necessity for continuation of MHR services.

F. 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 31:1086 (May 2005), amended LR 32:

§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:

§505. Child/Adolescent Criteria for Services

A. In order to qualify for MHR services, Medicaid recipients age 17 or younger must meet all of 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 a year 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:

§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:

§509. Discharge Criteria

A. Discharge planning must be initiated and documented for all recipients at time of admission to MHR services. For those recipients who are receiving MHR services as of July 31, 2005, discharge planning must be initiated and documented prior to the end of the then current 90 day service plan. 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 despite attempts to address barriers to treatment;

4. consent for treatment has been withdrawn;

5. supportive systems that allow the recipient to be maintained in a less restrictive treatment environment have been arranged; or

6. the recipient receives three successive scores within level three or less on the CALOCUS/LOCUS. If this situation occurs, the provider shall implement a written discharge plan which includes a plan for the arrangement of services required to transition the recipient to a lower level of care within the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§701. Provider Enrollment Moratorium

A. …

B. Exception. MHR providers may be allowed to enroll and obtain a new Medicaid provider number for existing satellite offices. In order to obtain a provider number for a satellite office, the MHR provider must have disclosed the satellite office to DHH before August 20, 2004. The MHR provider must provide clear and convincing proof, in the discretion of the department, that any listed satellite office or off-site location was operational prior to the moratorium.

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:

§703. Application

A. To be certified or recertified as a mental health rehabilitation provider requires that the provisions of this Subpart 1, the provider manual, and the appropriate statutes are met. A prospective provider who elects to provide MHR services shall apply to the Bureau of Health Service Financing or its designee for certification. The prospective provider shall create and maintain documents to substantiate that the provider meets all prerequisites in order to qualify as a Medicaid provider of MHR services.

B.1 - 10.…

11. proof of an adult day care license issued by the Department of Social Services or its successor when psychosocial skills training for adults is offered by the MHR provider. All licenses and certificates shall be in the name of the MHR provider and shall contain the provider's correct name and address;

B.12. - 14. …

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. Satellite

offices or off-site locations must have been operational before August 20, 2004 or they will not be allowed to provide MHR services after August 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1086 (May 2005), amended LR 32:

§705. Application and Site Reviews

A. A prospective MHR provider shall undergo one or more reviews by BHSF or its designee before certification:

1. an application review;
2. a first site review; and if necessary
3. a second site review.

B. BHSF or its designee will conduct a review of all application documents for compliance with MHR requirements. If the documentation is approved, the applicant will be notified and an appointment will be scheduled for a first site review of the prospective MHR provider's physical location. If the first site review is successful, the certification request will be approved and forwarded to Provider Enrollment for further processing.

C. If the application documentation furnished by the prospective MHR provider is not acceptable, a meeting will be scheduled to discuss the deficiencies. The applicant has 30 days to correct the documentation deficiencies and to request a site visit at their physical location.

1. If the prospective MHR provider requests a site visit in a timely manner, a site review of their physical location will be scheduled. At the onsite review, BHSF or its designee will review the corrected documents and make an assessment of the physical location. If the prospective provider has corrected the application document deficiencies and the physical location is deemed acceptable and sufficient to operate as a mental health rehabilitation provider, BHSF or its designee will approve the certification request and forward the necessary paperwork to provider enrollment for further processing.

C.2. - 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:

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.

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 improvement procedure (QIP) plan 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 shall 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. Each office shall contain office equipment and furnishings requisite to providing MHR services including, but not limited to, computers, facsimile machines, telephones and lockable file cabinets. Offices shall be located in a separate building from the residence of the MHR provider's owner.

1. 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.

2. 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.

3. Every location where services are provided shall be established with the intent to promote growth and development, client confidentiality, and safety.

4. 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 service planning 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.

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:

§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. …

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:

§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 Drug Enforcement Administration (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 continuing education units (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 *a*n 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.

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:

Subchapter D. Records

§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 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.

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:

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

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

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

0601#066

DECLARATION OF EMERGENCY

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

Nursing Facility Minimum Licensing Standards
Emergency Preparedness (LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. 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 adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1). The

January 20, 1998 Rule was amended by Emergency Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 31, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of nursing facilities that have been evacuated as a result of declared disasters or other emergencies.

Effective February 16, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the January 20, 1998 Rule governing emergency preparedness requirements for nursing facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. As a minimum, the nursing facility shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the nursing facility or to another location;

2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family or responsible representative if the resident is evacuated to another location.

C. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The nursing facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the planned drill.

D. The nursing facility's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards in the areas of the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the nursing facility may be reopened.

G.1. Before reopening at its licensed location, the nursing facility must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the nursing facility must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:49 (January 1998), amended LR 32:

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

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

0601#070

DECLARATION OF EMERGENCY

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

Outpatient Hospitals—Private Hospitals
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session of the Louisiana Legislature, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in January 1996 which established a uniform reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 22, Number 1). The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the state General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals and out-of-state hospitals. The reimbursement amount will be reduced for the following outpatient services: laboratory services, rehabilitation services, surgical services, clinic services and cost based services. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) are excluded from this reimbursement reduction. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $8,003,083 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the Federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Emergency Rule

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private (non-state) acute hospitals and out-of-state hospitals for the following outpatient services: laboratory services, rehabilitation services, surgical services, clinic services and cost-based services. The reimbursement rate on file as of December 31, 2005 shall be reduced by 12.3 percent. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction.

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

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

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

0601#056

DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:VII.1305 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session of the Louisiana Legislature, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule establishing a system of prospective payment for nursing facilities, based on recipient care needs, that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register,* Volume 28, Number 6).

The governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget unit by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the state General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session, the department proposes to reduce Medicaid prospective per diem rates for private nursing facilities. This action is being taken in order to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this Emergency Rule will reduce expenditures to private nursing facilities by approximately $26,642,934 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement rates paid for services provided by private nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care Services
Subpart 1. Nursing Facilities
Chapter 13. Reimbursement
§1305. Rate Determination

A. - D.5. ...

E. Effective for dates of service on or after January 1, 2006, the reimbursement rate on file as of December 31, 2005 shall be reduced by 10.4 percent for services provided by private nursing facilities.

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

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

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

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

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

0601#057

DECLARATION OF EMERGENCY

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

Professional Services Program
Anesthesia Services—Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule under the Medical Assistance Program as authorized by 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for anesthesia services under the Medicaid Program. The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates paid to certified registered nurse anesthetists (CRNA's) for anesthesia services provided to Medicaid recipients (*Louisiana Register,* Volume 31, Number 12). The bureau now proposes to repeal the provisions of the December 20, 2005 Emergency Rule and adopts provisions to include a rate reduction in the fee amounts as well as the formula calculations used to determine the reimbursement paid to

CRNA's. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $278,011 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the Federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the December 20, 2005 Emergency Rule which reduced the reimbursement amount paid to certified registered nurse anesthetists for anesthesia services to 10 percent of fee amounts on file as of December 31, 2005. Effective for dates of service on or after January 20, 2006, the fee on file and formula calculations as of January 19, 2006 for certified registered nurse anesthetists' services shall be reduced by 10 percent.

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

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

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

0601#061

DECLARATION OF EMERGENCY

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

Professional Services Program
Physician Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule under the Medical Assistance Program as authorized by 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPC). Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay.

The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates for physician services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures for physician services by approximately $16,648,086 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Emergency Rule

Effective for dates of service on or after January 1, 2006 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for physician services.

A. Pediatric medical and surgical services payable with a fee greater than 100 percent of the Medicare Region 99 allowable for 2005 will be reduced to 100 percent of the Medicare Region 99 allowable for 2005.

B. Evaluation and management services and all other medical and surgical services payable with a fee greater than 90 percent of the Medicare Region 99 allowable for 2005 will be reduced to 90 percent of the Medicare Region 99 allowable for 2005 except for the following services:

1. Anesthesia,
2. Maternity,
3. Immunization,
4. Medical screenings,
5. Vision screenings,
6. Hearing screenings, and

7. Physician supplied pharmaceuticals and medical devices or implants.

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

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

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

0601#005

DECLARATION OF EMERGENCY

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

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

Editor's Note: This Emergency Rule, originally promulgated in the December 20, 2005 edition of the Louisiana Register on page 3040, is being repromulgated for corrections.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing amends LAC 50:XV.10701 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for targeted case management services rendered to the following targeted populations: Infants and Toddlers, Nurse Family Partnership, Early and Periodic Screening, Diagnosis and Treatment (EPSDT), Mentally Retarded/Developmentally Disabled (MR/DD), HIV Disabled, and Elderly and Disabled Adult Waiver recipients. Reimbursement for these services is a fixed monthly rate for the provision of core elements of case management services.

The governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the State General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rate for targeted case management services provided to certain targeted populations. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $329,022 for state fiscal year 2005-2006.

Pursuant to Section 11 of Act 67 and the Deficit Reduction Omnibus Reconciliation Act of 2005, in the event that the federal government increases some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006, the department shall restore the reductions in Medicaid reimbursement methodologies implemented in response to the decrease in the budget for Medical Vendor Payments. To the extent feasible and allowable by the federal Centers for Medicare and Medicaid Services, these restorations shall be retroactive to the day of implementation.

Effective for dates of service on or after January 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement rates for targeted case management services.

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

Chapter 107. Reimbursement

§10701. Reimbursement

A. - C. …

D. Effective for dates of service on or after January 1, 2006, the reimbursement rate on file as of December 31, 2005 for targeted case management services shall be reduced by 3.8 percent for the following targeted populations: Nurse Family Partnership, Infants and Toddlers, HIV Disabled, MR/DD and EPSDT Targeted Population.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 32:

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

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

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

0601#062

DECLARATION OF EMERGENCY

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

Third Party Liability
Data Match with Insurance Carriers
(LAC 50:I.8333)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:I.8333 in the Medical Assistance Program as authorized by R.S. 36:254 and 44:14, and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 866 of the 1986 Regular Session of the Louisiana Legislature required every person authorized to issue a hospital or medical expense policy, a hospital or medical service contract, an employee welfare benefit plan, a health and accident insurance policy, or any other insurance contract of this type to provide the Department of Health and Hospitals (DHH) a monthly list of information on their insureds so the department could determine if any insured received services administered by the department, and on whose behalf, the department may be entitled to receive insurance benefits.

In compliance with the directives of Act 866, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions requiring insurance companies to provide information on their insureds monthly. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $487,195 for state fiscal year 2005-2006.

Effective January 1, 2006, the Department of Health and Hospitals, Bureau of Health Services Financing will require insurance companies to provide information on their insureds monthly so the department can determine if any insured received services administered by the department, and on whose behalf, the department may be entitled to receive insurance benefits.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 9. Recovery
Chapter 83. Third Party Liability
Subchapter C. Data Match with Insurance Carriers
§8333. General Provisions

A. All insurance companies authorized to issue a hospital or medical expense policy, a hospital or medical service contract, an employee welfare benefit plan, a health and accident insurance policy, or any other insurance contract of this type in this state shall provide a monthly list of information to the Department of Health and Hospitals on all members who hold a comprehensive health contract.

B. The payor shall submit to DHH an initial, secure, encrypted electronic file of all members who hold comprehensive health contracts with:

1. effective dates as of the date of promulgation of this Subchapter C; and
2. processed dates before that same date.

C. The department shall treat all data in a confidential manner and protect it in accordance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 privacy and security rules. Further, the department shall, in a manner compliant with the HIPAA privacy and security rules, return or destroy all copies of the payor's data immediately following the match process.

D. The department shall provide a standard protocol in accordance with nationally accepted standards, and in a manner compliant with the Health Insurance Portability and Accountability Act of 1966, by which the electronic file shall be transmitted between DHH and the payor.

E. The provisions of this §8333 shall not apply to any insured whose indemnity policy benefits pay less than $25 a day in hospital or medical benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 44:14 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

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

0601#017

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Rule 22—Alternative Procedures for the Resolution of Disputed Residential Insurance Claims Arising from Hurricane Damage Specific Reasons for Finding an Immediate Danger to the Public Health, Safety or Welfare
(LAC 37:XI.Chapter 41)

The Department of Insurance (Department) hereby states that the following circumstances constitute an immediate danger to the public health, safety, or welfare: The 2005 hurricane season has been particularly destructive for Louisiana. Catastrophic damage in southeast and central Louisiana was caused by Hurricane Katrina on August 29 when it hit the New Orleans and surrounding areas particularly hard including Plaquemines and St. Bernard parishes as a category 3 hurricane with sustained winds of 130 miles per hour. Hurricane Katrina caused widespread major damage to homes, loss of personal belongings and corresponding temporary loss of employment.

On September 24, 2005, Hurricane Rita hit the Cameron Parish area of Louisiana's southwest coast as a category 3

hurricane, causing extensive and wide spread damage. The Governor of Louisiana declared a state of emergency (Proclamation No. 48 KKB 2005 and Proclamation No. 53 KKB 2005) due to the effects of Hurricanes Katrina and Rita, respectively. The President of the United States has declared designated parishes of Louisiana a federal disaster area by issuing FEMA-1603-DR and FEMA-1607-DR for Katrina and Rita, respectively.

The total cost of property losses resulting from the combination of storms has been estimated to be in the tens of billions of dollars. This Emergency Rule complies with Code Title XIX, Alternative Dispute Resolution, particularly Chapter 1, The Louisiana Mediation Act, R.S. 9:4101 et seq., by setting forth a non-adversarial alternative dispute resolution procedure for a facilitated claim resolution conference prompted by the critical need for effective, fair, and timely handling of personal lines insurance claims arising out of damages to property caused by these two hurricanes during the 2005 hurricane season.

As of the effective date of this Emergency Rule, it is conservatively estimated that hundreds of thousands of residential property claims remain unresolved and repairs have not been completed. Many of these claims remain unresolved as a result of disputes regarding costs of labor and materials needed to effectuate repairs. Due to the unprecedented extent of damage, in many instances materials and labor necessary to effectuate repairs have not been readily available and there have been disparities between the estimates of insurers and repair contractors.

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

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

This Emergency Rule establishes a special mediation program for personal lines residential insurance claims resulting from Hurricanes Katrina and Rita. The Rule creates procedures for notice of the right to mediation, request for mediation, assignment of mediators, payment for mediation, conduct of mediation, and guidelines for the quality repair of residential property damage. This Emergency Rule was adopted at Baton Rouge, LA, on December 22, 2005.

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

Title 37
INSURANCE
Part XI. Rules

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

§4101. Authority

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4103. Purpose and Scope

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4105. Definitions

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4107. Notification of Right to Mediate

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

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

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

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

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

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

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

C. The notice shall also:

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

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

3. state that the administrator will select the mediator.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4109. Request for Mediation

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

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

C. If an insurer receives a request for mediation, the insurer shall fax the request to the mediation administrator within three business days of receipt of the request. Should the department receive any requests, it will forward those requests to the administrator within three business days following the receipt. The administrator shall notify the insurer within 48 hours of receipt of requests filed with the department. The insured should provide the following information if known:

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

2. the claim and policy number for the insured;

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4111. Mediation Costs

A. All mediation costs shall be borne by the insurer. The following costs apply:

1. $525 for property located in Orleans, St. Bernard, Plaquemines, or Cameron Parishes;

2. $350 for property located in all other parishes.

B. Within five days of receipt of the request for mediation from the insured or receipt of notice of the request from the department or immediately after receipt of notice from the administrator pursuant to §4009 that mediation has been requested, whichever occurs first, the insurer shall pay a non-refundable administrative fee, not to exceed $100 as

determined by the department, to the administrator to defer the expenses of the administrator and the department.

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

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

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

C. Due to the devastation perpetrated on the court systems in Orleans, St. Bernard, Plaquemines, and Cameron parishes, mediations related to property located therein will be subject to a surcharge of $175. These funds will be used to offset the loss of court filing fees normally associated with these types of matters and will be forwarded to the appropriate parish; whereupon the Clerk of Court for the receiving parish shall distribute the funds in the same manner as new suit filing fees were ordinarily distributed prior to the hurricanes.

1. For mediations related to property in those parishes, the administrator will collect the additional $175 not later than five days prior to the date scheduled for the mediation conference.

2. The administrator shall make the appropriate entries concerning receipt of the funds and shall then forward the funds to the Clerk of Court for the parish wherein the affected property is located.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4113. Scheduling of Mediation

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4115. Conduct of the Mediation Conference

A. R.S. 9:4101.C.(4) provides *mediation* is a procedure in which a mediator facilitates communication between the parties concerning the matters in dispute and explores possible solutions to promote reconciliation, understanding, and settlement. As such, it is not necessary to involve a private attorney and participation by private attorneys is discouraged by the department. However:

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

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

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

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

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

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

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

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

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

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

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

1. Each party will be given an opportunity to present their side of the controversy. In so doing, parties may utilize any relevant documents and may bring any individuals with knowledge of the issues, such as adjusters, appraisers, or contractors, to address the mediator.

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

3. All statements made and documents produced at a settlement conference shall be deemed settlement

negotiations in anticipation of litigation. The provisions of R.S. 9:4112 apply.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4119. Post Mediation

A. Within 5 days of the conclusion of the conference the mediator shall file with the administrator a mediator's status report on Form DOI-HM-1 which is entitled *Disposition of Property Insurance Mediation Conference*, indicating whether or not the parties reached a settlement. Form DOI-HM-1 will be available from the administrator and is hereby incorporated in this rule by reference.

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4121. Non-Participation in Mediation Program

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4123. Departmental Authority to Designate

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4125. Severability

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4127. Applicable Provisions

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

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

J. Robert Wooley
Commissioner

0601#019

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Rule 23—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential or Commercial Property Insurance Due to Hurricane Katrina or Hurricane Rita (LAC 37:XI.Chapter 43)

Emergency Rule 23 is issued pursuant to the plenary authority of the Commissioner of Insurance for the state of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency relative to Hurricane Katrina; Proclamation No. 53 KBB 2005 issued on September 20, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency relative to Hurricane Rita; Executive Order No. KBB 05-70 issued October 24, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:636; R.S. 22:636.2; R.S. 22:636.4; R.S. 22:636.6; R.S. 22:1214.(12) and (14); R.S. 22:1471; and R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared the existence of a State of Emergency with the state of Louisiana caused by Hurricane Katrina. This State of Emergency has extended from Friday, August 26, 2005 through at least January 23, 2006 as per Proclamation No. 75 KBB 2005. Subsequently, on September 20, 2005, Governor Kathleen Babineaux Blanco declared the existence of a State of Emergency within the state of Louisiana caused by Hurricane Rita. This State of Emergency has extended from Tuesday, September 20, 2005 through at least January 23, 2006 as per Proclamation No. 74 KBB 2005.

Thousands of Louisiana citizens have suffered damage due to Hurricane Katrina and/or Hurricane Rita. The residential property and commercial property of many Louisiana citizens was severely damaged or destroyed. Insurers have been working diligently to adjust and pay claims. However, due to a shortage of building materials, contractors and construction workers many policyholders who have received, or will soon receive, claim payments from insurers will find that they are unable to repair or reconstruct their residential, commercial residential or commercial property within normal time frames. In many places it could be months or years before residential, commercial residential or commercial property located in Louisiana and damaged by Hurricane Katrina and/or Hurricane Rita can be repaired or reconstructed.

This inordinate time period to repair or reconstruct residential, commercial residential or commercial property will affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential or commercial property insurance. Hurricane Katrina and Hurricane Rita have created a mass disruption to the normalcy previously enjoyed by Louisianians to maintain or obtain personal residential, commercial residential or commercial property insurance for residential property or commercial property and has created an immediate threat to the public health, safety, and welfare of Louisiana citizens.

Additionally, sufficient time is needed for the Louisiana Citizens Property Insurance Corporation to prepare and place on the open market insurance products that, in the opinion of the commissioner, will provide adequate residential property, commercial residential property and commercial property insurance to Louisiana citizens subsequent to Hurricane Katrina and Hurricane Rita.

The commissioner will be hindered in the proper performance of the duties and responsibilities regarding the referenced States of Emergency without the authority to suspend and/or enforce certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation and nonrenewal with regard to all personal residential, commercial residential or commercial property insurance subject to the Louisiana Insurance Code.

In light of this, Emergency Rule 23 is adopted and shall apply to all insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner, regarding any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, all surplus lines insurance, and any and all other insurance related entities doing business in Louisiana and/or regulated by the commissioner.

Emergency Rule 23 is applicable statewide to any and all insureds who filed or have a claim against an insurer for any damage caused by Hurricane Katrina or its aftermath, or Hurricane Rita or its aftermath.

Emergency Rule 23 is applicable statewide to any insured who had a personal residential, commercial residential or commercial property insurance policy covering a dwelling, residential property or commercial property located in Louisiana if said policy of insurance was in effect as of 12:01 a.m. on August 26, 2005 with regard to a claim filed as a result of any damage caused by Hurricane Katrina or its aftermath, or if said policy of insurance was in effect as of 12:01 a.m. on September 20, 2005 with regard to a claim filed as a result of any damage caused by Hurricane Rita or its aftermath. This Emergency Rule was adopted on December 30, 2005.

Title 37
INSURANCE
Part XI. Rules

Chapter43. Rule 23—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential or Commercial Property Insurance Due to Hurricane Katrina or Hurricane Rita

§4301. Benefits, Entitlements and Protections

A. The benefits, entitlements and protections of Emergency Rule 23 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005 had a personal residential, commercial residential or commercial property insurance policy for a dwelling, residential property or commercial property located in Louisiana and who filed a claim as a result of any damage caused by Hurricane Katrina or its aftermath. The benefits, entitlements and protections of Emergency Rule 23 shall also be applicable to insureds who, as of 12:01 a.m. on September 20, 2005 had a personal residential, commercial residential or commercial property insurance policy for a dwelling, residential property or commercial property located in Louisiana and who filed a claim as a result of any damage caused by Hurricane Rita or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4303. Application

A. Emergency Rule 23 shall apply to any and all types of personal residential, commercial residential or commercial property insurance covering a dwelling, residential property or commercial property located in Louisiana that sustained damage as a result of Hurricane Katrina or its aftermath, or Hurricane Rita or its aftermath, including, but not limited to, any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, and any and all other insurance regulated by the commissioner that falls within the intent and purpose of Emergency Rule 23.

B. Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in §4303.A above, shall be suspended and shall be unenforceable to the extent that said statutory or regulatory provision, or policy provision, authorizes an insurer to cancel or nonrenew said policy of insurance. The right to cancel or nonrenew said policy of insurance shall be limited to the specific exceptions set forth in Section 4307.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4305. Cancellation or Nonrenewal Suspended

A. The right of any insurer, surplus lines insurer or any other entity regulated by the commissioner to cancel or nonrenew any personal residential, commercial residential or commercial property insurance policy covering a dwelling, residential property or commercial property located in Louisiana that sustained damaged as a result of Hurricane Katrina or its aftermath, or Hurricane Rita or its aftermath, is suspended and shall be prohibited until 60 days after the substantial completion of the repair and/or reconstruction of the dwelling, residential property or commercial property, except for the specific exceptions set forth in §4307, or until Emergency Rule 23 is terminated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4307. Limited Exceptions for Cancellation or Nonrenewal

A. An insurer or surplus lines insurer or any other entity regulated by the commissioner shall only have the right to cancel or nonrenew an insured for the following limited exceptions:

1. non-payment of the premium after providing the insured with the notice of cancellation in accordance with the applicable statutory time period mandated by the Louisiana Insurance Code for that type of insurance;
2. fraud or material misrepresentation related to the Hurricane Katrina or Hurricane Rita claim, but only after the insurer has provided the insured with a 60-day written notice of cancellation setting forth the specifics with regard to the alleged fraud or material misrepresentation;
3. the insured causes an unreasonable delay in the repair or reconstruction of the dwelling, residential property or commercial property, but only after the insurer has provided the insured with a 60-day written notice of cancellation setting forth the specifics with regard to the insureds unreasonable delay with regard to the repair or reconstruction;
4. the insured has been paid the full policy limits and the insured has evidenced the intent to not repair or reconstruct the dwelling, residential property or commercial property;
5. the insured has not been paid the full policy limits but the insured has evidenced the clear intent to not repair or reconstruct the dwelling, residential property or commercial property;
6. the insured violates a material provision of the policy, including, but not limited to, performing illegal activity or failing, without just cause, to make reasonable efforts to protect the insured dwelling, residential property or commercial property that results in an increased risk to the material detriment of the insurer.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4309. New Policies

A. New policies of insurance issued after January 1, 2006, covering a dwelling, residential property or commercial property located in Louisiana shall not be affected by Emergency Rule 23.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4311. Written Request for Cancellation or Non-renewal by Insured

A. Nothing contained in Emergency Rule 23 shall prevent or prohibit an insured from voluntarily cancelling or nonrenewing the insured's policy of insurance covering a dwelling, residential property or commercial property located in Louisiana.

B. Nothing contained in Emergency Rule 23 shall prevent or prohibit an insured from voluntarily entering into an agreement with an insurer to modify the coverage, limits, terms, endorsements, exclusions or deductibles with regard to the insured's policy of insurance covering a dwelling, residential property or commercial property located in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4313. Insured's Obligation

A. The insured is obligated to exercise good faith with regard to undertaking the repairs or reconstruction of the dwelling or residential property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4315. Insurer's Obligation

A. The insurer or surplus lines insurer or any other entity regulated by the commissioner is obligated to provide the insured with sufficient time to effectuate the repairs or reconstruction to the dwelling or residential property and to recognize the inordinate conditions that exist in the state of Louisiana with regard to the ability of the insured to engage a contractor, engage construction workers, obtain materials and otherwise undertake to accomplish the necessary repairs or reconstruction of the dwelling, residential property or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4317. Commissioner's Jurisdiction over Modifications to Renewal Provisions

A. An insurer may submit to the commissioner, for his approval, a written Modified Renewal Plan that would allow for significant or substantive modifications to an underlying policy of insurance set forth in §4303.A that is subject to Emergency Rule 23.

B. The Modified Renewal Plan submitted by the insurer shall, at a minimum, provide the following information to the commissioner.

1. The reasons why the insurer believes that compliance with Emergency Rule 23 would cause a hardship or create an undue or unreasonable burden on the insurer's ability to operate in Louisiana.

2. A detailed explanation as to how the proposed modifications to the underlying policy would continue to provide appropriate insurance protection to the insured.

3. The anticipated amount of the financial hardship that may be imposed upon the insurer if the insurer were required to comply with Emergency Rule 23.

4. An unequivocal statement to the commissioner as to whether or not the insurer will continue to provide said insurance coverage in Louisiana over the next 24 month period.

C. If the commissioner determines that it would be in the best interests of the insureds of Louisiana to permit the modifications requested by the insurer, the commissioner may approve the insurer's Modified Renewal Plan.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4319. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 23 upon the written request by the insurer if the commissioner determines that compliance with Emergency Rule 23 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4321. Purpose and Intent

A. The provisions of Emergency Rule 23 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana who desire to maintain or obtain personal residential, commercial residential or commercial property insurance for a dwelling, residential property or commercial property located in Louisiana.

B. The additional purpose and intent of Emergency Rule 23 is to provide sufficient time for the Louisiana Citizens Property Insurance Corporation to prepare and place on the open market insurance products that, in the opinion of the commissioner, will provide adequate residential property, commercial residential property and commercial property insurance to Louisiana citizens subsequent to Hurricane Katrina and Hurricane Rita.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4323. Rule Amendment

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 23.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4325. Severability Clause

A. If any section or provision of Emergency Rule 23 that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 23, to any persons or circumstances that can be given effect without the invalid sections or provisions

and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4327. Effective Date

A. Emergency Rule 23 shall become effective on December 30, 2005.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§4329. Termination Date

A. Emergency Rule 23 shall terminate on the earlier of either:

1. sixty days after the substantial completion the repair or reconstruction of the dwelling, residential property or commercial property covered by a policy of insurance that is the subject of Emergency Rule 23; or
2. December 31, 2006.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. KBB 05-70; R.S. 29:724; R.S. 29:766: R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

J. Robert Wooley
Commissioner

0601#026

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Analysis of Breath
Maintenance Inspection for Intoxilyzer 5000
(LAC 55:I.515)

The Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit has adopted the following Emergency Rule amendment in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule was initially adopted on September 02, 2005 and was published in the September 20, 2005 issue of the Louisiana Register. It is necessary to readopt the Emergency Rule. There is no lapse in the application of the Emergency Rule which will remain in effect for the next 120 days from December 09, 2005 or until adoption of the final Rule, whichever comes first. The Notice of Intent to adopt said Rule was published in the October 20, 2005 issue of the Louisiana Register.

As a result of the widespread damage caused by Hurricane Katrina, the department is unable to conduct the inspections necessary to recertify the Intoxilyzer 5000 machines, particularly those located in the parishes of southeast Louisiana, whose recertification anniversary dates fall within the upcoming weeks. It is necessary for the department to promulgate a rule amendment in order to extend the current period of certification for these Intoxilyzer 5000 machines by an additional 180 days. The additional period of time will allow the department to take necessary measures to ensure that each Intoxilyzer 5000 receives the required recertification inspection and any necessary maintenance before the current period expires. Failure to immediately adopt an administrative rule amendment extending the current certification period will leave those law enforcement agencies whose Intoxilyzer 5000 machines' recertification anniversary date passes without a certified Intoxilyzer 5000 and will seriously impair the enforcement and successful prosecution of state law for driving under the influence of alcohol. The department expressly declares that the ineffective enforcement and unsuccessful prosecution of individuals who violate state law by driving under the influence of alcohol poses a public safety hazard to the citizens of the state of Louisiana who utilize its public highways and roadways.

Title 55
PUBLIC SAFETY
Part 1. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath

§515. Maintenance Inspection for the Intoxilyzer 5000

A. Maintenance inspection shall be performed on a routine basis at least once every four months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist. Items to be inspected shall include, but not be limited to the following:

1. clean instrument;
2. running of a known alcohol value thereby checking the instrument and calibration. Results shall be within plus or minus 0.010 grams percent of the known alcohol value;
3. insure that the instrument is locked;
4. check printer to see if it is printing out properly;
5. check breath tube inlet hose;
6. in event repair work is needed, it shall be recorded in detail.

B. Those Intoxilyzer 5000 machines whose current four month certification period ends between September 2, 2005 and December 31, 2005 shall have an extended certification period and shall not be due for recertification maintenance inspection until an additional 180 days after the current recertification anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:391 (October 1978), LR 11:259 (March 1985), LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:

Stephen Hymel
Undersecretary

0601#002

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Analysis of Breath—Operator Certification (LAC 55:I.509)

The Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit has adopted the following Emergency Rule amendment in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule was initially adopted on September 02, 2005 and was published in the September 20, 2005 issue of the Louisiana Register. It is necessary to readopt the Emergency Rule. There is no lapse in the application of the Emergency Rule which will remain in effect for the next 120 days from December 09, 2005 or until adoption of the final Rule, whichever comes first.

As a result of the widespread damage caused by Hurricane Katrina, the department is unable to recertify those law enforcement officers, particularly those located in the parishes of southeast Louisiana, whose training certification on the use and operation of the Intoxilyzer 5000 will expire in the upcoming weeks. It is necessary for the department to promulgate a rule amendment in order to extend the current period of certification for these law enforcement officers by pushing back the expiration date of the certification by 180 days. The additional period of time will allow the department to take necessary measures to ensure that each officer receives the required recertification training before the current period expires. Failure to immediately adopt an administrative rule amendment extending the current certification period will leave those law enforcement officers whose certification period expires without the ability to operate the Intoxylizer 5000 and will seriously impair the enforcement and successful prosecution of state law for driving under the influence of alcohol. The department expressly declares that the ineffective enforcement and unsuccessful prosecution of individuals who violate state law by driving under the influence of alcohol poses a public safety hazard to the citizens of the state of Louisiana who utilize its public highways and roadways.

Title 55
PUBLIC SAFETY
Part 1. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§509. Permits

A. Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

1. Operator's Certification

a. Operators shall be certified for a period of two years following successful completion of the 16-hour operator's training course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

b. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

2. Breath Alcohol Testing Field Supervisors. Breath alcohol testing field supervisors shall be certified for a period of two years.

3. Instructors. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the applied technology director.

4. Maintenance. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

B. Those permits with expiration dates between September 02, 2005 and December 31, 2005 are extended and shall be valid for an additional 180 days from the current listed date of expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended by LR 27:1931 (November 2001), amended by Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:

Stephen Hymel
Undersecretary

0601#001

DECLARATION OF EMERGENCY

Department of Revenue
Policy Services Division

Presidential Disaster Relief Credits
(LAC 61:I.601)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish Rules, R.S. 47:295 and R.S. 47:1511, which allow the department to make reasonable rules and regulations, the Secretary of Revenue hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective January 20, 2006, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to allow the secretary to determine which federal credits are disaster relief credits pursuant to the Katrina Emergency Tax Relief Act of 2005

and the Gulf Opportunity Zone Act of 2005, which will be to claimed on 2005 Louisiana income tax returns. A delay in promulgating this Rule would have an adverse impact on the taxpayers who are unaware of which federal credits will be disaster relief credits for 2005 Louisiana Income tax season.

During the fall of 2005, Hurricanes Katrina and Rita made landfall on the southern gulf coast of the United States causing certain areas of Louisiana, Alabama, Texas and Mississippi to be presidentially declared disaster areas. Consequently, the 2005 First Extraordinary Session of the Louisiana Legislature was called to address, among other matters, Louisiana income tax relief. In particular, Act 23 of the 2005 Extraordinary Session was passed to amend and reenact R.S. 47:287.85(C)(2) and R.S. 47:293(3) to provide that the Louisiana income tax deduction for federal income taxes paid shall not be reduced by the amount of federal disaster relief tax credits. Normally, when federal income tax liability is decreased by credits Louisiana income tax liability increases since Louisiana provides a deduction for federal income tax paid. This provision prevents Louisiana taxpayers from paying additional tax because they received federal disaster relief credits.

Act 23 further amends R.S. 47:293(3) to authorize the secretary to determine which federal credits are disaster relief credits and to promulgate rules and regulations pertaining to the disaster credits with the approval of the Senate Revenue and Fiscal Affairs Committee and the House Committee on Ways and Means jointly. Recently, Congress has passed the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, 119 Stat. 2016 (H.R. 3768) and the Gulf Opportunity Zone Act of 2005 (H.R.4440), which provide for certain federal income tax credits. The purpose of the proposed Rule is to declare these credits as disaster relief credits and to provide guidance regarding their applicability.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 6. Presidential Disaster Relief

§601. Presidential Disaster Relief Credits

A. Definitions

Gulf Opportunity Zone (GO Zone)—that portion of the Hurricane Katrina disaster area determined by the president to warrant individual or individual and public assistance from the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Hurricane Katrina Disaster Area—any area with respect to which a major disaster has been declared by the president before September 14, 2005, under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

Hurricane Katrina Employee—an individual who on August 28, 2005, has a principal place of abode in the GO Zone and is hired during the two year period beginning on such date for a position with the principal place of employment in the GO Zone or an individual who on August 28, 2005, had a principal place of abode in the GO Zone but was displaced from such abode due to Hurricane Katrina and is hired during the period beginning on such date and ending on December 31, 2005, without regard to whether the new principal place of employment is in the GO Zone.

Hurricane Katrina Employer—any employer that conducted an active trade or business on August 28, 2005, in the GO Zone and the employer's active trade or business must have been inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained due.

Hurricane Rita Disaster Area—any area with respect to which a major disaster has been declared by the president before October 6, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Rita.

Hurricane Rita Employee—an individual who on September 23, 2005, has a principal place of abode in the Rita GO Zone but was displaced from such abode due to Hurricane Katrina and is hired during the period beginning on such date and ending on December 31, 2005, without regard to whether the new principal place of employment is in the Rita GO Zone.

Hurricane Rita Employer—any employer that conducted an active trade or business on September 23, 2005, in the Rita GO Zone and the employer's active trade or business must have been inoperable on any day after September 23, and before January 1, 2006, as a result of damage sustained due Hurricane Rita.

Rita Gulf Opportunity Zone (Rita GO Zone)—that portion of the Hurricane Rita disaster area determined by the president to warrant individual or individual and public assistance from the Federal Government under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Rita.

B. The Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, 119 Stat. 2016 (H.R. 3768) ("KETRA") and the Gulf Opportunity Zone Act of 2005 provides for the following federal income tax credits, which the secretary hereby declares as presidential disaster area disaster relief credits.

1. Employee Retention Credit

a. This is a new credit. It provides a credit of 40 percent of the qualified wages paid by an eligible employer to an eligible employee in the GO Zone or the Rita GO Zone. The wages are capped at $6,000. Thus, the maximum amount of the credit is $2,400 or 40 percent of $6,000.

b. GO Zone Qualified wages as defined in IRC 51(c)(1) are the wages paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, during the period when the trade or business first became inoperable and ending on the date on which the business resumed significant operations. Qualified wages include wages paid to an employee whether the employee performed the service, whether the service was performed elsewhere other than the principle place of employment or whether paid before significant operations have resumed.

c. Rita GO Zone qualified wages as defined in IRC 51(c)(1) are the wages paid or incurred by an eligible employer with respect to an eligible employee on any day after September 23, 2005, and before January 1, 2006, during the period when the trade or business first became inoperable and ending on the date on which the business resumed significant operations. Qualified wages include wages paid to an employee whether the employee performed

the service, whether the service was performed elsewhere other than the principle place of employment or whether paid before significant operations have resumed.

d. The secretary has determined that the employee retention credit is a federal disaster relief credit granted for Hurricanes Katrina and Rita presidential disaster areas.

2. Work Opportunity Credit

a. Pre Hurricane Katrina

i. The work opportunity credit is available on an elective basis to employers who employ individuals from one or more of eight target groups. The eight target groups are:

(a). families that receive benefits from the Temporary Assistance for Needy Families Program;

(b). high–risk youth;

(c). qualified ex-felons;

(d). vocational rehabilitation referrals;

(e). qualified summer youth employees;

(f). qualified veterans;

(g). families receiving food stamps; and

(h). persons receiving supplemental security income benefits.

ii. Certification is required for an individual to be treated as a member of a targeted group.

iii. The credit equals 40 percent of qualified first-year wages, which are capped at $6,000. The percentage decreases to 25 percent if the employee works less than 400 hours.

iv. This credit does not apply to rehires or wages paid to individuals who had previously been employed by the employer.

v. This credit expires December 31, 2005.

b. Post Hurricane Katrina

i. The KETRA Act provides that Hurricane Katrina employees are members of a targeted group for the purpose of the work opportunity credit.

ii. The certification requirement for Hurricane Katrina employees is waived.

iii. Wages paid to individuals who had previously been employed, which would normally not be included in qualified first year wages, are now included for Hurricane Katrina employee unless they were employed by the employer on August 28, 2005.

iv. The expiration date is waived for Hurricane Katrina employees.

v. The secretary has determined that the work opportunity credit, with respect to wages paid to Hurricane Katrina employees, is a federal disaster relief credit granted for the Hurricane Katrina presidential disaster areas.

3. Both the employee retention credit and the Katrina disaster relief portion of the work opportunity credit are part of the general business credit under IRC §38. If the general business credit is limited, the lesser of the amount equal to total disaster relief credits that are components of the general business credit or the general business credit will be allowed as disaster relief credits granted for the Hurricane Katrina presidential disaster areas or Hurricane Rita Disaster presidential disaster areas.

4. Employer-provided Housing Credit for Individuals affected by Hurricane Katrina

a. Definitions

Qualified Employee—with respect to a month, an individual who: (1) on August 28, 2005, had a principal residence in the Gulf Opportunity ("O") Zone; and (2) performs substantially all of his or her employment services in the GO Zone for the qualified employer furnishing the lodging.

Qualified Employer—any employer with a trade or business located in the GO Zone.

b. Pre-Hurricane Katrina—Employer-provided housing is includable in income as compensation pursuant to IRC §61.

c. Post-Hurricane Katrina

i. The Gulf Opportunity Zone Act of 2005 provides a temporary income exclusion for the value of in kind lodging for a month to a qualified employee by or on behalf of a qualified employer.

ii. The amount of the exclusion for any month can not exceed $600.

iii. The provision also permits a temporary credit to a qualified employer of 30 percent of the value of the lodging excluded from the income of a qualified employee. The amount taken as a credit is not deductible by the employer.

iv. The secretary has determined that the employer-provided housing credit, with respect to wages paid to Hurricane Katrina employees, is a federal disaster relief credit granted for the Hurricane Katrina presidential disaster areas.

5. Rehabilitation Tax Credit

a. Definitions

Certified Historic Structure—any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district.

Qualified Rehabilitated Building—a building that meets the following requirements: retention of existing external walls and internal structural framework of the building and a substantial rehabilitation requirement credit only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the taxable year exceed the greater of (1) the adjusted basis of the building (and its structural components), or (2) $5,000.

b. Pre-Hurricane Katrina—A 20 percent credit is provided for qualified rehabilitation expenditures with respect to certified historic structures. A 10 percent credit is also provided for qualified rehabilitation expenditure with respect with a qualified rehabilitation building placed in service before 1936.

c. Post-Hurricane Katrina

i. The Gulf Opportunity Zone Act of 2005 increases the 20 percent credit to 26 percent with respect to certified historic structures. The Act also increases the 10 percent credit to 13 percent for qualified rehabilitation buildings.

ii. The qualifying certified historic structures and qualified rehabilitation buildings must be located in the GO Zone.

iii. These expenditures must have been incurred with respect to such buildings on or after August 28, 2005, and before January 1, 2009.

iv. The secretary has determined that the increase in the rehabilitation tax credit, with respect to the rehabilitation of buildings is a federal disaster relief credit granted for the Hurricane Katrina presidential disaster areas.

6. Hope Scholarship and Lifetime Learning Credits

a. Pre-Hurricane Katrina

i. The hope scholarship credit is a nonrefundable credit of up to $1,500 per student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree or certificate program.

ii. The lifetime learning credit is equal to 20 percent of qualified tuition and related expenses incurred during the taxable year on behalf of the taxpayer, the taxpayer's spouse, or any dependents. Up to $10,000 of qualified tuition and related expenses per taxpayer return are eligible for the lifetime learning credit. A taxpayer may claim the lifetime learning credit for an unlimited number of taxable years.

iii. Both the hope scholarship and the lifetime learning credits are available for "qualified tuition and related expenses," which include tuition and fees (excluding nonacademic fees) required to be paid to an eligible educational institution as a condition of enrollment or attendance of a student at the institution. Charges and fees associated with meals, lodging, insurance, transportation, and similar personal, living or family expenses are not eligible for the credit. The expenses of education involving sports, games, or hobbies are not qualified tuition expenses unless this education is part of the student's degree program, or the education is undertaken to acquire or improve the job skills of the student.

b. Post-Hurricane Katrina

i. The provision temporarily expands the Hope Scholarship and Lifetime Learning credits for students attending an eligible education institution located in the Gulf Opportunity Zone.

ii. The hope scholarship credit is increased to 100 percent of the first $2,000 in qualified tuition and related expenses and 50 percent of the next $2,000 of qualified tuition and related expenses for a maximum credit of $3,000 per student.

iii. The lifetime learning credit rate is increased from 20 percent to 40 percent. Thus, the maximum amount of the credit is $4,000 or 40 percent of $10,000.

iv. The provision expands the definition of qualified expenses to mean qualified higher education expenses as defined under the rules relating to qualified tuition programs, including certain room and board expenses for at least half-time students.

v. The secretary has determined that the increase in the hope scholarship and the lifetime learning credits, with respect to qualified tuition and related expenses of students in the Gulf Opportunity Zone, are federal disaster relief credits granted for the Hurricane Katrina presidential disaster areas.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1511, R.S. 47:287.85(C)(2), R.S. 47:293(3) and R.S. 47.287.785.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:

Cynthia Bridges
Secretary

0601#030

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Temporary Emergency Disaster Assistance Program
(LAC 67.III.5583)

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 §5583, Temporary Emergency Disaster Assistance Program (TEDAP). This Emergency Rule is effective upon signature of the Secretary.

As a result of Hurricanes Katrina and Rita, there are an estimated 350,000 displaced individuals within the State of Louisiana who have urgent, unmet needs for basic human services as well as for intermediate and long-term assistance in restoring their lives and communities.

Pursuant to the TANF Emergency Response and Recovery Act of 2005, the agency adopted the Temporary Emergency Disaster Assistance Program as a new TANF Initiative effective October 26, 2005. The program provides disaster emergency services to families with dependent children or pregnant women who are displaced because of disasters. A Declaration of Emergency adopting this program was published in the November issue of the Louisiana Register. The agency is amending the rule as the information contained in the original Rule did not fully describe the eligibility and verification requirements of the Temporary Emergency Disaster Assistance Program.

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

§5583. Temporary Emergency Disaster Assistance Program

A. Effective October 26, 2005, the agency will enter into contracts to provide disaster emergency services to needy families with dependent children or pregnant women who are displaced because of disasters. The program will provide nonrecurring, short-term benefits or services, not to exceed four months.

B. These services meet the TANF goals to end dependence of needy families by promoting job preparation, work, and marriage, and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to needy families with minor dependent children, or minor dependent children living with caretaker relatives within the fifth degree of relationship or pregnant women:

1. who are displaced citizens of parishes or counties for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Assistance Act; and

2. whose income is at or below 200 percent of the federal poverty level or who are categorically eligible because a member of the family receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. The secretary may establish criteria whereby needy families are deemed to be needy based on their statement, circumstances, or inability to access resources and may also relax verification requirements for other eligibility factors.

E. Services are considered non-assistance by the agency.

F. The program shall be effective for the parishes or counties and time frames as designated by the secretary.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, TANF Emergency Response and Recovery Act of 2005.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0601#103

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Truancy Assessment and Service Centers
(LAC 67:III.5539)

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 adopt LAC 67:III, Subpart 15, Chapter 55, §5539, Truancy Assessment and Service Centers, as a new TANF Initiative. This Emergency Rule, effective January 29, 2006, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective October 1, 2005, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in February 2006.)

As a result of Act 1 of the 2004 Legislative Session, the agency repealed several TANF Initiatives including Truancy Assessment and Service Centers effective September 2004, as funding for the programs 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.

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

§5539. Truancy Assessment and Service Centers

A. Effective October 1, 2005, OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

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; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0601#102

DECLARATION OF EMERGENCY

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

Hurricane Emergency—Refund
(LAC 58.I.1301)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has adopted an Emergency Rule amending LAC 58.I.1301, which sets out the conditions under which an emergency refund of accumulated employee contributions may be paid.

This emergency amendment was originally promulgated in the October 2005 Louisiana Register to allow those persons adversely affected by Hurricanes Katrina and Rita to obtain a refund of accumulated contributions in an accelerated manner. Layoffs and furloughs continue to be experienced by large numbers of LASERS members, making necessary the reenactment of this emergency rule.

The effective date for this Rule is December 31, 2005, and it shall remain in effect through April 30, 2006.

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System

Chapter 13. Emergency Refunds

§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or

2. the member has significant expenses for medical care for himself, spouse, or child; or

3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment. A document filed in the official legal proceeding for foreclosure or repossession or a notice of eviction shall be required as proof to qualify under this provision; or

4. an emergency situation resulting from the impact of Hurricanes Katrina or Rita.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 21:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:

Robert L. Borden
Executive Director

0601#025

DECLARATION OF EMERGENCY

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

Hurricane Emergency—Employee Contribution
(LAC 58:I.4501)

In accordance with R.S. 49:951 et seq. and R.S. 11:515, the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has enacted an Emergency Rule to allow public employees on involuntary furlough or leave without pay due to a disaster to continue to earn service credit in their retirement systems by making employee and employer contributions. This emergency enactment is necessary to implement the provisions of Act 45 of the 2005 1st Extraordinary Legislative Session. The effective date for this Rule is December 31, 2005, and it shall be in place for the maximum time allowed under the Administrative Procedures Act, R.S. 49:950 et seq., or until it becomes re-enacted by Emergency Rule, whichever comes first.

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System
Chapter 45. Hurricane Emergency Provisions
§4501. Trustee to Trustee Transfers

A. Trustee to trustee transfers of funds made to pay employee and employer contributions under the provisions of Act 45 of the 2005 1st Extraordinary Legislative Session shall be made in a lump sum or on a monthly basis in accordance with the provisions of R.S. 11:531. Such transfers are due within 15 days of the close of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:531.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 32:

Robert L. Borden
Executive Director

0601#024

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the Teachers' Retirement System

Purchase of Service Credit (LAC 58:III.401)

The Board of Trustees of the Teachers' Retirement System of Louisiana hereby adopts the following Emergency Rule to implement provisions of Act 45 of the 1st Extraordinary Session of 2005. The Emergency Rule provides for the purchase of service credit for involuntary furlough or leave without pay due to a gubernatorially declared disaster or emergency under the provisions of R.S. 11:163 (A) and (C). This Emergency Rule becomes effective January 10, 2006,and will remain in effect 210 days or until the permanent Rule is promulgated.

Title 58
RETIREMENT
Part III. Teachers' Retirement System of Louisiana
Chapter 4. Purchase of Service Credit
§401. Purchase of Service Credit for Involuntary Furlough or Leave Without Pay (LWOP) due to Gubernatorially Declared Disaster/Emergency

A. General Provisions. If a TRSL member is on involuntary furlough or LWOP anytime during the period of August 29, 2005 through June 30, 2006 due to a gubernatorially declared disaster or emergency, he may purchase service and salary credit for each day of service he was on involuntary furlough or LWOP during this period under this provision if such service is not credited to his account.

1. TRSL members eligible to purchase service and salary credit under this rule must make application to TRSL prior to remitting any funds.

2. TRSL must receive certification from the member's employer as follows:

a. the member was or is on involuntary furlough or on LWOP due to a gubernatorially declared disaster or emergency;

b. the period of time during which the member was or is on involuntary furlough or LWOP due to a gubernatorially declared disaster or emergency; and

c. the member's full time salary as of August 29, 2005.

3. Invoices calculated under this provision will include interest charges at 15 day intervals should the payment become delinquent in accordance with La. R.S. 11:281.

4. Monthly payments must be paid after the close of month being purchased. For example: payments due for the month of February 2006 must be paid after February 28, 2006.

5. Payments to purchase service and salary credit cannot be made in advance. For example, an invoice issued in December 2005 for the January 2006's service and salary credit cannot be paid in December 2005.

6. DROP and Active-DROP members are not allowed to purchase service credit in accordance with R.S. 11:728 (A).

7. Members may purchase all credit or partial credit while on involuntary furlough or LWOP.

B. Methods of Payment

1. Members may make payment on a month-by-month basis or make a lump sum payment.

2. Payments may be in the form of a direct payment from the member or a direct trustee-to-trustee transfer from a qualified plan or IRA.

3. Should a member elect to make payments through his employer, the employer is required to remit the payments to TRSL, along with a Report of Members Purchasing Declared Disaster/Emergency Leave. This separate report must include the member's name, social security number, the month/year being purchased, the full-time monthly salary rate, the months of contract, employee contributions and interest, employer contributions and interest, and the date the member made payment to the employer.

4. Employers who do not remit the employee and employer contributions paid by the member in accordance with R.S. 11:281 will be liable for any delinquent interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:163 (A)(2)(a) and (C)(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System of Louisiana LR 32:

Maureen H. Westgard
Director

0601#089

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2006 Commercial King Mackerel Season

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

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2006 and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

The commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2007, which is the date expected to be set for the re-opening of the 2007 commercial king mackerel season in Federal waters.

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

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

Wayne J. Sagrera
Chairman

0601#034

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2006 Recreational Red Snapper Season

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective midnight October 31, 2005 until 12:01 am April 21, 2006 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 2006 recreational red snapper season, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S.

56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following seasons for recreational harvest of red snapper in Louisiana state waters:

The season for the recreational fishery for red snapper in Louisiana state waters will remain closed until 12:01 am April 21, 2006 by reducing the bag limit to zero for that time period. The season will open at 12:01 a.m. April 21, 2006 and continue until midnight October 31, 2006.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close the recreational red snapper season when he is informed by the Regional Administrator of NMFS that the recreational red snapper quota for the Gulf of Mexico has been filled or is projected to be filled.

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

Effective with the recreational red snapper season closure, no person, except those who possess a Class 1 or Class 2 commercial red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish and who are legally taking red snapper during an open commercial season, shall possess any red snapper whether taken from within or without Louisiana territorial waters.

Wayne J. Sagrera
Chairman

0601#033

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2006 Reef Fish (Including Red Snapper) Commercial Seasons and Trip Limits

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

Red snapper commercial seasons: The 2006 seasons for the commercial harvest of red snapper in Louisiana state waters are as follows: the first commercial fishing season for red snapper will open at 12 noon on February 1, 2006, and remain open until 12:00 noon on February 10. This pattern will continue each month until two-thirds of the 2005 commercial quota for red snapper is harvested. The second commercial red snapper season will open at 12 noon on October 1, 2006, and remain open until 12 noon on October 10, and will also continue in this format each month until the entire 2006 quota is harvested.

The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close the 2006 commercial red snapper seasons in Louisiana state waters when he is informed by the Regional Director of the National Marine Fisheries Service (NMFS) that the designated portions of the commercial red snapper quota for the Gulf of Mexico have been filled, or are projected to be filled, for each set of seasons, and such closure order shall close the season until the date set for the re-opening of the commercial red snapper season in Federal waters. All applicable rules regarding red snapper harvest including trip limits, permit requirements, and size limits, established by the Commission shall be in effect during the open seasons hereby established.

The Wildlife and Fisheries Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the opening and closing dates for the commercial red snapper season in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the season dates for the commercial harvest of red snapper in the federal waters of the Gulf of Mexico as set out herein have been modified, and that the Regional Administrator of NMFS requests that the season be modified in Louisiana state waters.

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

Effective with any commercial trip or possession limit under this emergency rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade or sell the affected species or group of species, whether taken from within or without Louisiana territorial waters in excess of such established commercial trip or possession limit.

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

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

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

Wayne J. Sagrera
Chairman

0601#036

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2006 Shrimp Season—Closure State Outside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou Canal at longitude 92° 18' 33" W to the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line. This closure is effective at 6 a.m., Monday, January 9, 2006.

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

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

Wayne J. Sagrera
Chairman

0601#035

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Season Extension—East of Mississippi River
and Re-Opening Sister Lake Seed Reservation

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department, and a resolution adopted by the Wildlife and Fisheries Commission on August 4, 2005 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to reopen areas previously closed if the threat to the resource has ended, the Secretary hereby declares:

The oyster season in the following areas shall be extended until further notice:

The public oyster seed grounds located east of the Mississippi River as described in LAC 76:VII.511, the Lake Borgne Public Oyster Seed Grounds as described in LAC 76:VII.513 and the Bay Gardene Public Oyster Seed Reservation as described in R.S. 56:434.E.

The oyster season in the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434.E shall reopen at one-half hour before sunrise on January 3, 2006 and close at one-half hour after sunset January 12, 2006.

Despite hurricane-related impacts to these public oyster areas and the harvest of significant numbers of marketable oysters, marketable quantities of oysters remain in these waters and have been noted during recent biological sampling. In addition, oyster spat growth has progressed to levels whereby these spat have developed into sizes better able to withstand harvest-related and natural stressors.

Dwight Landreneau
Secretary

0601#013

Rules

RULE

Department of Agriculture and Forestry
Horticulture Commission

Licenses (LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby amends regulations regarding the required standards of practice for the utility arborist license.

This Rule is enabled by R.S. 3:3801.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission
Chapter 1. Horticulture
§117. Required Standards of Practice

A. - I.4. ...

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Best Management Practices—Utility Pruning of Trees*, a publication by the International Society of Arboriculture.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 32:78 (January 2006).

Bob Odom
Commissioner

0601#049

RULE

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

General Subgrant Guidelines
(LAC 22:III.Chapters 41, 45, 59, 61, and 71)

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 amends its rules and regulations relative to subgrants. Chapter 14 is repealed and new text has been adopted. The following Rule has been recodified for topical purposes. The changes can be seen in the chart below.

There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Previous Number	Current or New Number
Part III. Commission on Law Enforcement and Administration of Criminal Justice	
Subpart 1. Privacy and Security Regulation	
Subpart 2. Minimum Jail Standards	
Subpart 3. State Grant-in-Aid Program	**Subpart 3. General Subgrant Guidelines**
Chapter 41. Procedures	
§4101. Review	§4101. Applicability
§4103. Applications	§4103. Definitions
§4105. Funding	§4105. General Provisions
§4107. Training Payments	§4107. Repealed
§4109. Unawarded Funds	§4109. Repealed
§4111. Local Block Training Funds	§4111. Repealed
§4113. Subgrants	§4113. Repealed
Chapter 43. Appeals Procedure	
§4301. Appeals Procedure	
Chapter 45. Guidelines	
§4501. Approval	§4501. Limitations
§4503. Traffic-Related Grants	§4503. Eligibility
§4505. Local Criminal Justice Agencies	§4505. Indirect Costs
§4507. Personnel Costs	§4507. Regional Planning Units and Criminal Justice Coordinating Councils
§4509. Indirect Costs	§4509. Funding Restrictions
§4511. Regional Planning Units and Criminal Justice Coordinating Councils	§4511. Operational Policies
§4513. Funding Restrictions	§4513. Repealed
§4515. Renovation	§4515. Repealed
§4517. Private, Non-Profit Agencies	§4517. Repealed
§4519. Consultants and Contracts	§4519. Repealed
§4521. No-Cost Technical Assistance	§4521. Repealed
§4523. Confidential Funds	§4523. Repealed
§4525. Reimbursement for Basic Training Tuition	§4525. Repealed
§4527. Universities	§4527. Repealed
§4529. Agency on Peace Officer Standards and Training (POST) Council Note	§4529. Repealed
§4531. Eligibility	§4531. Repealed
§4533. Travel Expenses	§4533. Repealed
§4535. Lobbying	§4535. Repealed
§4537. Politically Oriented Material	§4537. Repealed
§4539. Child Abuse/Neglect Projects	§4539. Repealed
§4541. Computers	§4541. Repealed
§4543. Requirement Analysis	§4543. Repealed
Subpart 4. Peace Officers	
Chapter 47. Standards and Training	
Subpart 5. Crime Victim Assistance	**Subpart 5. Grant Application or Subgrants Utilizing Federal, State or Self-Generated Funds**
Chapter 49. Policies and Procedures	Moved to Subpart 6, Chapter 61.
Chapter 51. Appeals Procedure	
Chapter 53. Drug Abuse Resistance Education (D.A.R.E.)	
Chapter 55. Uniform Crime Reporting System	
Chapter 57. Formula for Distribution of Federal Grant Funds	

Subpart 6. Grant Applications or Subgrants Utilizing Federal, State or Self-Generated Funds	Subpart 6. Program Operational Policies
	Chapter 59. Drug Policy and Violent Crime Advisory Board
	§5901. Adoption
	§5903. Introduction
	§5905. Program Rules
Chapter 61. Code of Professional Conduct	Moved to Subpart 7, Chapter 71
Chapter 49. Policies and Procedures	Chapter 61. Policies and Procedures
§4901. Introduction	§6101. VOCA and VAWA Grants
Subpart 7. Asset Forteiture	
Chapter 61. Code of Professional Conduct	Chapter 71. Code of Professional Conduct
§6101. Adoption	§7101. Adoption
§6102. Introduction	§7102. Introduction
§6103. Code of Professional Conduct	§7103. Code of Professional Conduct

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 3. General Subgrant Guidelines
Chapter 41. Procedures
§4101. Applicability

A. These rules apply to all subgrants available from the Louisiana Commission on Law Enforcement.

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 32:79 (January 2006).

§4103. Definitions

A. Definitions

Federal Guidance—refers to all published federal regulations, rules, and guidance with general applicability or specific applicability to a particular block or formula grant program.

Subgrant—a grant issued pursuant to a federal or state block grant or formula program.

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 32:79 (January 2006).

§4105. General Provisions

A. All subgrants must comply with applicable federal laws, regulations and guidance, as well as all applicable state laws, regulations and rules.

B. No subgrant award will be issued until all applicable certifications and assurances have been signed by the responsible authority.

C. All applications must be received by LCLE by the deadline established for the commission meeting for which they are being submitted. Any application received after that time will not be presented until the commission meeting following the meeting for which it was originally scheduled, unless specifically approved by the executive director and chairman of the commission for lay out.

D. No subgrant will be considered by the commission until reviewed by the appropriate advisory board unless said subgrant is not part of a program subject to such review.

E. The Louisiana Commission on Law Enforcement must approve all subgrants before any award will be made.

F. All subgrant progress reports must be submitted in a timely fashion or draw down of funds may be suspended.

G. All subgrants are subject to audit and monitoring by the responsible authority. Subgrantees are required to cooperate fully with any such inquiry or all unexpended funds may be frozen.

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 32:79 (January 2006).

§4107. Training Payments

Repealed.

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 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

§4109. Unawarded Funds

Repealed.

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 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

§4111. Local Block Training Funds

Repealed.

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 11:252 (March 1985), repealed LR 32:79 (January 2006).

§4113. Subgrants

Repealed.

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 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:79 (January 2006).

Chapter 45. Guidelines
§4501. Limitations

A. Any thing in this guidance that is in conflict with applicable federal law, regulation or guidance, or with applicable state law shall not prevail.

B. All funding received by an agency, department, or organization may be subject to budget reductions as applied against LCLE by the funding authority under which the subgrant is received.

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 32:79 (January 2006).

§4503. Eligibility

A. Eligibility to apply or receive funding under any subgrant subject to this Subpart shall be governed by the applicable federal law, rules and guidance, or state law and operational policies of the commission.

B. By a two-thirds vote, the commission may waive any restrictions on eligibility made pursuant to the commission's operational policies, provided such waiver does not violate federal law, rules, or guidance, or, in the case of state funded grant programs, state law or rule.

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 8:64 (February 1982), amended LR 11:253 (March 1985), LR 32:79 (January 2006).

§4505. Indirect Costs

A. Indirect costs are ineligible expenditures under any state grant program, unless specifically permitted by the law creating such program.

B. Indirect costs on federal subgrants are subject to federal guidance and may be limited further by the respective advisory boards. Indirect costs are not to exceed 10 percent of direct labor costs including fringe benefits, or 5 percent of total direct costs. A current Indirect Cost Rate or Allocation Plan previously approved by the cognizant federal agency must be on file with LCLE before submittal of applications to the respective advisory boards. Indirect costs are prohibited for Crime Victim Assistance projects.

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 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006).

§4507. Regional Planning Units and Criminal Justice Coordinating Councils

A. No subgrant funds may be used for the expenses of Regional Planning Units (RPU's) or Criminal Justice Coordinating Councils (CJCC's). This provision does not prohibit the award of a subgrant to a RPU or CJCC for specific purposes not related to the normal operations of those offices.

B. The commission may make direct grants of administrative funds to RPU's or CJCC's. Any such grants are subject to reduction based on reductions received by LCLE from the responsible funding authority.

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 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006).

§4509. Funding Restrictions

A. No traffic-related subgrants will be eligible, with the exception of driving while intoxicated (DWI) and substance abuse related projects.

B. There is a general prohibition on the funding of the following items:

1. vehicles (automobiles, vans, airplanes, boats, etc.), gasoline, tires, vehicle repair, maintenance, or insurance;
2. automobile accessories except radio and information technology equipment;
3. uniforms;
4. recreational equipment;
5. real property;
6. lobbying activities or the design, development, publishing or distribution of politically oriented material.

C. There are specific restrictions limiting the funding of the following items.

1. Renovations are limited to a maximum of $25,000, and then will be allowable only on agency-owned or long-term lease (five years or more) facilities.
2. Consultants are limited to planning, evaluation, research, development and training programs. Consultant services that are available as no-cost technical assistance through a federal or state program are not eligible for funding. Consultant contracts and agreements must receive approval from LCLE, prior to the release of funds.

D. There are special requirements relative to the following.

1. Private, Non-Profit Agencies. Private, non-profit agencies, with the exception of an RPU or CJCC, will be required to have a current surety bond equal to the amount of the grant.
2. Confidential Funds. The use of confidential funds is subject to special operational policies and regulations of the LCLE and federal guidelines.
3. Information Reporting. State and local criminal justice agencies must comply with all requests for information mandated by LCLE. This requirement includes full participation in the Uniform Crime Reporting Program for those agencies eligible to report, including participation in the Louisiana Incident Based Crime Reporting System when appropriate.
4. Travel Expenses. All travel expenses will be based on state travel 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 8:64 (February 1982), amended LR 11:252 (March l985), LR 32:80 (January 2006).

§4511. Operational Policies

A. The various program advisory boards may recommend to the commission, or the commission may adopt on its own motion, specific operational policies relative to the funding of specific project types, eligibility for funding, or additional restrictions and/or limitations on funding, as well as monitoring, evaluation, or reporting requirements as deemed prudent in the administration of specific grant funds. Such regulations shall be in conformity and not inconsistent with these general guidelines, or with applicable state or federal law, regulation, or rules. Such operational guidelines shall be reviewed by the commission at least once every four years and adopted by a two-thirds vote. The commission may waive such operational policies provided the potential subgrantee has made written request for such a waiver and the waiver granted by a two-thirds vote of the commission.

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 32:80 (January 2006).

§4513. Funding Restrictions

Repealed.

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 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:80 (January 2006).

§4515. Renovation

Repealed.

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 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4517. Private, Non-Profit Agencies

Repealed.

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 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4519. Consultants and Contracts

Repealed.

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 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4521. No-Cost Technical Assistance

Repealed.

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 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4523. Confidential Funds

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4525. Reimbursement for Basic Training Tuition

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4527. Universities

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4529. Agency on Peace Officer Standards and Training (POST) Council Notice

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4531. Eligibility

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4533. Travel Expenses

Repealed.

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 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4535. Lobbying

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4537. Politically Oriented Material

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4539. Child Abuse/Neglect Projects

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4541. Computers

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

§4543. Requirement Analysis

Repealed.

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 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:81 (January 2006).

Subpart 6. Program Operational Policies

Chapter 59. Drug Policy and Violent Crime Advisory Board

§5901. Adoption

A. The following operational policies are hereby adopted by the Drug Policy and Violent Crime Advisory Board 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 32:81 (January 2006).

§5903. Introduction

A. All programs assigned by the commission to the Drug Policy and Violent Crime Advisory Board shall be governed by the rules set forth in this Section, unless explicitly removed from one or more of them by a vote of the commission upon the recommendation of the Drug Policy and Violent Crime Advisory Board.

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 32:82 (January 2006).

§5905. Program Rules

A. Governance. The rules and governance of the federal grant program shall be followed in all cases. Should federal programs be assigned to the Drug Policy and Violent Crime Advisory Board, which are more restrictive than those contained in this Section, the federal rule shall prevail. Subgrantees are responsible for compliance with all federal and state governance, regulations, and certifications applicable to their subgrant.

B. Match

1. All grant programs shall be matched in an amount not less than 25 percent of the total grant award.

2. Grants may be matched on an aggregate or statewide basis.

C. Funding

1. Administrative funds may be allocated from the total block grant Award in an amount not to exceed the maximum established in the federal guidance.

2. After administrative funds are allocated, no more than 25 percent of the block grant funds may be allocated to state agencies or departments, unless otherwise required by the applicable federal guidance.

3. The remaining allocations shall be distributed among the Regional Planning Districts as determined by the most recent formula adopted by the commission, unless otherwise specified in the federal guidance.

4. A minimum of 5 percent of the total block grant, exclusive of administrative funds, shall be for criminal record improvement programs.

D. Programs

1. All applications for funding shall specify a program, and not merely equipment or supplies.

2. Equipment and supplies are fundable items unless otherwise specified in the operational policies, but must be part of a program.

3. Eligible programs shall be defined in the operational policies of the Drug Policy and Violent Crime Advisory Board. When the operational policies are silent, the federal eligibility requirements shall serve as the determining governance. The operational policies may be more restrictive but not more inclusive than the federal guidance, unless otherwise stipulated in the federal guidance.

4. No program shall receive funding for a period greater than 48 months, with the exception of Criminal Records Improvement projects, training, and multi-jurisdictional task forces.

E. Waiver. The commission may waive any of the policies contained in this Section provided:

1. an agency or organization eligible to receive funding under the applicable federal guidance submits a written request for waiver to the drug policy and Violent Crime Advisory Board; and

2. the Drug Policy and Violent Crime Advisory Board votes to recommend the waiver to the commission; and

3. the commission approves the waiver by a two-thirds vote of the members present and voting.

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 32:82 (January 2006).

Chapter 61. Policies and Procedures
[formerly Chapter 49]

§6101. VOCA and VAWA Grants
[formerly §4901. Introduction]

A. The issues of services to victims of crime, underserved victims and an increased awareness of the prevalence and severity of domestic violence and violence against women coupled with the increased availability of federal funds to address these issues at the state, regional and local levels, have led to federal grant programs designed to focus on these topics. The Louisiana Commission on Law Enforcement has been named as the cognizant state agency for the federal programs and will make available to appropriate non-profit and public agencies grant funds, to be spent in accordance with federal program guidelines and the guidelines of the Victim Services Advisory Board and the Louisiana Commission on Law Enforcement.

B. The Victims of Crime Act of 1984 (VOCA) established within the U.S. Treasury an account funded by federal fines, penalties and forfeited bail bonds to be used for the purpose of funding victim assistance grants to the states. These grants are to be used for programs that provide direct services to victims of crime, with priority given to programs that have as their principal mission direct assistance to victims of sexual assault, spouse abuse, child abuse and previously underserved victims of crime. VOCA funds in the state are administered by the Louisiana Commission on Law Enforcement in consultation with the Victim Services Advisory Board to the Commission. The VOCA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

C. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

D. The Violence Against Women Act (VAWA) of 1994 is enabling legislation that has as its intent the reduction of violence to encourage states and localities to restructure and strengthen their criminal justice response to this issue and to be proactive in dealing with the problem of domestic violence. The STOP (Services-Training-Officers-Prosecution) Program is the implementation aspect of VAWA and seeks to develop and strengthen effective law enforcement and prosecution strategies to combat violent crime against women and to develop and strengthen victim services in cases involving violent crimes against women.

Unlike VOCA, monies are appropriated by Congress for this program. These funds are divided equally between law enforcement, prosecution and non-profit service providers and are administered by the Louisiana Commission on Law Enforcement in consultation with Victim Services Advisory Board. The VAWA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

E. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989), amended LR 29:2376 (November 2003), repromulgated LR 32:82 (January 2006).

Subpart 7. Asset Forfeiture

Chapter 71. Code of Professional Conduct [formerly Chapter 61]

§7101. Adoption [formerly §6101]

A. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

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 24:935 (May 1998), repromulgated LR 32:83 (January 2006).

§7102. Introduction [formerly §6102]

A. The purpose of the *Code of Professional Conduct* is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the *National Code of Professional Conduct for Asset Forfeiture*.

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 24:935 (May 1998), repromulgated LR 32:83 (January 2006).

§7103. Code of Professional Conduct [formerly §7103]

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

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 24:935 (May 1998), repromulgated LR 32:83 (January 2006).

Michael A. Ranatza
Executive Director

0601#054

RULE

Office of the Governor
Division of Administration
Board of Architectural Examiners

Use of the Term "Associate"
(LAC 46:I.1513)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("board") amended LAC 46:I.1513 pertaining to an architectural firm using the word "associate" in its title. The existing Rule provides that an architectural firm using the plural form of the word "associate", but which loses an associate or associates so that it is no longer able to do so, is not required to change its name for a period of two years from the departure of the associate. The amended Rule provides that such a firm is required to change its name as soon thereafter as is reasonably possible, which change shall occur not later than one year from the departure of the associate or associates.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects

Chapter 15. Titles, Firm Names and Assumed Names

§1513. Use of the Term "Associate"

A. An architect may only use the word "associate" in the firm title to describe a full time officer or employee of the firm. The plural form may be used only when justified by the number of associates who are full time firm employees. An architectural firm using the plural form, but which loses an associate or associates so that it is no longer able to do so, is required to change its name as soon thereafter as is reasonably possible, which change shall occur not later than one year from the departure of the associate or associates. Identification of the associates in the firm title, listing, publication, letterhead, or announcement is not required.

Allowed	Not Allowed
John Smith & Associates, Architecture & Planning John Smith, Architect	John Smith & Associates Architects (if the firm employs only one associate as defined herein)
John Smith & Associates, Architect John Smith, Architect	

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:569 (April 2003), amended by the Office of the Governor, Division of Administration, Board of Architectural Examiners LR 32:83 (January 2006).

Mary "Teeny" Simmons
Executive Director

0601#012

RULE

Office of the Governor
Division of Administration
Office of State Uniform Payroll

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 42:455, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll is adopting the following amendments to the regulations governing payroll deductions. The purpose of the amendment is to adopt changes as recommended by the Uniform Payroll Insurance Commission, to reorganize the sections of the rule to eliminate repetitive details, and to further define and clarify parameters for vendors.

Title 4
ADMINISTRATION
Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

Administrative Contract—contractual agreement entered into by the state with an entity which meets or exceeds the requirements to manage a Flexible Benefits Plan.

Administrative Coordinator—a statewide vendor designated representative who provides the single authorized contact for communication between the vendor and state departments/agencies, company representatives, the Division of Administration, Office of State Uniform Payroll, payroll systems outside of the ISIS HR payroll system and any administrative contract(or).

Agency Number—three digit identifier representing a single agency in the ISIS HR payroll system which serves as a key for processing and reporting.

Annual Renewal Application—the process through which a statewide vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, etc.

Applicant—any entity which has submitted an application to be approved as a statewide vendor for state payroll deduction or a statewide vendor which has submitted an application for approval of an additional product.

Billing Coordinator—statewide vendor representative appointed by the Administrative Coordinator to handle the areas of billing, reconciliation problems and refunds.

Data File—the body of information documented by copies of correspondence between the Office of State Uniform Payroll, the Office of Group Benefits, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

Deduction—any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency—as referenced herein shall be any one of the major departments of the executive branch of state government or any subdivision thereof as defined under R.S. 36:4.

Department Head—as referenced herein shall be any elected official, department secretary or their designee for those agencies as defined under R.S. 36:4.

Division of Administration (DOA)—the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Employee Payroll Benefits Committee (EPBC)—the group designated in §103 to review current and prospective payroll deduction benefits.

Entity—the individual or organization which renders service, provides goods, or guarantees delivery.

Flexible Benefits Plan (FBP)—the program initiated by the state under which employees may participate in tax reduction benefits offered under Internal Revenue Code (IRC) §125.

Flexible Benefits Plan Year—the annual period of time designated for participation (e.g., July 1 through June 30).

Governing Board—as referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

Guidelines for Review—as referenced herein shall mean the set of criteria established for the annual evaluation process.

Insurable Interest—as referenced herein shall be as defined in R.S. 22:613.C.(1) and (2), e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

Integrated Statewide Information System Human Resource Payroll System (ISIS HR)—the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Intra-Agency Deduction—a deduction established by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, etc.

Intra-Agency Vendors—any entity having the Office of State Uniform Payroll's approval for an intra-agency deduction.

Louisiana Sales Coordinator—statewide vendor representative appointed by the Administrative Coordinator to handle the areas of solicitation and educational responsibilities.

New Application—the process through which an entity submits a request to be approved as a statewide vendor to offer a specific product, or a current statewide vendor requests authorization to offer an additional product, policy form, or service plan.

Office of State Uniform Payroll (OSUP)—the section within the Division of Administration primarily responsible for the administration of the rules governing state employee payroll deductions.

Policy Form—referenced herein shall mean a contract of an individual insurance plan, and all its components, which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

Premium Due—the amount of money the vendor expects to receive for the product or service provided to the employee.

Product—referenced herein shall mean the specific insurance authorized through the statewide vendor annual renewal or new application process as defined in §106. This may include multiple policy forms and service plans under the product.

Product Code—the code assigned by the Office of State Uniform Payroll to specific products authorized through the new application process.

Reconciliation—referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records at the product level.

SED-3—referenced herein shall be the standard form, Department Request for Payroll Deduction Vendor, required to be submitted with any new application.

SED-4—as used herein shall mean the standard State Employee Payroll Deduction Authorization form developed by the Division of Administration, Office of State Uniform Payroll used to process employee statewide vendor deductions.

Service Plan—plans of insurance where benefits are the actual services rendered to the covered individual rather than a monetary benefit.

Statewide Vendors—any entity having deductions other than statutory or intra-agency specific.

Statutory Vendors—any entity having deductions mandated or permitted by federal or state statute which includes, but is not limited to union dues, credit unions, IRC §457 and §403(b) plans, health and life insurance products sponsored by the Office of Group Benefits, retirement systems, Student Tuition Assistance and Revenue Trust Program (START), qualified United Way entities and savings bonds.

University—any one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

Vendor Representative—as referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1026 (May 2000), LR 32:84 (January 2006).

§102. Deduction Rule Authority/Applicability

A. OSUP is responsible for the administration of the rules governing state employee payroll deductions. Products that are authorized through OSUP are for all state employees and all state agencies of the executive branch of state government as defined under R.S. 36:4. There are two exceptions to this.

1. Governing boards of higher education facilities have the authority to approve additional products or remove any product per the boards' established policies.

a. Vendors approved by governing boards must follow the governing boards policy and procedures for renewal and new application submission.

b. Each Governing Board shall provide a report relative to vendors currently approved for deductions within each system as well as any additional information as requested by OSUP.

2. Intra-agency deductions approved by OSUP are only approved for the agency requesting the deduction and not statewide.

B. The three classifications of vendors covered by this rule are:

1. statutory vendors—applicable Sections of this rule are §122, 131 and 137;

2. intra-agency vendors—applicable Sections of this rule are §122, 131 and 137; and

3. statewide vendors—applicable Sections of this rule are §106, 112, 114, 119, 131 and 137. Statewide vendor applications are reviewed and approved by the EPBC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:85 (January 2006).

§103. Employee Payroll Benefits Committee (EPBC)

A. A committee comprised of 12 nominated and two ex-officio state employees of the departments of the executive branch of state government as defined under R.S. 36:4.A and the Office of the Governor established by the Commissioner of Administration to fulfill the requirements of §106 and §112 of this rule. Ex-officio members shall be: director or assistant director of OSUP and a designee of the Commissioner of Insurance.

B. Initial members of the EPBC were selected prior to July 1, 1996 by the Uniform Payroll System Payroll Steering Committee submitting a list of nominees for EPBC membership to the Commissioner of Administration.

C. Members serve staggered terms as follows:

1. 4 members, one-year term;

2. 4 members, two-year term; and

3. 4 members, three-year term.

D. There cannot be more than one committee member per department of the executive branch of state government as defined under R.S. 36:4.A or the Office of the Governor.

E. Successive committee appointments shall be for a period of three years beginning July 1.

F. Prior to May 1, annually, EPBC shall submit, to the Commissioner of Administration, three nominees for each of the four vacancies which will occur each year.

G. The Commissioner of Administration shall select four of the nominees to fill respective department/agency vacancies for EPBC membership.

H. The Commissioner of Administration shall return a list of appointees to OSUP prior to June 1 each year.

I. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more, shall be filled by appointment by the Commissioner of Administration.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the Commissioner of Administration.

2. The Commissioner of Administration shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), LR 32:85 (January 2006).

§105. EPBC Selection and Tenure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), repealed LR 32:86 (January 2006).

§106. Statewide Vendor Annual Renewal and New Application Process

A. All currently approved statewide vendors shall file an annual renewal application with the Division of Administration, Office of State Uniform Payroll as scheduled by that office.

B. Written notice of requests for a new statewide vendor payroll deduction or for current vendors to add additional products or to add additional policy forms or service plans under the current products should be sent to OSUP prior to December 1 annually, in order for the vendor to receive an application form from OSUP. Applications for the purpose of providing deductions for IRA's, annuities, noninsurance investment programs or group plans are not permitted.

C. On or before January 1 annually, OSUP will provide deduction application forms along with instructions for completion to each renewal and new entity on file.

D. On or before January 31 annually, Renewal and New Applications must be completed and submitted to the Division of Administration, Office of State Uniform Payroll, PO Box 94095, Baton Rouge, LA 70804 or 1201 N. Third St, Ste 6-150, 70802.

1. Application shall be made by the entity which is the provider of the product or recipient of monies and shall be signed by two principal officers of the applicant entity.

2. The application shall:

a. be submitted on a currently approved application form provided by OSUP to the vendor;

b. indicate whether the application is an annual application (renewal) or a new application for a product, policy form or service plan not previously approved for deduction;

c. identify each policy form for specific product provided on the application form;

d. include certification (SED-3 form) from the department head of the requesting department for new applications. Department certification attests that said applicant has provided evidence that the vendor meets or exceeds the requirements of R.S.42:455, that said applicant has knowledge of the requirements of this rule, and that the department/agency believes this product/policy/service plan would be a benefit for the employees of the department/agency. Certification does not represent endorsement of product by state or department. Administrative responsibilities of this rule shall preclude the DOA from sponsoring applicants for vendor deduction authorization;

e. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

f. designate an "administrative coordinator" to represent the vendor as primary contact. Refer to Statewide Vendor Requirements and Responsibility §114 for complete details;

g. include responses to all applicable items (designated in instructions) on the application form for new and annual renewal applications.

E. On or before April 1 each year, OSUP will conduct a compliance review and shall notify vendors of any products that will be removed due to not meeting the participation requirements in §114.C.3. In a separate letter, the vendor will be notified whether their annual application has been conditionally approved.

F. Between February and October each year, the EPBC shall conduct a thorough review of all products authorized for deduction and new applications.

1. EPBC shall maintain basic guidelines for review to follow in the conduct of the annual review of statewide vendor products. These guidelines are on file at OSUP and available upon request.

2. The EPBC shall utilize the data file maintained by OSUP to evaluate user satisfaction with products and vendors and the Guidelines for Review to evaluate product quality.

a. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and FBP administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

b. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.

c. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

3. Vendor shall respond to all additional questions as required by EPBC.

G. On or before October 1 annually, the EPBC shall issue a summary report of opinions resulting from the annual review of products and new applications, along with recommended actions to the Commissioner of Administration.

H. OSUP shall provide the Commissioner of Administration recommendations from EPBC and information relative to vendor/product compliance with all other provisions of this rule.

I. On or before November 1 annually, the Commissioner of Administration shall advise OSUP whether EPBC recommendations relative to current products and new applications have been accepted or denied.

J. On or before November 30 annually, OSUP will:

1. notify those vendors with new applications whether their requests were approved or denied. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state;

2. notify the affected vendors if any problems were identified during the EPBC review and advise on any necessary actions;

3. notify ISIS HR payroll system user agencies and other departments/agencies and Governing Boards of authorized deductions by vendor and product name, providing ISIS HR system information and the effective date. Governing Boards shall notify universities.

K. Payroll systems outside of the ISIS HR payroll system will advise vendors whether the deduction will be established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:86 (January 2006).

§107. EPBC Product Evaluation (Requirements)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), repealed LR 32:87 (January 2006).

§109. EPBC Product Evaluation (Annual Applications)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:87 (January 2006).

§111. EPBC Product Evaluation (New Applications)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:87 (January 2006).

§112. Statewide Vendor Requests for Enhancements/Changes to Products

A. Requests for enhancements to existing statewide vendor products, policies or service plans must be submitted to OSUP for review and approval by May 1 and November 1 annually.

1. Enhancements to policies occur when:

a. a vendor requests to broaden an existing, solicited policy's benefits/coverage;

b. a vendor requests the existing, solicited policy to be replaced by the enhanced policy;

c. the vendor stops soliciting the existing policy;

d. current policyholders may choose to keep the existing policy or convert to the enhanced policy; and

e. new policyholders must purchase the enhanced policy.

2. OSUP and the EPBC will review the request and notify the vendor of approval or denial by July 1 and January 1 annually.

a. If approved, OSUP will include in the approval notification the procedures for implementing the enhancement for August 1 and February 1 annually.

b. If denied, OSUP will add the vendor to the file of vendors for new applications. (See §106 for new application process).

B. Notification of policy changes must be submitted to OSUP by December 1 annually.

1. Changes, including but not limited to, rate changes, co-payment changes and reduction in benefits occur when:

a. a vendor requests an existing, solicited policy to be changed;

b. current policyholders must choose to either accept the changed policy or terminate the policy; and

c. new policyholders must purchase the changed policy.

2. OSUP will review the information submitted and notify the vendor by February 28 annually and provide procedures for implementing the policy change for July 1 annually.

3. Policy changes not submitted to OSUP will not be allowed.

C. Requests that do not meet an enhancement or a change classification, will be reviewed by OSUP to determine what procedures the request will follow.

D. Requests for exceptions to this policy shall be justified, documented and submitted in writing to OSUP for consideration.

E. OSUP will coordinate procedures with vendors on all policy changes that are mandated by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:1027 (May 2000), LR 32:87 (January 2006).

§113. Product Approval and Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:87 (January 2006).

§114. Statewide Vendor Requirements and Responsibility

A. Any statewide vendor applicant for deduction, domestic or foreign, regulated by the Department of Insurance shall meet the minimum requirements set forth in R.S. 42:455.

B. Statewide vendor applicants for deductions not regulated by the Department of Insurance shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;

4. provide to the Commissioner of Administration within 30 days of approval an irrevocable Letter of Credit in the amount of $100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of $100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor.

C. Vendors shall:

1. provide annual renewal application as set forth in §106 of this rule;

2. maintain the requirements set forth in A. and B. of this section;

3. maintain individual product (product categories as defined by OSUP) participation levels that meet or exceed 100 employees paid through the ISIS HR payroll system. Vendors will be allowed twelve months after initial product approval to meet the minimum product participation requirements;

4. solicit employees for payroll deduction only:

a. after notification to the vendor and state department/agencies from OSUP that the product has been approved;

b. upon written authorization and within the solicitation policy established by the department/agency; and

c. for those products, policy forms or service plans submitted and approved in the annual renewal or new application process.

5. provide and use the standard deduction authorization form (SED-4) authorized by OSUP using the guidelines below;

a. deduction form is not authorized to be submitted from an employee for the purpose of transmitting any part of that deduction to a non-approved vendor;

b. deduction form shall not be submitted which lists any product or service for which a product code has not been approved;

c. deduction form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements;

d. the authorization must specify product name, IRC §125 eligibility, monthly premium or fee, and the semi-monthly (24 annually) premium or fee. Statewide vendor deductions in the ISIS HR payroll system must be semi-monthly deduction amounts only (to the second decimal place). Payroll systems outside of the ISIS HR payroll system which permit monthly deductions may continue same;

e. an employee shall have only one deduction authorization (which may cover more than one product/policy) for a single vendor effective at any one time. Total current deduction amount and each component amount that make up that total must be reflected on any successive form(s);

f. vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency;

g. deduction forms must contain appropriate agency number to support monthly reconciliation process;

h. deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest;

i. employee deduction authorization shall not be transferred by an approved vendor to another vendor without special approval from the Commissioner of Administration;

j. an employee may discontinue a voluntary statewide vendor policy/service at any time by following OSUP and department/agency policy. Any deduction amount that is committed for participation in a current FBP year will continue to be deducted, but will be paid to the state of Louisiana;

6. follow procedures established by OSUP policy when refunding payroll deducted and remitted premiums to employees and §112 for requesting changes to existing products;

7. use invoice/billing identification structure that is compatible with payroll agency numbers to facilitate the monthly reconciliation;

8. be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due;

a. monthly reconciliation shall include total monthly premium due amount, each product amount and code as assigned by OSUP that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll agency numbers;

b. monthly reconciliation exception listing shall identify the employee by Social Security number and payroll agency number and shall be grouped within payroll agency numbers for ISIS HR payroll system agencies and similarly for payroll systems outside of the ISIS HR payroll system;

9. furnish evidence of reconciliation to OSUP as requested by that office. Like verification may be required by other payroll systems outside of the ISIS HR payroll system;

10. provide written notification within ten days of any change in the name, address, entity status, principal officers, designated administrative coordinator, appointed Louisiana sales coordinator and appointed billing coordinator to OSUP;

11. provide written notification of the dismissal of any vendor representative participating in state deduction to OSUP. Any vendor representative who has been debarred by a vendor from state participation shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

D. Vendor administrative coordinator shall:

1. be responsible for obtaining solicitation authorization and department policy from the department head or his designee;

2. appoint a vendor representative, if preferred, to be the "Louisiana sales coordinator" to handle the areas of solicitation and educational responsibilities;

3. be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives;

4. act as liaison for the vendor with any administrative contract(or) and the state relative to FBP participation;

5. be the primary contact for resolution of billing, refund, and reconciliation problems; and resolving claims problems for employee;

6. appoint a vendor representative, if preferred, to be the "Billing Coordinator" to handle the areas of billing, refunds and reconciliation problems.

E. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

F. Vendors may be debarred by a department/agency from solicitation within that department/agency for violation of this section or OSUP policy.

G. Vendors may be debarred from solicitation statewide by OSUP for violation of this section or OSUP policy.

H. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor. Unethical or unprofessional conduct of any vendor representative shall result in that individual being debarred from participation in state deduction for any vendor.

I. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455 or the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:87 (January 2006).

§115. Application Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000), repealed LR 32:89 (January 2006).

§117. Applicant and Vendor Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1028 (May 2000), repealed LR 32:89 (January 2006).

§119. Rule Transition

A. Any statewide vendor receiving payment through payroll deduction on the effective date of this rule shall continue to be approved as a vendor until the next annual renewal process if requirements of §114 are met.

B. Statewide vendors currently participating in deductions which do not meet the minimum participation requirements set forth in §114.C.3 of this rule by December 31, 2005 will be denied deduction privileges.

C. Entities which have submitted requests for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000), LR 32:89 (January 2006).

§121. Deduction Authorization Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), amended LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000), repealed LR 32:89 (January 2006).

§122. Statutory and Intra-Agency Vendor Information

A. Statutory vendors must:

1. provide data such as vendor contact information to OSUP upon request; and

2. upon request, submit to OSUP for approval their deduction authorization agreement (format and content).

a. Employee authorization agreements shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

b. If employee electronic authorization is approved by OSUP, the vendor will be responsible for retaining for audit purposes authorized agreements with employees.

B. Intra-Agency vendors.

1. Department/agency requesting an intra-agency specific deduction must submit a written request to OSUP and include:

a. certification that the collection of funds from employees through payroll deduction for meals, housing, uniforms, etc. is cost effective for the agency; and

b. an explanation of need which is to include the number of employees that will participate.

2. Intra-agency vendors must provide data such as vendor contact information to OSUP upon request.

3. There will be no additional requests for agency associations accepted by OSUP after the effective date of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:89 (January 2006).

§123. Solicitation of State Employees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1030 (May 2000), repealed LR 32:89 (January 2006).

§125. Vendor Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1030 (May 2000), repealed LR 32:89 (January 2006).

§127. Department/Agency Responsibility

A. Department head or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved statewide vendors;

2. confirm with the vendor administrative coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor administrative coordinator;

3. provide vendor administrative coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intra-agency deduction, to collect funds from employees for meals, housing, uniforms, etc., is required by and is a benefit to the agency/department; and

5. provide support for participation of selected EPBC members.

B. Department/agency designated personnel shall:

1. accept only authorization forms which conform to the standard deduction format (SED-4) from statewide vendor representatives;

2. verify that the statewide vendor name and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization if applicable;

5. be responsible for maintaining compliance with employee FBP year contract commitment;

6. process refunds for amounts previously deducted from any vendor which receives ISIS HR payments only as directed by OSUP policy. Payroll systems outside of the ISIS HR payroll system shall establish written policy for remittance and refund of deductions taken;

7. be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate governing board or boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:90 (January 2006).

§129. Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996). LR 26:1031 (May 2000), repealed LR 32:90 (January 2006).

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the ISIS HR payroll system or other state payroll system may be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule established by rule promulgated by the DOA under R.S. 42:458.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:90 (January 2006).

§133. Termination of Payroll Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000), repealed LR 32:90 (January 2006).

§135. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000), repealed LR 32:90 (January 2006).

§137. Appeal Process

A. Any vendor and/or any vendor representative participating in deduction debarred from participating for any reason by a department/agency or OSUP shall have the right to have that action reviewed by filing a written request for review with the department head of the department/agency. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor and/or vendor representative who is not satisfied with this decision has the right to appeal to the Commissioner of Administration. Any such appeal must be in writing and received by the Commissioner of Administration within 10 days of receipt by the vendor. The Commissioner of Administration shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the Commissioner of Administration shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:90 (January 2006).

§139. SED-3 (01/06)

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §106.D.2.d),

I,______________________________, ______________________________, on behalf of the
NAME (Print) TITLE

employees of ______________________________, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:

A.

____
APPLICANT/VENDOR NAME

____
ADDRESS

____
CITY/STATE/ZIP

____
AGENT/REPRESENTATIVE

____
PHONE (Area/Number/Extension)

To offer:

B.(PRODUCT/SERVICE)

____

____

____

____

Section 125 Eligible
Yes [__] No [__]

I further certify that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R.S. 42:455; has knowledge of the requirements of the rule governing payroll deductions; and that this department/agency attests that this product/service would be a benefit for employees of this department/agency.

Department ______________________________

Signature ______________________________

Title ______________________________

Date ______________________________

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform

Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000), amended LR 32:91 (January 2006).

Barbara Goodson
Assistant Commissioner

0601#020

RULE

Department of Labor
Office of Workers' Compensation
Workers' Compensation Second Injury Board

Approval of Settlements; Requirements;
Computation of Time (LAC 40:III.101)

In accordance with R.S. 49:905, et seq. that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the director of the Office of Workers' Compensation by R.S. 23:1378(A)(8)(a)(v) and in accordance with applicable provisions of the Administrative Procedure Act, amends Rules governing the procedures before the Workers' Compensation Second Injury Board, LAC 40:III, Chapter 1. The Rule, which is set forth below, amends Chapter 1, Section 101.

Title 40
LABOR AND EMPLOYMENT
Part III. Workers' Compensation Second Injury Board
Chapter 1. General Provisions
§101. Approval of Settlements; Requirements; Computation of Time

A.1. Requests for approval of the settlement of a third-party claim for settlement amounts less than $50,000 shall be submitted by facsimile transmission or hand delivery to the offices of the Second Injury Board.

2. Requests for approval of all other settlements may be submitted by United States Postal Services, facsimile transmission or hand delivery to the offices of the Second Injury Board.

B. Requests for approval of the settlement of a third-party claim shall be submitted on SIB Form C.

C. In computing the period of time allowed for response by the Second Injury Board to a request for settlement authority, the date of submission of the request shall not be included. The last day of the period shall not be included, unless it is a legal holiday, in which event the period shall run until the end of the next day which is not a legal holiday. The board shall have three working days, excluding legal holidays, to respond to the request.

D. SIB Form C

Second Injury Board
Request For Settlement Authority
Third-Party Claims Less Than $50,000
R.S. 23:1378(A)(8)(a)(iii)

All requests must be in **writing**.
All requests must be **faxed** to 225-219-5968 or **hand delivered** to the Second Injury Fund.
All **questions** must be answered and submitted with **required attachments**.

Name of Injured Worker:
Name of Workers' Compensation Insurance Carrier and/or Self-Insured Employer:
SIB Claim No:
Weekly Compensation Rate:

What is the total paid to date by the workers' compensation insurance carrier and/or self-insured employer?

a. Indemnity ________________

b. Medical ________________

What is the third party offer to:

a. The workers' compensation insurance carrier and or self-insured employer? ________________

b. The injured worker? ________________

c. Others (specify)? ________________

Does the workers' compensation insurance carrier and/or self-insured employer anticipate waiving recovery of any portion of the amount paid to the injured worker?	☐ Yes* ☐ No *If yes, what amount or percentage will be waived? ____________________

In addition to the above responses, the following must be attached:

A recent medical report documenting current medical condition.

A completed settlement evaluation form.

Not required but recommended:

Any additional information you care to submit to support your position.

SIB Form C

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1378(A)(8)(a)(v).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), amended by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 32:92 (January 2006).

John Warner Smith
Secretary

0601#050

RULE

Department of Insurance
Office of the Commissioner

Regulation 81—Military Personnel—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program (LAC 37:XIII.Chapter 95)

Under the authority of the Louisiana Insurance Code, R.S. 22:1, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and specifically R.S. 49:953.(B), the Louisiana Department of Insurance (LDOI), pursuant to R.S. 22:1425, amends Regulation 81 to implement changes to the premium discount program for active military personnel based in Louisiana, and to establish an insurer premium tax credit program for those insurers who properly provide the automobile liability insurance premium discount to active military personnel based in Louisiana, and to establish eligibility criteria, and to publish an approved "Louisiana Application For Military Discount" form as the documentary proof required for a person to verify eligibility for the discount, and to provide for the procedure whereby participating insurers can apply for and obtain a tax credit against the payment of premium taxes levied pursuant to R.S. 22:1061 and 1065, and to provide for other related matters as per the mandates of R.S. 22:1425. This action complies with the statutory law administered by the LDOI. The amendment to Regulation 81 is authorized by Act 408 of the 2005 Regular Legislative Session.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 95. Regulation 81—Military Personnel Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:1061 and 1065 for the amount of the military discount provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for the insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9505. Scope and Applicability

A. This regulation applies to all motor vehicle insurers authorized to engage in the business of writing personal automobile liability insurance in this state. It is also applicable to any personal automobile liability insurance policy purchased in this state from an authorized insurer by active military personnel based in Louisiana to cover personal motor vehicles owned and/or insured by such active military personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise:

Active Military Personnel—

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of

i. the Army, Navy, Marine Corps or Air Force; or

ii. the Reserve or National Guard; or

iii. the Coast Guard.

* * *

Automobile Liability Insurance Policy—a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:636.1.A.(1)(a)-(b), with the exception that for the purposes of this regulation, it shall also include coverage for motorcycles, which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:636.1.A.(2). It includes a renewal policy if, at the time of the renewal, the named insured retains the status of *active military personnel* as defined above. Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:636.1.A.(1)(a)-(b).

* * *

Insured—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9511. Premium Discount; Proof of Eligibility

A. ...

B. The initial obligation to demonstrate eligibility for the premium discount rests with the applicant/AMP. Thus, prior to the insurer applying the premium discount mandated by R.S. 22:1425.A, the applicant/AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the Louisiana Department of Insurance (LDOI).

C. An insurer who obtains from an applicant/AMP a properly executed Louisiana Application for Military Discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the applicant/AMP provided false or fraudulent information on the Louisiana Application for Military Discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the applicant/AMP to the LDOI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the applicant/AMP and shall be attested to by the AMP's unit commander or the military officer authorized to administer oaths to the AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDOI to ensure that the applicant/AMP is entitled to the premium discount mandated by R.S. 22:1425.A.

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation.

G. If single or married AMP are deployed out-of-state or overseas, the insurer is authorized to accept the Louisiana Application for Military Discount if it is properly filled out by any one of the persons who is in a filial relationship to the AMP, to wit: spouse, mother, or father, or any brother, sister, aunt or uncle who has attained the age of majority. The Louisiana Application for Military Discount must still be attested to by the AMP's unit commander or the military officer authorized to administer oaths to AMP.

H. Although it is the obligation of the applicant/AMP to demonstrate eligibility for the premium discount, the insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an applicant/AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the applicant/AMP.

I. At each renewal AMP shall be required to re-execute the Louisiana Application for Military Discount in all respects as required by Regulation 81.

J. The Louisiana Application for Military Discount that must be properly executed by the applicant and/or AMP is set forth in §9519, Louisiana Application for Military Discount―Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1425(A), as amended, will be requested by the eligible insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:1061 and 1065 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDOI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:1061 and 1065 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttal presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. The commissioner may disapprove a tax credit either in whole to the extent that the entire premium tax filing is defective, untimely or improperly documented, or in part to the extent that one portion of the premium tax filing is defective, untimely or improper, but the other portion of the premium tax filing is in compliance with §9513 of this regulation. The commissioner shall use the following criteria with regard to the disapproval, in whole or in part, of a premium tax filing, to wit:

1. the premium tax filing is submitted late, unless the insurer can show good cause for the delay;

2. the premium tax filing is incomplete or required documents are missing;

3. the premium tax filing is excessive because a military discount was given to a person who was not eligible to receive said military discount.

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDOI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30 day period the insurer can demonstrate, in writing to the commissioner, good cause

for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60 day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

1. If the tax credit is approved, in whole or in part, the commissioner shall grant to the insurer the amount of the tax credit so approved by the commissioner.

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. The insurer shall have 30 days from the date of receipt of the commissioner's order of disapproval to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:95 (January 2006).

§9515. Recordkeeping; Annual Report

A. Any insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation.

2. a copy of the Declarations Page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDOI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDOI in either an electronic format as per R.S. 22:2.1 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

a. the policy number of each policy;

b. the effective date of the policy;

c. the term of the policy;

d. the gross direct written premium prior to application of the military discount;

e. the net direct written premium following application of the military discount; and

f. the dollar value of the military discount applied to the policy.

2. The total number of policies written on active military personnel.

3. The total gross direct written premium prior to application of the military discount.

4. The total net direct written premium following application of the military discount.

5. The total end-of-year tax credit sought relative to the military discount.

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential and are exempt from the Public Records Act found at R.S. 44:4.

D. The initial tax credit filing made by the insurer shall cover the calendar year ending December 31, 2005 and shall be filed on or before March 1, 2006, and thereafter for each subsequent calendar year ending December 31 and filed on or before March 1 thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006).

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. If an insurer is examined or audited by the commissioner and it is determined that the insurer received a tax credit in excess of the amount actually due and owing, then the commissioner shall have authority to order the insurer to refund the overpayment to the commissioner. The commissioner shall promptly notify his staff of his determination and provide his staff with a copy of his order.

B. The commissioner shall have standing to institute legal proceedings to collect the amount of any tax credit overpayment and any such proceedings shall be brought in the Nineteenth Judicial District Court. The commissioner's order shall be prima facie proof of the amount due and owing. If legal proceedings are instituted, the commissioner shall be entitled to an additional 20 percent of the amount of the tax credit overpayment found to be due and owing for the cost of collection.

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer' certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or $2,500, whichever is more, or both. The insurer shall have 30 days from the date of receipt of the notice of the commissioner’s proposed action to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

D. No insurer shall be allowed to withdraw from the state or have its certificate of authority canceled if it has outstanding tax credit overpayments.

E. Nothing in this regulation shall be construed as a limitation on any powers or duties otherwise vested in the commissioner by operation of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006).

§9519. Louisiana Application for Military Discount - Appendix

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

NAME OF INSURANCE COMPANY: ______________________ **POLICY NO. or APPLICATION NO.:** ______________________

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application For Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900. You must complete all sections of this "Louisiana Application For Military Discount" form. If a section is not applicable enter "N/A."

Full Name of Active Military Personnel: ______________________ Date: ______________

Date of Birth: ______________________ Home Phone: ______________

Home Address: ____

Name of Spouse: ______________________ Spouse Date of Birth: ______________

Name and Date of Birth of Dependents: ______________________ ______________________

______________________ ______________________

Year, Make, Model & VIN of Car(s): ____

____

____

Branch of Service: ______________________ Rank: ______________

Name of Unit: ______________________ Unit Commander: ______________

Unit Address: ______________________ Unit Phone: ______________

Order No: ______________________ Date of Order: ______________

Active Duty Station: ______________________ Military Job: ______________

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" ("AMP") as defined by R.S. 22:1425 and Regulation 81, and is eligible for the military discount set forth in R.S. 22:1425 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application For Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in R.S. 22:1243, and any applicable provisions of Title 14, the Louisiana Criminal Code.

______________________ ______________________

Signature of Active Military Personnel ("AMP") — Signature of Commanding Officer or Military Officer Authorized to Administer Oaths

______________________ ______________________

Print Name of Active Military Personnel — Print Name and Title of Commanding Officer or Military Officer Authorized to Administer Oaths

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:97 (January 2006).

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on August 8, 2005. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006).

J. Robert Wooley
Commissioner

0601#090

RULE

Department of Health and Hospitals
Office of Public Health

Tuberculosis Control Program
(LAC 51:II.503)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, amends Title 51, Part II, Chapter 5 providing for mandatory tuberculosis testing of certain individuals who are employees, volunteers or patients in certain medical and residential facilities. The Rule changes the title of Chapter 5 from Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities to Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities. This title change is consistent with the removal of Day Care Center employees and volunteers from the mandatory tuberculosis testing requirement in June 2002 and the Rule changes as follows. The second Rule change adds to those whose testing for tuberculosis is mandatory the employees and volunteers working in direct patient care positions in the parish health units and out-patient health care facilities of the Department of Health and Hospitals, Office of Public Health.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part II. The Control of Diseases
Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities

§503. Mandatory Tuberculosis Testing

A. All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the field, or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the field, shall be free of tuberculosis in a communicable state as evidenced by either a:

1. negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method;

2. normal chest x-ray, if the skin test is positive; or

3. statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in §503.B.

D. …

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002), amended LR 32:98 (January 2006)

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

0601#072

RULE

Department of Health and Hospitals
Office of the Secretary
Bureau of Primary Care and Rural Health

Medicare Rural Hospital Flexibility Program
Critical Access Hospitals
(LAC 48:I.7601-7613)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health is amending LAC 48:I.7601-7615 as authorized by the Balanced Budget Act of 1997 (Public Law 105-33) and pursuant to Title XVIII of the Social Security Act and reauthorized by the Medicare Prescription, Improvement and Modernization Act of 2003. This Rule is promulgated in accordance with Medicare, Medicaid, the State Children's Health Insurance Programs (SCHIP) Balanced Budget Refinement Act of 1999 the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health promulgated a rule implementing the Medicare Rural Hospital Flexibility Program (MRHF) to assist rural communities in improving access to essential health care services through the establishment of limited service hospitals and rural health networks. The program created the Critical Access Hospital (CAH) as a limited service hospital eligible for Medicare certification and reimbursement (*Louisiana Register*, Volume 25, Number 8). The bureau now proposes to amend the August 20, 1999 Rule to revise the definition of "necessary provider" and revise other criteria to limit participation in the MRHF Program to Louisiana's existing small rural hospitals.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on the family has been considered. This Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health hereby amends the Medicare Rural Hospital Flexibility Program. To qualify as a critical access hospital, the small rural hospital must complete the following designation, licensing and certification processes.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 76. Medicare Rural Hospital Flexibility Program (MRHF)
Subchapter A. Critical Access Hospitals
§7601. Definitions

A. The following word and terms, when used in this Chapter 76 shall have the following meanings, unless the context clearly indicates otherwise.

BPCRH—Department of Health and Hospital, Office of the Secretary, Bureau of Primary Care and Rural Health.

CAH—Critical Access Hospital.

CMS—Centers for Medicare and Medicaid Services.

EACH/RPCH—Essential Access Community Hospital/Rural Primary Care Hospital—a limited service rural hospital program.

EMS—Emergency Medical Services.

Health Care Network—an organization consisting of at least one CAH and one acute care hospital with agreements for patient referrals, emergency/non-emergency transportation and other services as feasible.

HPSA—Health Professional Shortage Area.

HSS—Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section.

MRHF—Medicare Rural Hospital Flexibility Program.

MSA—Metropolitan Statistical Area.

MUA—Medically Underserved Area designated by the federal Office of Shortage Designations.

Necessary Provider—a facility located in a primary care HPSA or MUA; or located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state; or a facility located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level or qualifies as a "rural hospital" under the Louisiana Rural Preservation Act.

Not-for Profit—incorporated as a non-profit corporate entity.

Primary Care—basic ambulatory health services that provide preventive, diagnostic and therapeutic care.

Primary Care Physicians—includes general, family and internal medicine, pediatrics and obstetrics/gynecology.

QIO—Quality Improvement Organization

Public Hospital—hospital supported by public funds including city, service district and state hospitals.

Rural—The CAH is located outside any area that is a Metropolitan Statistical Area, as defined by the Office of Management and Budget or qualifies as a rural hospital under the Louisiana Rural Preservation Act.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:99 (January 2006).

§7603. Criteria for Designation as a CAH

A. A hospital must submit an application to the BPCRH and must meet the following criteria, or affirm that it can meet these criteria at the time of certification, to be designated as a CAH:

1. be a licensed hospital;

2. be currently participating in the Medicare program and meet applicable conditions of participation;

3. be located in a rural area:

a. may be a rural census tract in a Metropolitan Statistical Area as determined under the Goldsmith Modification, originally published in the *Federal Register* on February 27, 1992 and updated October 1, 2004; or

b. qualifies as a "rural hospital" under the Rural Preservation Act, RS 40:100.143;

4.a. be located more than a 35-mile drive or a 15-mile drive in mountainous terrain or areas with secondary roads, from the nearest hospital or CAH; or

b. be certified as a necessary provider by qualifying as a "rural hospital" under the Louisiana Rural Hospital Preservation Act RS 40:1300.143; and meeting at least one of the following:

i. be located in a primary care health professional shortage area (HPSA) or a medically underserved area (MUA); or

ii. be located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state; or

iii. be located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level;

c. provide not more than 25 acute care inpatient beds or swing-beds, meeting such standards as the secretary may establish, for providing inpatient care that does not exceed, as determined on an annual, average basis, 96 hours per patient.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000), amended by the Departmetn of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:99 (January 2006)

§7609. Application Submission and Review

A. A hospital that wishes to be designated as a CAH is required to submit an application to the BPCRH. Application forms may be requested and submitted by interested hospitals at any time following HCFA approval of the state's Rural Health Care Plan and application.

B. On receipt of an application, the BPCRH will conduct a review to determining the eligibility of the applicant hospital for conversion and consistency with the criteria for designation detailed in §7603.

C. The supporting information to be included with the application is:

1. documentation of ownership, including names of owners and percent of ownership;

2. board resolution to seek CAH certification;

3. documentation of Medicare participation;

4. notification from BPCRH that location is in a HPSA or MUA;

5. affirmation that 24-hour emergency medical care services and medical control agreements are available including information on staffing arrangements;

6. documentation that facility meets rural hospital staffing requirements with the following exceptions:

a. the facility need not meet hospital standards regarding the number of hours per day or days of the week in which it must be open and fully staffed, except as required to make emergency medical care services available and to have nursing staff present if an inpatient is in the facility;

b. the facility may provide the services of a dietician, pharmacist, laboratory technician, medical technologist, and/or radiological technologist on a part-time, off site basis; and

c. inpatient care may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist, subject to the oversight of a physician who need not be present in the facility but immediately available in accordance with state requirements for scope of practice;

7. copy of a needs assessment, if available;

8. copy of a strategic plan for conversion;

9. copy of financial feasibility assessment.

D. Decision. If an application is complete, and all supporting documentation provided, the BPCRH will provide written notice to the applicant hospital.

1. If the application and required documentation supports conversion to a MRHF, after the effective date of the published rule, the BPCRH will provide a written notice of the designation to the applicant hospital and HSS.

2. If the application is incomplete or otherwise insufficient to allow designation, the BPCRH will provide written notice to the applicant outlining the actions necessary to correct the deficiencies. The hospital may then address the deficiencies and resubmit its application.

E. Once designated, a hospital may apply to the Bureau of Health Services Financing, Health Standards Section (HSS) of the Department of Health and Hospitals for an onsite survey.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999), amended LR 26:1480 (July 2000), amended by the Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:100 (January 2006).

§7611. Technical Assistance

A. The BPCRH is available to furnish basic technical assistance to hospitals and communities interested in CAH conversion such as providing program information helping with interpretation and completion of the application for designation, and identifying other sources of assistance and information.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 32:100 (January 2006).

§7613. Program Monitoring and Evaluation

A. Ongoing monitoring and evaluation of the program will be conducted by the Quality Management Section of the BPCRH.

1. Strengths and weaknesses of the program and state policy affecting CAHs will be assessed, with the goal of identifying problem areas and developing solutions.

2. Results will be reported to the BPCRH Director who will assign program staff to work with other state agencies and interested parties to determine the necessity of changes and updates to the Plan and state policy.

3. All Plan changes will be forwarded to HCFA for review and approval.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balance Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999), amended LR 26:1480 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health LR 32:100 (January 2006).

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

0601#073

RULE

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Crimes Committed on the Grounds of Youth Services Facilities/Office Buildings and/or Properties
(LAC 22:I.761)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), promulgates §761, Crimes Committed on the Grounds of Youth Service Facilities/Office Buildings and/or Property.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding the investigation, reporting, and prosecution of crimes committed by youth in a secure care facility, employees and/or visitors on the grounds of secure care facilities, or at any building or on any property under Youth Services (YS) control.

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

Chapter 7. Youth Services

Subchapter C. Field Operations

§761. Crimes Committed on the Grounds of Youth Services Facilities/Office Buildings and/or Properties

A. Purpose. To establish policy regarding the investigation, reporting, and prosecution of crimes committed by youth in a secure care facility, employees and/or visitors on the grounds of secure care facilities or at any building or on any property under Youth Services (YS) control.

B. Applicability. All employees of Youth Services. Unit heads are responsible for ensuring that the investigation and reporting requirements described herein are met.

C. Definitions

Unit Head—youth facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

YS Central Office—offices of the deputy secretary, deputy assistant secretaries, Undersecretary of Management and Finance or designee, and their support staff.

D. Policy. It is the deputy secretary's policy that whenever a criminal act is allegedly committed, the matter will be investigated immediately by facility/office personnel (with assistance from other law enforcement agencies where appropriate), and referred to the appropriate district attorney for consideration of prosecution. In some jurisdictions, the district attorney may waive review of certain offenses or classes of offenses. Where the district attorney has waived review, the unit heads are authorized to handle such matters internally.

E. Procedures

1. A quarterly summary of referrals should be submitted to the district attorney.

2. The unit head and the district attorney may agree on specific categories of offenses that will not be reportable for consideration of prosecution except that youth facility directors must report those offenses covered by "Project Zero Tolerance—A Balanced Approach to Reducing Violence."

3. Disciplinary action will be taken against employees involved in criminal activities.

4. Failure to investigate and/or report acts covered by this rule may be cause for disciplinary action.

5. Any unit head who has knowledge of any misappropriation of public funds or assets of YS shall immediately notify the deputy secretary, the legislative auditor, and the district attorney.

6. "Project Zero Tolerance—A Balanced Approach to Reducing Violence" should be referred to for specific instructions concerning investigation reports and evidentiary documents of offenses covered therein.

7. In cases with probable cause to believe that a youth 17 years of age or older assigned to a secure care facility has committed a felony-grade offense, YS will seek to have that youth arrested, charged, and if appropriate, transferred to adult jurisdiction within the Department of Public Safety and Corrections.

F. The sheriff's office may be contacted to effect the arrest or the arrest may be effected by an employee of YS who possesses a law enforcement commission with full arrest powers from either a local law enforcement agency or a special officer's commission issued by the state police pursuant to R.S. 40:1379.1.

G. If adult jail pre-trial confinement is appropriate, after the arrest the youth facility director or designee should contact the local sheriff's office to arrange for the transfer. If the sheriff's office is unable to provide pre-trial housing, the youth facility director or designee should contact the deputy secretary or designee to arrange for the assignment of the arrestee to an adult pre-trial facility.

H. To determine the appropriateness of the adult jail pre-trial confinement, the youth facility director should consider the diagnosis of any youth who is seriously mentally ill or developmentally disabled, or whose medical condition may indicate that such a transfer is not appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:101 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#077

RULE

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Freon Recovery—Certification of Technicians and Recovery Equipment (LAC 22:I.703)

The Department of Public Safety and Corrections, Youth Services (YS), Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby promulgates §703, Freon Recovery—Certification of Technicians and Recovery Equipment.

The purpose of the promulgation of this Rule is to provide for procedures to comply with the refrigerant recycling requirements of the Clean Air Act (CAA).

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter A. Administrative
§703. Freon Recovery—Certification of Technicians and Recovery Equipment

A. Purpose. To provide for procedures to comply with the refrigerant recycling requirements of the Clean Air Act (CAA).

B. Applicability: deputy secretary, undersecretary or designee, deputy assistant secretaries, youth facility directors, probation and parole program director and regional managers.

C. Definitions

Regional Managers—the managers of the Division of Youth Services field offices located throughout the state.

Unit Head—youth facility directors, probation and parole director, and the deputy secretary or designee for Youth Services.

YS Central Office—offices of the deputy secretary, deputy assistant secretaries, and undersecretary or designee of the Office of Management and Finance, of the Office of Youth Development and their support staff.

D. Policy. It is the deputy secretary's policy to comply with Section 608 of the CAA, Refrigerant Recycling and Technician Certification.

E. Procedures. Each unit head shall ensure compliance with the following:

1. utilize service practices that maximize recycling of ozone-depleting compounds during the servicing and disposal of air conditioning and refrigeration equipment;

2. either:

a. certify to the Environmental Protection Agency (EPA) that recycling or recovery equipment has been acquired and that persons are adequately trained in the use of appropriate equipment, servicing or disposing of air conditioning or refrigeration equipment (including automobile air conditioners); or

b. utilize outside vendors with approved equipment and practices to provide this service.

AUTHORITY NOTE: Promulgated in accordance with Section 608 of the Clean Air Act, 1990, as amended (CAA), including final regulations published on March 14, 1993 (58 FR 28660), and the prohibition that became effective on July 1, 1992.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:102 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#079

RULE

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Furlough Process and Escorted Absence (LAC 22:I.763)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby promulgates §763, Furlough Process and Escorted Absence.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding the temporary release on furlough of adjudicated youth for the purpose of assisting youth in maintaining family and community relations.

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter C. Field Operations
§763. Furlough Process and Escorted Absence

A. Purpose. To establish the deputy secretary's policy regarding temporary release on furlough of adjudicated youth for the purpose of assisting youth in maintaining family and community relations.

B. Applicability: Deputy secretary, assistant secretary, deputy assistant secretaries, facility directors, probation and parole program director, and regional managers.

C. Policy. It is the policy of the deputy secretary to use temporary furloughs within the state as a rehabilitative tool to assist youth assigned to a center for youth in maintaining family and community relations. The Division of Youth Services (DYS) and the facility shall work together to effect the furlough program from recommendation through implementation. The deputy secretary must approve all furloughs except family emergency furloughs.

D. Definitions

Administrative Furlough Review Committee (AFRC)—the multi-disciplinary committee responsible for determining furlough eligibility.

Escorted Absence—a temporary absence authorized by the director of a facility in which youth are escorted off the grounds by facility staff.

Furlough—the authorized temporary release of a qualified youth from the grounds of a center for youth, or community-based secure detention facility, without the supervision of facility staff, for the purposes of aiding in the youth's rehabilitation, maintaining and/or enhancing family and community relations, and preparing the youth to make a satisfactory transition into society after his/her release.

E. Types of Furloughs

1. Standard Furlough—applies to all youth except for those committed to Youth Services under Children's Code Article 897.1, those assigned to a short-term program, or youth eligible for a family emergency furlough.

2. Children's Code Article 897.1 Furlough—applies only to youth committed to Youth Services under La. Children's Code Article 897.1 based upon a violation of R.S. 14:30 First Degree Murder, R.S. 14:30.1 Second Degree Murder, R.S. 14: 42 Aggravated Rape, R.S. 14:44 Aggravated Kidnapping and R.S. 14:64 Armed Robbery.

3. Short-Term Program Furlough—applies only to youth assigned to a short-term program.

4. Family Emergency Furlough—the authorized temporary release of a qualified youth due to a crisis prompted by the death or life-threatening illness or injury of a family member or legal custodian, and such furlough is deemed beneficial for the youth in meeting the needs of youth/family.

F. Furlough Eligibility Criteria, Exclusion Criteria and Procedure

1. Standard Furlough

a. Criteria for eligibility:

i. youth is on a minimum custody level; or

ii. youth is on a medium custody level, provided the youth has had no rule infraction within the past 60 calendar days; and

iii. youth is making progress on identified treatment needs, including taking medication; and

iv. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from Standard Furlough Eligibility

i. Youth is on a maximum custody classification level.

ii. Youth is on suicide watch.

iii. Youth is under investigation for and/or has pending criminal charges.

iv. There is documented evidence of previous unsuccessful furlough.

c. Screening and Referral for Standard Furlough

i. Youth must be screened at quarterly staffing, beginning at the second quarter staffing, regional staffing or during the placement review process. If appropriate, a referral to the Administrative Furlough Review Committee (AFRC) for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Standard Furlough Staffing

i. The AFRC must staff the furlough candidate's application using all information appropriate, but at a minimum:

(a). Progress Reports;

(b). Dormitory Management Team Review Form;

(c). Furlough Application Form;

(d). Reintegration Plan;

(e). Individual Treatment Plan; and

(f). medical considerations.

ii. The furlough recommendation is made and pages 2 and 3 of the Furlough Referral and Application Form is completed.

e. Standard Furlough Duration

i. Standard furloughs may be granted in increments of time between 2 hours to 14 consecutive days.

ii. A Standard furlough may be granted for a cumulative period up to 30 days in a calendar year, with no more than 14 consecutive days being granted/taken at any given time. Additional furlough authority greater than 30 days in a calendar year must be approved by the deputy secretary and must be submitted with justification for the need for additional furlough days.

2. Children's Code Article 897.1 Furlough

a. Criteria for eligibility:

i. youth has served a minimum of 60 percent of his commitment and has maintained a minimum custody level for six months prior to furlough referral or has been in the physical custody of Youth Services for a minimum of three years and has maintained a minimum custody level for twelve months prior to furlough referral; and

ii. youth has made progress in Youth Services' behavior modification program; and

iii. youth is making progress on identified treatment needs; and

iv. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from Children's Code. 897.1 Furlough Eligibility

i. Youth is on medium or maximum custody level.

ii. Youth is currently on suicide precautions.

iii. Youth is under investigation for and/or has pending criminal charges.

iv. There is documented evidence of a previous unsuccessful furlough.

c. Screening and Referral for Children's Code Article 897.1 Furlough

i. Youth must be screened at quarterly staffing, beginning with the second quarterly staffing, or regional staffing. If appropriate, a referral to the Administrative Furlough Review Committee (AFRC) for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Children's Code Article 897.1 Staffing

i. The AFRC must staff the furlough candidate's application using all appropriate information, but at a minimum:

(a). Progress Reports;

(b). Dormitory Management Team Review Form;

(c). Furlough Application Form;
(d). Reintegration Plan;
(e). Individual Treatment Plan; and
(f). medical needs;.

ii. The furlough recommendation is made by completing pages 2 and 3 of the Furlough Referral and Application Form.

e. Children's Code Article 897.1 Furlough Duration/Conditions

i. Children's Code Article 897.1 furloughs may be granted in increments of time between two hours to 14 consecutive days. Initial furloughs should be short, with subsequent furloughs being granted for longer periods of time, unless the circumstances demand otherwise.

ii. A Children's Code.Art.897.1 furlough may be granted for a cumulative period up to 30 days in a calendar year, with no more than 14 consecutive days being granted/taken at any given time. Additional furlough authority, greater than 30 days in a calendar year, must be approved by the deputy secretary and must be submitted with justification for the need for additional furlough days.

iii. If a furlough is approved, a youth will be required to wear an electronic monitoring device during the furlough and shall be monitored by the appropriate regional office.

3. Short-Term Program Furlough

a. Criteria for eligibility:

i. youth must demonstrate active participation in a short-term program; and

ii. youth is making progress on identified treatment needs; and

iii. youth is on minimum or medium custody level; and

iv. youth is within four weeks of his/her projected date of program completion; and

v. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from short term program furlough eligibility:

i. youth is on maximum custody classification level;

ii. youth is on suicide precautions;

iii. youth is under investigation for and/or has pending legal charges; or

iv. there is documented evidenced of a previous unsuccessful furlough.

c. Screening and Referral for Short Term Program Furlough

i. Youth must be screened at the 45-day staffing. If appropriate, a referral to the AFRC for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Short Term Program Furlough Staffing

i. The AFRC must staff the furlough candidate's application using all appropriate information, but at a minimum:

(a) Progress Reports;
(b) Dormitory Management Team Review Form;
(c) Furlough Confirmation Form;
(d) Reintegration Plan;
(e) Individual Treatment Plan; and
(f) medical needs.

ii. The furlough recommendation is made and pages 2 and 3 of the Furlough Referral and Application Form are completed.

iii. The Short Term Program Furlough must include a Reintegration/Treatment/Transitional Plan of Action containing the objectives and activities of the youth throughout the duration of the furlough. The plan of action will be documented on the Reintegration Activity for Short-Term Program Furlough Form.

e. Duration of Short Term Program Furloughs

i. Short Term Program Furloughs may be granted for a cumulative five calendar days.

ii. Short Term Program Furloughs may not exceed three consecutive days at any given time.

iii. Youth must be within four weeks of his projected date of program completion.

4. Family Emergency Furlough

a. Criteria for Eligibility. A family emergency furlough may be granted under either of the following conditions:

i. youth has confirmation/recommendation from the court that committed him/her to the custody of Youth Services; or

ii. youth is not eligible for any other type of furlough and his/her case manager recommends the family emergency furlough on the basis of individual case data/ information. The family emergency furlough will be granted only after receiving approval from the director of the facility.

b. Exclusions from consideration of family emergency furlough:

i. youth is on suicide watch;

ii. youth is under investigation for and/or has pending legal charges;

iii. youth is deemed to be at high risk for runaway or escape and/or engaging in additional criminal conduct;

iv. youth has been adjudicated under Ch. C. Art. 897.1.; or

v. there is documented evidence of previous unsuccessful furlough.

c. Referral for Family Emergency Furlough

i. A staffing must be held which includes the participation of the youth's probation officer, the dorm manager, the case manager, and the facility's deputy director, or in his absence, an assistant director. The staffing may occur via conference call.

ii. If the staffing results in a recommendation for the furlough, the deputy director or assistant director shall transmit the request for approval to the director along with all documentation verifying the emergency.

iii. If the director approves the furlough, the director shall specify the period of time allowed for the furlough.

iv. A written notice of furlough which includes the reason for the furlough, shall be prepared, signed by the director and faxed to the committing court, district attorney, deputy secretary and probation officer.

v. After faxing notice of furlough to the court and district attorney, if no written confirmation is received, a follow-up call must be made to confirm the district attorney and court's response to the proposed family emergency furlough. If there is no objection the furlough may proceed.

vi. If approved, a youth who is on a medium or maximum custody level will be required to wear an electronic monitoring device and shall be monitored by the appropriate regional office.

vii. Prior to a youth receiving a family emergency furlough, the facility director shall approve the family member(s), guardian(s), or other custodian(s) of the youth who will be overseeing the activities of the youth, providing primary care, and assuming responsibility for the youth throughout the duration of the furlough period.

d. Duration of Family Emergency Furlough

i. A family emergency furlough may not exceed three calendar days.

G. Administrative Furlough Review and Approval Process

1. Administrative Furlough Review Committee shall consist of the following:

a. deputy director or designee named by the director;

b. dorm manager for the applying youth;

c. mental health director or designee (LSUHSC) provider (if applicable);

d. school principal or designee; and

e. probation officer assigned to the applying youth, or the immediate supervisor (in person, via phone conference, or by prior interview).

2. Screening

a. Youth currently in secure facilities will be reviewed to determine the appropriateness of furloughs. Screening of youth for appropriateness of furlough will occur, at a minimum, during the quarterly staffing. It may also occur during the regional staffing or placement review process.

b. If a youth is determined to be appropriate for furlough after screening, the Administrative Furlough Review Committee will then consider the furlough within ten working days. The AFRC is required to consider multiple aspects of the youth's classification profile and treatment plan in determining furlough eligibility.

3. Referrals

a. Referrals for review of appropriateness of furlough may be made by those participating in the staffing, a probation officer, juvenile court or other interested person. Exclusion criteria must be considered prior to making the referral to the AFRC. Page 1 of the Furlough Referral Application Form shall be utilized to transmit information on youth being referred to the AFRC.

4. AFRC Review Process

a. The AFRC review process will include a thorough review and assessment of the youth's needs, strengths, and weaknesses. At a minimum, the AFRC team will consider the following prior to recommending a furlough:

i. educational/vocational needs/progress;

ii. mental health concerns;

iii. general treatment needs/progress in the areas of substance abuse, anger management, thinking errors;

iv. behavioral concerns;

v. level of participation in the behavior management program;

vi. home environment;

vii. custody level;

viii. community risk assessment;

ix. proposed aftercare/release plans;

x. special needs concerns (i.e., SMI, mental retardation, psychotropic medication needs, self harm);

xi. most recent secure custody screening documents (must have been done within the last year);

xii. escape risk; and

xiii. travel arrangements.

b. The probation officer will conduct a home study for purposes of the furlough within 10 working days. During the course of the home study the probation officer will have the proposed custodian complete or assist in the completion of the Request for Custodian Information Form. The custodian information form will be submitted to the director as part of the Furlough Referral and Application Form.

c. A schedule of the AFRC activities will be issued by the deputy director/designee and disseminated to all department heads and dorm managers. In an effort to better promote parent/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the AFRC meeting. The parent/guardian shall be invited to participate in the meeting.

d. The AFRC will send a completed furlough application form to the director.

e. With the exception of family emergency furloughs, once approved by the director, the furlough application will be forwarded to the deputy secretary for final approval.

5. Furlough Action by Deputy Secretary

a. Once approved by the facility director, the furlough application must be transmitted to the deputy secretary for review and final approval. All documentation used to support the director's approval of the furlough must be transmitted to the deputy secretary along with the Furlough Referral and Application Form.

b. The furlough application with supporting documentation must be transmitted to the deputy secretary five working days prior to mailing of the notice to the court(s) and district attorney(s) of plans to furlough a youth.

c. The deputy secretary will notify the facility director of the decision by returning page 3 of the Furlough Referral and Application Form. If the furlough is denied, the director or case manager will meet with the youth, notify the parent/guardian and DYS.

6. Notice to Court and District Attorney

a. If the furlough is approved by the deputy secretary, the director of the facility shall provide written notice to the court(s) and district attorney(s) of plans to furlough the youth.

i. Written notice shall include:

(a). reference to R.S. 15:908 regarding the authority designated to Youth Service to authorize a temporary furlough;

(b). whether the furlough requested is for a youth sentenced under Children's Code 897.1;

(c). statement that the furlough will not be authorized over the objection of the court or if the district attorney objects, until the conclusion of a contradictory hearing; and

(d). statement that the furlough program is a continuing rehabilitative process expected to last throughout the youth's commitment.

ii. For all furloughs except emergency family furloughs, written notice shall be furnished to the court at least 14 calendar days prior to the start date of the furlough.

iii. Notice of approved furloughs will also be provided to the appropriate regional office.

H. Conditions of Furlough

1. Custody Receipt

a. As per R.S. 15:908(B), the adult assuming custody of the child for the furlough must sign a custody receipt. In most cases, the person assuming custody will be the parent or guardian. If the parent or guardian is unable to travel to the facility to assume custody of the youth, a responsible family member may accept custody of the youth. This person must be an approved adult family member, age 21 or over, who is either included on the youth's previously approved visitation list or is known to the Office of Community Services worker or the assigned probation officer. A previously approved adult may also accept custody of the youth.

2. Conditions of Furlough

a. Case managers are responsible for reviewing furlough conditions and sanctions with the youth and family member or previously approved adult who will take custody of the youth. The case manager shall provide the youth and custodian with a copy of the conditions and sanctions. Following review of the furlough conditions and sanctions with the youth and custodian, the case manager will have the youth and custodian sign the Conditions of Furlough Form acknowledging that they understand the conditions and sanctions. The youth will sign the furlough contract.

b. All furloughs require that the youth participate in urine drug screening following a furlough.

c. The custodian will also be required to read and sign a Furlough Custodian Agreement.

3. Transportation

a. The responsible adult will physically transport the youth from the facility and return the youth to the facility.

I. Return of Youth to Facility

1. The youth will be returned to the facility. Upon return to the facility the youth will be transported to the infirmary for a wellness check and mandatory urine drug test.

2. The supervising probation officer will submit a report to the facility.

3. A case manager will interview the youth and assess the success of the visit.

4. A completed report will be submitted to the court and a copy sent to the regional office.

J. Sanctions for Violation of Furlough Rules

1. Types of Violations and Available Sanctions

a. Absent without leave (AWOL):

i. disciplinary infraction for escape;

ii. twelve months in Youth Services secure custody prior to any further furlough consideration;

iii. filing of criminal charges for escape and/or related charges.

b. Positive drug screen:

i. disciplinary infraction for intoxication and/or contraband;

ii. six months in Youth Services secure custody prior to any further furlough consideration;

iii. recommendation for referral to substance abuse services;

iv. modification of needs assessment to reflect recent usage of illegal/intoxicating substances (completion of substance abuse assessment).

c. Commission of crime while on furlough:

i. disciplinary infraction for aggravated disobedience;

ii. twelve months prior to any further furlough consideration;

iii. recommendation for referral to an appropriate treatment program.

d. Other violations:

i. therapeutic interventions appropriate to behavior.

2. Documentation of Violations

a. Documentation of rule violations while on furloughs will be reported on an Unusual Occurrence Report (UOR).

b. Reports are to be written by the employee (case manager, program manager, dorm manager, security staff, or probation officer) who discovers the furlough violation.

c. The regional office is to be notified in writing of any youth placed on escape status as a result of a furlough violation. Follow procedures outlined in YS Policy No. C.2.1 "Reporting and Documenting Escapes, Apprehensions, Runaways and AWOL's" regarding escapes.

K. Facility Furlough Program

1. The director of each facility shall implement a furlough program in compliance with the intent of this policy.

2. Provisions for annual review for program effectiveness shall be included.

L. Furlough Forms. The forms referred to above shall be named as follows and contain no less than the following information.

1. Furlough referral and application form:

a. type of furlough requested;

b. youth personal, offense, and custody classification level information;

c. disciplinary infraction review section; and

d. Administrative Furlough Review Committee section.

2. Reintegration activities for short-term furlough:

a. activities and appointments to be completed while on furlough.

3. Request for custodian information:

a. youth personal information;

b. information about makeup of custodial family, address, phone, work address;

c. information about the furlough custodian, his relationship to the youth, his criminal history.

4. Notice to court and district attorney:

a. reference to R.S. 15:908 regarding the authority designated to Youth Service to authorize a temporary furlough;

b. whether the furlough requested is for a youth sentenced under Children's Code 897.1;

c. statement that the furlough will not be authorized over the objection of the court or if the district attorney objects, until the conclusion of a contradictory hearing; and

d. statement that the furlough program is a continuing rehabilitative process expected to last throughout the youth's commitment.

5. Custody receipt:

a. acknowledgement of conditions and duration of the furlough, signed by the facility director;

b. acknowledgement of conditions and duration of furlough, and assumption of safety, well-being, and return of the youth, signed by the furlough custodian.

6. Furlough contract:

a. signed statements from youth that the conditions of the furlough have been explained to him, that he understands them, that he will follow them, that he understands that approval of future furloughs depends on the success of the instant furlough, and a telephone number for him to contact in the event concerns or questions arise.

b. conditions of furlough, setting forth the general terms and conditions of furlough, the sanctions for violating these conditions, notice that the youth will be requires to submit to drug testing upon his return from furlough.

7. Furlough custodian agreement:

a. acknowledgement of and agreement to certain facts, including that the youth will reside with the furlough custodian and not leave the state, that he can provide housing, meals and transportation to and from the facility, that he understands the conditions of furlough, and other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:405.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:102 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#078

RULE

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Marriage Requests (LAC 22:I.721)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby promulgates §721.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedure regarding youth marriage requests.

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

Chapter 7. Youth Services

Subchapter B. Classification, Sentencing, and Service Functions

§721. Marriage Requests

A. Purpose. To establish the deputy secretary's policy concerning youth marriage requests.

B. Applicability: deputy secretary, deputy assistant secretaries, and youth facility directors. It is the responsibility of the youth facility directors to convey the contents of this policy to youth who make a request to be married while assigned to a secure care facility. The legal age for obtaining a marriage license is 18 years old.

C. Policy. It is the deputy secretary's policy that youth marriage requests be handled in accordance with the procedures outlined herein.

D. Procedures

1. A youth's request to be married should be submitted to the youth facility director (director) for review.

2. The youth is required to participate in at least one counseling session with the facility chaplain, which is intended to assess the youth's level of responsibility to make a decision of this nature. The director will discuss the marriage proposal with both parties, either personally or through a chaplain, and document that the parties were counseled. In addition, the director will insure that the appropriate staff person provides a courtesy notification to the parent/guardian of the youth's marriage request. Documentation of these actions must be filed in the youth's case record under Clip II.

3. The youth must certify that both parties meet all legal qualifications for marriage. The youth is responsible for gathering this information, but may request assistance from his/her case manager.

4. If the chaplain chooses not to perform the marriage, he/she will inform both parties. In this situation, the chaplain will speak with the individual who is to perform the marriage to insure that they are fully aware of the situation of the youth. Only approved and licensed authorities (e.g., clergy and judges) will be permitted to perform the marriage ceremony.

5. If both parties are assigned to secure care facilities, the marriage will be postponed until one of the parties has been released.

6. The youth making the request must pay for all costs associated with the marriage ceremony.

7. Nothing in this policy is intended to preclude staff from volunteering, with the director's approval, to assist the youth with the marriage ceremony, as long as such assistance does not interfere with other facility activities and staff responsibilities.

8. Absent unusual circumstances related to legitimate safety concerns, the director should approve the marriage request and set an appropriate time and place for the

ceremony. Furloughs will not be granted for a marriage ceremony.

AUTHORITY NOTE: Promulgated in accordance with Turner v. Safley, 482 U.S. 78, 96 L.Ed.2d 64, 107 S.Ct. 2254 (1987); R.S. 9:201 through 204.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:107 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#080

RULE

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Selective Service Registration (LAC 22:I.701)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby promulgates §701, Selective Service Registration.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding Selective Service Registration for employment or appointment to a classified or unclassified state civil service position.

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

Chapter 7. Youth Services

Subchapter A. Administration

§701. Selective Service Registration

A. Purpose. To establish the deputy secretary's policy regarding Selective Service Registration for employment or appointment to a classified or unclassified state civil service position.

B. Applicability: undersecretary, deputy assistant secretaries, probation and parole program director, youth facility directors, and all human resource personnel.

C. Policy. It is the policy of the deputy secretary that any person who is required to register for the federal draft under Section 3 of the Military Selective Service Act (50 U.S.C. App. §453) must register for such draft prior to employment or appointment to a classified or unclassified position with Youth Services (YS).

D. Definitions

Unit Head—youth facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

Y.S. Central Office—offices of the deputy secretary, undersecretary of the office of management and finance, assistant secretary of the office of youth development, and their support staff.

E. Procedures

1. Each unit head is responsible for verifying that all male applicants, age 18 through 25, who are required to register with Selective Service provide proof of such registration in order to be eligible for classified or unclassified state civil service employment.

2. The applicant's selective service card will be copied and the copy attached to the applicant's application.

3. If the applicant does not have his selective service card available, he must complete and sign the Verification of Selective Service Registration form stating that he has registered with Selective Service, will present his Selective Service card as soon as possible or be terminated from employment.

4. A veteran of the armed forces of the United States may submit a copy of his discharge papers or his discharge certificate as verification of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:33 and the Military Selective Service Act, 50 U.S.C. App. §453.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:108 (January 2006).

Simon G. Gonsoulin
Deputy Secretary

0601#081

RULE

Department of Public Safety and Corrections
Gaming Control Board

Video Draw Poker
(LAC 42:XI.2403, 2411, and 2413)

The Gaming Control Board hereby amends LAC 42:XI.2403, 2411 and 2413 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 XI. Video Poker

Chapter 24. Video Draw Poker

§2403. Definitions

A. …

* * *

RAM Clear Chip—an erasable programmable read only memory or other media memory storage device as approved by the division which contains a program specifically designed to clear volatile and nonvolatile memory sections of a logic board for a video gaming device.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

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 30:266 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 32:108 (January 2006).

§2411. Regulatory, Communication, and Reporting Responsibilities

A. - A.12. …

13. All licensed manufacturers and distributors shall develop and provide to all licensed device owners and licensed service entities, a program to train and certify technicians. In addition, all licensed manufacturers and distributors shall award certification to authorized service personnel, and maintain all training records and certificate awards, which shall be provided to the division upon request.

A.14. - H.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

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 30:269 (February 2004), repromulgated LR 30:444 (March 2004), amended LR 32:109 (January 2006).

§2413. Devices

A. - A.1.g.x. …

h. main logic board and printed circuit board which shall contain a game EPROM or other secure media memory storage device as approved by the division, and which shall be separate in a locked area of the device. All logic boards shall have a nonremovable number affixed or inscribed;

A.1.i. - K.2.b. …

L. Device Parts

1. Licensed distributors and device owners shall purchase parts for video draw poker devices according to the following provisions.

a. Logic boards, EPROM's, media memory storage devices, or any other proprietary parts of a video draw poker device shall be purchased from a licensed video draw poker manufacturer or distributor.

b. Video draw poker device monitors and bill/coin acceptors may be purchased directly from the original equipment manufacturer, if available. After market device monitors and bill/coin acceptors may be purchased from sources other than a licensed manufacturer or distributor and used only if the part has been tested and approved for use in a video draw poker device by a division approved testing facility.

c. Any other replacement parts of a video draw poker device may be purchased from sources other than a licensed manufacturer or distributor if:

i. the parts are of equal or better quality than the original device parts; and

ii. the parts have no effect on the security, integrity, or outcome of the game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:85 (January 1999), LR 30:269 (February 2004), repromulgated LR 30:446 (March 2004), amended LR 32:109 (January 2006).

H. Charles Gaudin
Chairman

0601#015

RULE

Department of Public Safety and Corrections
Office of State Fire Marshal

Emergency Generators for Health Care Facilities
(LAC 55:V.1301)

In accordance with the provisions of R.S.40:1563 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Rule regarding emergency generators for health care facilities.

Title 55
PUBLIC SAFETY
Part V. Fire Protection
Chapter 13. Health Care Facilities; Hospitals
§1301. Emergency Generators for Health Care Facilities

A. In addition to the requirements of the *Life Safety Code* as set forth in previous regulations, all hospitals, skilled nursing facilities or any other facility utilizing life support systems on a 24-hour day basis shall comply with the following.

1. Emergency power must be provided in conformity with NFPA Code 99 for a minimum 48 hour duration.

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:15 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:95 (February 1989), LR 23:1697 (December 1997), LR 32:109 (January 2006).

Stephen J. Hymel
Undersecretary

0601#018

RULE

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Analysis of Breath—Operator Certification
(LAC 55:I.509)

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby amends the following Rule regarding the certification of operators of the Intoxilyzer 5000.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§509. Permits

A. Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

1. Operator's Certification

a. Operators shall be certified for a period of two years following successful completion of the 16-hour operator's training course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

b. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

2. Breath Alcohol Testing Field Supervisors. Breath alcohol testing field supervisors shall be certified for a period of two years.

3. Instructors. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the applied technology director.

4. Maintenance. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

B. Those permits with expiration dates between September 02, 2005 and December 31, 2005 are extended and shall be valid for an additional 180 days from the current listed date of expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:392 (October 1978), amended LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:257 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended by LR 27:1931 (November 2001), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:110 (January 2006).

Stephen Hymel
Undersecretary

0601#003

RULE

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Analysis of Breath―Maintenance Inspection for Intoxilyzer 5000 (LAC 55:I.515)

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby amends the following Rule regarding the maintenance inspection for the Intoxilyzer 5000.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§515. Maintenance Inspection for the Intoxilyzer 5000

A. Maintenance inspection shall be performed on a routine basis at least once every four months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist. Items to be inspected shall include, but not be limited to the following:

1. clean instrument;

2. running of a known alcohol value thereby checking the instrument and calibration. Results shall be within plus or minus 0.010 grams percent of the known alcohol value;

3. insure that the instrument is locked;

4. check printer to see if it is printing out properly;

5. check breath tube inlet hose;

6. in event repair work is needed, it shall be recorded in detail.

B. Those Intoxilyzer 5000 machines whose current four month certification period ends between September 2, 2005 and December 31, 2005 shall have an extended certification period and shall not be due for recertification maintenance inspection until an additional 180 days after the current recertification anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 4:391 (October 1978), LR 11:259 (March 1985), LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:110 (January 2006).

Stephen Hymel
Undersecretary

0601#004

RULE

Department of Revenue
Policy Services Division

Definition of Retail Sale or Sale at Retail
Fire Fighting Equipment Exclusion
(LAC 61:I.4301)

Under the authority of R.S. 47:301 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 amends LAC 61:I.4301 regarding the exclusion provided under R.S. 47:301(10)(o) for equipment purchased by bona fide volunteer fire departments.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4301. Definitions

A. - C.*Retail Sale or Sale at Retail*.e …

f. For state and local sales or use tax purposes, R.S. 47:301(10)(o) excludes the sale or purchase of equipment used in fire fighting by bona fide volunteer fire departments from the definition of *retail sale or sale at retail*. This applies to all equipment and special apparel necessary for fighting fires including communications systems, rubber suits, boots, helmets, axes, ladders, buckets, and the furnishings of a firehouse necessary for its operation such as sleeping and cooking facilities. Items purchased solely for the entertainment or recreation of volunteer firemen and meals or services furnished to a firehouse do not qualify for exclusion.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301, R.S. 47:337.2, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 32: 111 (January 2006).

Raymond E. Tangney
Senior Policy Consultant

0601#023

RULE

Department of Revenue
Policy Services Division

Demand for Payment of Taxes (LAC 61:I.4351)

Under the authority of R.S. 47:306, R.S. 47:1518, 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 amends LAC 61:I.4351 relative to the duty of the secretary to demand payment of the tax when a taxpayer fails to remit the tax with a return.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4351. Returns and Payment of Tax, Penalty for Absorption of Tax

A. - A.2. …

3. The tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 30-day demand assessment as provided in R.S. 47:1568(B). Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT).

A.4. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:2868 (December 2004), LR 32:111 (January 2006).

Raymond E. Tangney
Senior Policy Consultant

0601#022

RULE

Department of Revenue
Policy Services Division

Fire Fighting Equipment Purchased by
Volunteer Fire Departments (LAC 61:I.4412)

Under the authority of R.S. 47:301 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 repeals LAC 61:I.4412, which explained the exemption provided under R.S. 47:305.12 for fire fighting equipment purchased by bona fide organized public volunteer fire departments.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 44. Sales and Use Tax Exemptions
§4412. Fire Fighting Equipment Purchased by Bona Fide Organized Public Volunteer Fire Departments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.12.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February

1987), repealed by the Department of Revenue, Policy Services Division, LR 32:111 (January 2006).

Raymond E. Tangney
Senior Policy Consultant

0601#021

RULE

Department of Social Services
Office of Community Services

Legal Fees in Child Protection Cases
(LAC 67:V.Chapter 57)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Social Services, Office of Community Services, has adopted LAC 67:V, Subpart 7, Chapter 57, Billing Policies and Fee Review Procedures relative to the R.S. 46:460.21 attorney compensation system effective beginning July 1, 2005.

The legislatively convened Task Force on Legal Representation in Child Protection Cases established by House Concurrent Resolution No. 44 of the 2003 Regular Legislative Session, and, continued by House Concurrent Resolution No. 59 of the 2004 Regular Legislative Session, recommended that the Department of Social Services, Office of Community Services implement new billing policies and fee review procedures to be applied to requests for payment made by attorneys providing representation in child protection cases pursuant to R.S. 46:460.21 to be effective July 1, 2005. This recommendation was made to promote accountability through billing policies and other procedures that support attorneys' effective and efficient practice in child protection cases and to facilitate expenditures being more closely reflected in the budget year in which services are provided.

Title 67
SOCIAL SERVICES
Part V. Community Services
Subpart 7. Payment of Legal Fees in Child Protection Cases

Chapter 57. Billing Policies and Fee Review Procedures

§5701. Purpose

A. This Chapter provides billing policies and fee review procedures applicable to requests for payment of legal fees and expenses of attorneys representing children or indigent parents in Child in Need of Care (CINC) and judicial certification for adoption proceedings pursuant to R.S. 46:460.21. These policies and procedures shall be applicable to all requests for payment in proceedings occurring on or after July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006).

§5703. Billing policies

A. All prerequisites for payment specified in R.S. 46:460.21 shall be met. Attorneys shall comply with all minimum qualification standards specified by Louisiana Supreme Court General Administrative Rule Part J. Special Rules for Cases Involving the Protection of Children, Rule XXXIII, in order to be eligible for compensation.

B. Rates of payment shall be in accordance with Louisiana Supreme Court General Administrative Rule Part G, Section 9.

C. Upon completion of a discrete stage in CINC proceedings and final judgment in judicial certification for adoption proceedings, attorneys must submit requests for payment the earlier of 90 days of completion or final judgment or 30 days from the end of the state fiscal year (state fiscal year runs July 1-June 30). Discrete stages in proceedings include CINC proceedings through disposition, six-month reviews, and for attorneys representing children, one-year reviews post termination or surrender of parental rights when the child(ren) has not yet been permanently placed. Discrete stages may also include continued custody hearings when the attorney is appointed for that hearing only, CINC proceedings where a petition is not filed or is withdrawn prior to adjudication, CINC proceedings leading up to an Informal Adjustment Agreement, adjudication where the petition is denied, and CINC proceedings prior to disposition where an attorney appointed to act as counsel is permitted by the court to withdraw upon a finding of extenuating circumstances.

D. The detailed itemization of services must conform to the following invoicing standards:

1. Time and expenses billed shall be reasonable and necessary and based on contemporaneous record keeping. Minimum billable time increments shall be no greater than one-tenth of an hour. Each service activity shall be listed individually with its corresponding time increment. Paragraph or block billing whereby multiple discrete activities are billed within a single time increment will not be accepted for payment. Billing for bill preparation will not be accepted for payment. Travel time to and from the court that relates to mileage of less than 20 miles per trip will not be accepted for payment. The department shall make a sample invoice available to any requesting attorney.

2. Each service entry shall include a brief, but specific description of the service rendered, the date, the persons involved (e.g. client, other parties and their attorneys, Office of Community Services worker, foster parents, CASA volunteer, judge, etc.) and the purpose of the service or event.

3. For CINC cases, service entries shall be organized in accordance with discrete stages of the proceedings.

4. Expenses billed must relate to a specific legal service performed and include the date and amount of the expense. A receipt or other appropriate documentation of the expense must be attached. Mileage in excess of 20 miles per trip shall be reimbursable in accordance with state travel regulations established by the state Division of Administration. Beginning and ending odometer readings or alternatively Mapquest documentation of mileage must be included in the itemization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006).

§5705. Fee Review Procedures

A. In accordance with R.S. 46:460.21:

1. an attorney requesting fees certifies:

a. he complies with all minimum qualifications as specified in the Louisiana Supreme Court General Administrative Rule Part J. Special Rules for Cases Involving the Protection of Children Rule XXXIII, for providing representation in child protection cases required by the state of Louisiana;

b. the statements contained in the fee request documents are true and correct;

c. the services and expenses billed are reasonable and necessary and consistent with effective and efficient practice in child protection cases;

d. for representation of counsel on behalf of a parent, the parent is indigent in accordance with law;

e. the attorney has received no compensation for the services or expenses described nor will he be receiving or eligible to receive such compensation from any other source;

2. the judge exercising juvenile jurisdiction determines based upon the attorney's certification, information contained within the form and supporting documentation, and his or her knowledge of the proceedings that the number of hours billed and expenses charged appear reasonable and necessary;

3. the department reviews and pays fee requests meeting statutory prerequisites, including submission of necessary forms and documentation.

B. When questions or concerns regarding requests for payment are noted, the judge and/or the department have the authority to request additional information and to seek to resolve any discrepancies with an attorney before concurring in or authorizing fees for payment.

C. Questions or concerns relative to the accuracy, validity, or compliance of an attorney's requests with R.S. 46:460.21 and the standards promulgated herein, applicable Louisiana Supreme Court General Administrative Rules, and professional practice may be referred by the judge or department to the fee review panel constituted herein. The purpose of the panel shall be to provide independence, neutrality, clarity, and administrative efficiency in the resolution of questions or concerns and to promote programmatic and fiscal accountability in the administration of the system.

D. The fee review panel shall be composed of up to eleven experienced attorneys in child welfare proceedings who commit to impartial review of referred questions or concerns in accordance with the applicable standards and overall professional practice. Panel members shall serve without compensation. For any given referral, at least three attorneys from the panel who do not practice in the court from which the referral emanates and who have no conflict of interest relative to the case or attorney that would impair their impartiality shall review and make recommendations relative to the referral. Panel members shall elect a chair and vice-chair to be responsible for receiving referrals and facilitating timely review and response. Panel members shall agree upon the method of assigning cases for review. The department shall support the fee review panel by maintaining a log of referrals and recommendations.

E. Attorneys shall be nominated to serve on the panel by the Louisiana Council of Juvenile and Family Court Judges, the Louisiana Supreme Court, the Louisiana State Bar Association, the Louisiana District Attorneys Association, the Louisiana Indigent Defender Assistance Board, the Department of Social Services, the Mental Health Advocacy Service, and each of the four law schools of the state.

F. Members of the fee panel shall review whether a referred request for payment conforms to the applicable standards and is otherwise accurate and proper in accordance with professional practice. The review may include review of other requests for payment submitted by other attorneys in the same, or similar cases, a review of court files, review of agency records, and interviews of relevant parties, including the attorney submitting the request. When the reasonableness of hours is called into question, the panel shall refer to the Resource Guidelines for Improving Court Practice in Child Abuse and Neglect Cases published by the National Council of Juvenile and Family Court Judges for guidance.

G. Panel members shall agree to maintain the confidentiality of their review and deliberations. Panel members shall be bound by the same standards of confidentiality relative to individual case record information as the court and agency.

H. Upon determining that a request for payment is not in conformity with the applicable standards or is otherwise not accurate or proper in accordance with professional practice, the review panel shall advise the attorney submitting the request of the same in writing and specify the reasons for the determination. The attorney may provide a written response within 10 days of receipt of the determination. After reviewing the attorney's response, the fee panel shall make a recommendation to the appropriate court and the Department regarding the referral and any adjustments to the fee requests it deems appropriate. There shall be no right of review or appeal to the recommendation by the panel members. A recommendation by the fee panel that a request for fees be reduced does not constitute a finding of wrongdoing.

I. The fee panel is authorized to recommend to the Supreme Court an attorney's suspension from appointment to child protection cases for a specified period of time and/or removal from the list of attorneys deemed eligible for appointment in such cases. The fee panel may also make referrals to the Attorney Disciplinary Board as appropriate.

J. Summary information regarding the operation of the fee panel, including referrals to and recommendations of the fee panel, shall be included in the annual report to the legislature pursuant to R.S. 46:460.21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:113 (January 2006).

Ann S. Williamson
Secretary

0601#092

RULE

Department of Social Services
Office of Management and Finance

Substance Abuse Testing of Employees (LAC 67:I.101-119)

The Department of Social Services, Office of the Secretary, has amended Title 67, Part I of the Louisiana Administrative Code, Subpart 1 General Administration.

Title 67
SOCIAL SERVICES
Part I. Office of the Secretary
Subpart 1. General Administration

Chapter 1. Substance Abuse Testing

§101. Introduction and Purpose

A. …

B. The state of Louisiana has a long-standing commitment to working toward an alcohol-free, drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Orders Number KBB 2005-08 and KBB 2005-11 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001 et seq.

C. The Department of Social Services fully supports these efforts and is committed to an alcohol-free, drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§105. Definitions

* * *

Safety-Sensitive or Security-Sensitive—a position determined by the appointing authority to contain duties of such nature that the compelling state interest to keep the incumbent drug-free outweighs the employee's privacy interests. Executive Orders Number KBB 2005-08 and KBB 2005-11 set forth the following non-exclusive list of examples of safety-sensitive and/or security-sensitive positions in state government:

1. - 8. …

Under the Influence—for the purposes of this policy, alcohol, a drug, chemical substance, or the combination of alcohol, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§107. DSS Drug-free Workplace Policy

A. It shall be the policy of DSS to maintain a drug-free workplace and a workforce free of substance abuse (see DSS Policy 4-08). Employees are prohibited from reporting for work, performing work, or otherwise being on any duty status for DSS with the presence in their bodies of alcohol, illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. To assure maintenance of a drug-free workforce, it shall be the policy of DSS to implement a program of drug testing in accordance with Executive Orders Number KBB 2005-08 and KBB 2005-11, R.S. 49:1001 et seq., and all other applicable federal and state laws, as set forth below.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§109. Conditions Requiring Drug Tests

A. DSS shall require alcohol/drug testing under the following conditions.

1. Reasonable Suspicion: Any employee shall be required to submit to an alcohol/drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using illegal drugs or is under the influence of alcohol while on duty. At least two supervisors/managers must concur there is reasonable suspicion before an employee is required to submit to an alcohol/drug test. Supervisors shall decide who will drive the employee to the testing site.

2. Post-Accident: Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to an alcohol/drug test if the accident:

a. involves circumstances leading to a reasonable suspicion of the employee's alcohol/drug use;

b. results in serious injury or a fatality; or

c …

3. Rehabilitation Monitoring: Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency shall be required to submit to periodic drug testing.

4. Pre-Employment: A prospective employee who is given a conditional offer of employment shall sign and be given a copy of the DSS Conditional Offer of Employment Agreement form. Each prospective employee shall be required to submit to drug screening at the time and place designated by the appointing authority or designee following a conditional job offer contingent upon a negative drug-testing result. A prospective employee who tests positive for the presence of drugs in the initial screening or who fails to cooperate in the testing shall be eliminated from

consideration for employment. Employees transferring to DSS from other state agencies without a break in service are exempt from pre-employment testing.

5. …

6. Safety-Sensitive and Security-Sensitive Positions―Random Resting. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to alcohol/drug testing as required by the appointing authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§111. Procedure

A. Alcohol/drug testing pursuant to this policy shall be conducted for the presence of any illegal drugs including, but not limited to, cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. DSS reserves the right to test employees for the presence of any alcohol, illegal drugs or controlled substance when there is a reasonable suspicion to do so.

B. The human resources director of each office shall be involved in any determination that one of the above-named conditions requiring alcohol/drug-testing exists. Upon such determination, the appointing authority or designee for each office shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

C. - C.4. …

5. The laboratory shall use a concentration cut-off of 0.08 or more for the initial positive finding in testing for alcohol.

6. All positives reported by the laboratory must be confirmed by gas/chromatography/mass spectrometry.

7. All confirmed positive results of alcohol/drug testing shall be reported by the laboratory to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§113. Confidentiality

A. All information, interviews, reports, statements, memoranda, and/or test results received by DSS through its alcohol/drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. These records will be kept in a locked confidential file just as any other medical records are retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§115. Responsibilities

A. The Secretary of DSS is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program; describing the process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by December 1 of each year.

B. The appointing authority or designee is responsible for administering the alcohol/drug testing program; determining when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; and collecting appropriate information necessary to agency defense in the event of legal challenge.

C. All supervisory personnel are responsible for assuring that each employee under their supervision is aware of and understands this policy, and signs a receipt form acknowledging the policy. Each employee must be given a copy of the receipt form in the new hire package.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§117. Violation of the Policy

A. Positive Test Result. All initial screening tests with positive results must be confirmed by a second more accurate test with the results reviewed by a medical review officer. Any breath test resulting in 0.08 alcohol concentration will be considered an initial positive result. In these cases, the confirmation test will be performed within 30 minutes, but not less than 15 minutes, of completion of the screening test. Urine samples will be tested using the split sample method, with the confirmation test performed on the second half of the sample in the event of an initial positive result. Any employee reported with a confirmed positive test shall either be suspended with pay pending investigation or shall have the safety/security sensitive duties removed from his/her position pending preparation and approval of disciplinary action up to and including dismissal, as set forth in DSS Policy 4-07. At a minimum the following actions will be taken in the instance of a first confirmed positive test.

1. The employee shall be subject to disciplinary action as determined by the appointing authority.

2. …

3. The employee shall be screened on a periodic basis for not less than 12 months nor more than 60 months. Follow-up testing, return to duty testing, counseling and any other recommended treatment will be at the cost of the employee and not the department. Post accident or return to duty tests which are positive will result in the employee’s dismissal.

B. Refusal to Test.

1. Any employee refusing to submit to a breath test for the presence of alcohol or a urine test for the presence of drugs will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, abusive language to the supervisor or personnel performing the test, or tampering of any sample, container, equipment or documentation of the sampling process. If a test is determined to be invalid, it is not considered a refusal and no disciplinary action will be taken. Inability to perform the testing procedures must be documented by a medical physician and recorded in the employee's personnel file.

2. If an employee alleges that, because of medical reasons, he/she is unable to provide a sufficient amount of breath to permit a valid breath test, the Breath Alcohol Technician (BAT) will instruct the employee to try a second time to provide an adequate amount of breath. If an employee is unwilling to submit to the test, then the results of the test will be subject to the consequences of a positive test. If an employee is unable to provide a sufficient quantity of urine, the collector will discard the insufficient specimen and instruct the individual to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the employee has provided a new urine specimen. If the employee remains unable to provide a sufficient specimen, the collector must discard the insufficient specimen, discontinue testing and notify the Agency Human Resources Director or his/her designee of his/her actions. In these instances, the Agency Human Resources Director or his/her designee shall inform the appointing authority immediately. The appointing authority shall direct the employee to have a medical evaluation, within five working days (at the agency's expense) conducted by an agency selected licensed physician with expertise in the medical issues surrounding a failure to provide a sufficient specimen. The physician will provide to the appointing authority, a report of his/her conclusions as to whether the employee's inability to provide a sufficient specimen is genuine or constitutes a refusal to test. If the conclusion of refusal to test is reached, it will be subject to the consequences of a positive test.

C. Reasonable Suspicion of Adulterated/Substituted Sample. A specimen temperature that measures outside the range of 90 to 100 degrees Fahrenheit constitutes a reason to believe that an employee has adulterated or substituted the specimen. The collector must immediately conduct a new collection using direct observation procedures.

D. Challenging Test Results. If a current or prospective employee receives a confirmed positive test result, he/she may challenge the test results within 72 hours of actual notification, with the understanding that he/she may be placed on suspension pending investigation, until the challenge is resolved. A written explanation of the reason for the positive test result may be submitted to the medical review officer. Employees who are on legally prescribed and obtained medication for a documented illness, injury or ailment will be eligible for continued employment upon receiving clearance from the medical review officer.

E. Other Violations. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, clients, and the general public.

F. Failure to comply with provision of the policy, including but not limited to, the following, will be grounds for disciplinary action:

1. - 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§119. Attachment A—Safety-Sensitive and Security-Sensitive Positions Within DSS

A. A candidate for one of the following positions will be required to pass a drug test before being placed in such a position, whether through appointment or promotion and employees who occupy these positions will be subject to random alcohol/drug testing:

Louisiana Rehabilitation Services	Administrative Specialist 3 (Position 060871) Client Services Worker Rehabilitation Aide
Office of Family Support	Social Services Analyst 1 & 2 (All positions in Support Enforcement) Social Services Analyst Supervisor (All positions in Support Enforcement) Support Enforcement District Manager 1 & 2 Support Enforcement Regional Administrator
Office of Community Services	Administrative Coordinator 3 (Positions in Field Services – Parish and Regional Offices) Administrator Coordinator 2 (Positions in Field Services – Parish and Regional Offices) Child Welfare Services Assistant Trainee Child Welfare Services Assistant Child Welfare Counselor/Adoption Child Welfare Specialist 1 Child Welfare Specialist 2 Child Welfare Specialist 3 Child Welfare Specialist 4 Child Welfare Specialist Trainee Social Service Counselor 1 Social Service Counselor 2
Office of the Secretary/Office of Management and Finance	Accountant 3 (178446) Administrative Coordinator 1 (002112, 002913) Administrative Coordinator 2 (001979) Auditor Supervisor (124684) Licensing Specialist 1—DSS Licensing Specialist 2—DSS

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1148 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:116 (January 2006).

Ann S. Williamson
Secretary

0601#091

RULE

Department of Transportation and Development
Office of Highways/Engineering

Control of Outdoor Advertising
(LAC 70:III.136 and 139)

Editor's Note: Sections 136 and 139 are being republished to correct technical errors. The original Rule may be viewed in its entirety on pages 944-946 of the April 20, 2005 issue of the *Louisiana Register*.

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 hereby amends Subchapter C of Chapter 1 of Part III of Title 70 entitled "Regulations for Control of Outdoor Advertising," in accordance with 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

§136. Erection and Maintenance of Outdoor Advertising in Unzoned Commercial and Industrial Areas

A. Definitions

* * *

Unzoned Commercial or Industrial Areas—those areas which are not zoned by state or local law, regulation, ordinance and on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted.

a. Repealed.

b. Repealed.

B. Qualifying Criteria

1. Primary Use Test

a. The business must be equipped with all customary utilities and must be open to the public regularly or be regularly used by employees of the business as their principal work stations.

b. The primary use or activity conducted in the area must be of a type customarily and generally required by local comprehensive zoning authorities in this state to be restricted as a primary use to areas which are zoned industrial or commercial.

c. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an *unzoned commercial or industrial area*. Activities incidental to the primary use of the area, such as a kennel or repair shop in a building or on property which is used primarily as a residence, do not constitute commercial or industrial activities for the purpose of determining the primary use of an *unzoned* area even though income is derived from the activity.

d. If, however, the activity is primary and local comprehensive zoning authorities in this state would customarily and generally require the use to be restricted to a commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of an area, even though the owner or occupant of the land may also live on the property.

2. Visibility and Measurement Test

a. The area along the highway extending outward 800 feet from and beyond the edge of such activity shall also be included in the defined area.

b. The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at a maximum posted speed limit on the main traveled way of the highway. Visibility will be determined at the time of the field inspection by the department's authorized representative.

c. Each side of the highway will be considered separately. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, processing, or landscaped areas of the commercial or industrial activity and shall not be made from the property lines of the activities. The measurement shall be along or parallel to the edge of the pavement of the highway.

3. Structures and Grounds Requirements

a. - f. …

g. Limits. Limits of business activity shall be in accordance with the definition of Unzoned commercial or industrial areas as stated in §136.B.2.a.

B.3.h. - C.4. …

D. Non-Qualifying Activities

1. - 11. …

12. Public park lands or playgrounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 25:880 (May 1999), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006).

§139. Determination of On-Premise Exemptions

A. - B.3.c.ii.(d). …

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).

J. Michael Bridges, P.E.
Undersecretary

0601#051

RULE

Department of Treasury
Deferred Compensation Commission

Public Employees Deferred Compensation Plan and Participant Member Election Procedures
(LAC 32:VII.Chapters 1, 3, 7, 11, and 101)

Under the authority of R.S. 42:1301-1308, and §457 of the *Internal Revenue Code* of 1986 as amended, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of the Treasury, Deferred Compensation Commission hereby amends the Deferred Compensation Plan, LAC 32:VII. Chapters 1, 3, 7, and 11; and adopts procedures governing the nomination and election of participant members in Chapter 101.

The State of Louisiana Public Employees Deferred Compensation Plan (the "plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The plan was established in accordance with R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the plan. The commission hereby amends the Deferred Compensation Plan and adopts procedures governing the nomination and election of participant members as revised August 16, 2005.

Title 32
EMPLOYEE BENEFITS
Part VII. Public Employee Deferred Compensation
Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§101. Definitions

Account Balance—

1. the bookkeeping account maintained with respect to each participant which reflects the value of the deferred compensation credited to the participant, including:

a. the participant's total amount deferred;

b. the earnings or loss of the fund (net of fund expenses) allocable to the participant;

c. any transfers for the participant's benefit; and

d. any distribution made to the participant or the participant's beneficiary:

i. if a participant has more than one beneficiary at the time of the participant's death, then each beneficiary's share of the account balance shall be treated as a separate account for each beneficiary;

2. the *account balance* includes:

a. any account established under §505 for rollover contributions and plan-to-plan transfers made for a participant;

b. the account established for a beneficiary after a participant's death; and

c. any account or accounts established for an alternate payee [as defined in Code §414(p)(8)].

* * *

Alternate Payee—the spouse, former spouse, child or other dependent of a participant who has acquired an interest in the participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to §1503. Alternate payees shall be treated as beneficiaries for all purposes under the plan except that alternate payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the QDRO.

Beneficiary—the person, persons or entities designated by a participant pursuant to §301.A.5 who is entitled to receive benefits under the plan after the death of a participant.

* * *

Compensation—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees, and, to the extent permitted by treasury regulations or other similar guidance, accrued vacation and sick leave pay paid within two and one-half months of participant's severance from employment so long as the employee would have been able to use the leave if employment had continued.

* * *

Custodian—the bank or trust company or other person, if any selected by the commission to hold plan assets in a custodial account in accordance with regulations pursuant to IRC §457(g) and 401(f).

* * *

Employee—any individual who is employed by the employer, either as a common law employee or an independent contractor, including elected or appointed individuals providing personal services to the employer. Any *employee* who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the plan shall be excluded.

Includible Compensation—an employee's actual wages in Box 1 of Form W-2 for a year for services to the employer, but subject to a maximum of $200,000 [or such higher maximum as may apply under Code §401(a)(17)] and increased (up to the dollar maximum) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) [for purposes of the limitation set forth in §303.A, compensation for services performed for the employer as defined in IRC §457(e)(5)].

Independent Contractor—an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

* * *

Investment Product—any form of investment designated by the commission for the purpose of receiving funds under the plan.

IRC—the *Internal Revenue Code* of 1986, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

* * *

Non-Elective Employer Contribution—any contribution made by an employer for the participant with respect to which the participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.

Normal Retirement Age—

1. - 1.b. …

2. if the participant is not a member of a defined benefit plan in any public retirement system, the participant's normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2. A special rule shall apply to qualified police or firefighters under the plan, if any. Any qualified police or firefighter, as defined under §415(b)(2)(H)(ii)(I), who is participating in the plan may choose a normal retirement age that is not earlier than age 40 nor later than age 70 1/2;

3. …

* * *

Severance from Employment or Severs Employment—

1. the date the employee dies, retires, or otherwise has a severance from employment with the employer, as determined by the administrator (and taking into account guidance issued under the Code). An employee whose employment is interrupted by qualified military service under Code §414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. A participant shall be deemed to have severed employment with the employer for purposes of this plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, severance from employment shall be deemed to have occurred when:

a. the participant's contract for services has completely expired and terminated;

b. there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and

c. it is not anticipated that the participant shall become an employee of the employer.

2. - 3. …

* * *

Unforeseeable Emergency—

1. severe financial hardship to a participant resulting from:

a. a sudden and unexpected illness or accident of the participant or of a dependent [as defined in IRC §152(a)] of the participant;

b. loss of the participant's property due to casualty; or

c. other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant;

2. the need to send a participant's child to college or the desire to purchase a home shall not constitute an unforeseeable emergency. Whether a hardship constitutes an unforeseeable emergency under IRC §506 shall be determined in the sole discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002), LR 32:118 (January 2006).

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

A. The following applies to compensation deferred under the plan.

1. A participant may not defer any compensation unless a deferral authorization providing for such deferral has been completed by the participant and is filed in good order with the administrator. Such election shall become effective no earlier than the first payroll period after the first day of the month after such new election is made, and shall continue in effect until modified, disallowed or revoked in accordance with the terms of this plan, or until the participant ceases employment with the employer. With respect to a new employee, compensation will be deferred in the payroll period during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee. Any prior employee who was a participant in the plan and either revoked their participant agreement, or is rehired by employer, may resume participation in the plan by entering into a participation agreement, which shall take effect no earlier than the first payroll period after the first day of the month after such new participation agreement is entered into by the participant and accepted by the administrator. Any distributions being taken from this plan are to be terminated prior to the resumption of deferrals under the plan. Additionally, if distributions had not begun pursuant to a prior severance from employment, any deferred commencement date elected by such employee with respect to those prior plan assets shall be null and void.

2. In signing the participation agreement, the participant elects to participate in this plan and consents to the deferral by the employer of the amount specified in the participation agreement from the participant's gross compensation for each pay period. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this plan. Unless the election specifies a later effective date, a change in the amount of the deferral shall take effect as of the first payroll period after the first day of the next following month, or as soon as administratively practicable, if later.

3. The minimum amount of compensation deferred under a deferral authorization shall be no less than $20 each month; provided, however, that such minimum deferral shall

not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (§11332 of the Social Security Act and IRC §3121). The employer retains the right to establish minimum deferral amounts per pay period and to limit the number and/or timing of enrollments into the plan in the participation agreement.

4. Notwithstanding Paragraph 1 above, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the plan (automatic enrollment) and, as a term or condition of employment, elects to participate in the plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

5. Investment Selection and Beneficiary Designation

a. The participation election, or such other form as approved by the administrator, shall include the employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the administrator on a uniform basis for all employees.

b. Each participant shall initially designate in the participation agreement a beneficiary or beneficiaries to receive any amounts, which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

6. Information Provided by the Participant. Each employee enrolling in the plan should provide to the administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the administrator, for the administrator to administer the plan, including, without limitation, whether the employee is a participant in any other eligible plan under Code §457(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1495 (June 2002), LR 32:119 (January 2006).

§303. Deferral Limitations

A. Except as provided in §305.A.1-2.a-b, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of:

1. the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with IRC §457(e)(15). [After 2006, the dollar amount is adjusted for cost-of-living under Code §415(d)]; or

2. one hundred percent of the participant's includible compensation, each reduced by any amount specified in Subsection B of this §303 that taxable year. However, in no event can the deferred amount be more than the participant's compensation for such years unless the employer is making nonelective employer contributions.

a. The annual deferral amount does not include any rollover amounts received by the plan under treasury regulation §1.457-10(e).

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006).

§305. Limited Catch-up

A.1. - 2.b. …

B. If a participant is not a member of a defined benefit plan in any public retirement system, normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2.

C. Pre-2002 Coordination Years

1. For purposes of this §305, *Contributions to Pre-2002 Coordination Plans* means any employer contribution, salary reduction or elective contribution under:

a. any other eligible Code §457(b) plan; or

b. a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement;

c. Code §402(h)(1)(B) simplified employee pension (SARSEP);

d. Code §403(b) annuity contract; and

e. Code §408(p) simple retirement account; or

f. any plan for which a deduction is allowed because of a contribution to an organization described in Code §501(c)(18), including plans, arrangements or accounts maintained by the employer or any employer for whom the participant performed services.

2. Contributions for any calendar year are only taken into account for purposes of this §305 to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006).

§307. Participant Modification of Deferral

A. The participant shall be entitled to modify the amount (or percentage) of deferred compensation with respect to compensation payable no earlier than the payroll period after the first day of the next following month, or as soon as administratively practicable, if later, provided such modification is entered into by the participant and accepted by the commission. Notwithstanding the above, if a negative election procedure has been implemented pursuant to §301.A.4, a participant may enter into or modify a participation agreement at any time to provide for no deferral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006).

§309. Employer Modification of Deferral

A. - A.1-6. …

B. To the extent permitted by, and in accordance with, the *Internal Revenue Code*, the employer or administrator may distribute the amount of a participant's deferral in excess of the distribution limitations stated in §§301, 303, 305, 307 and 309 notwithstanding the limitations of §701.A; provided, however, that the employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this §309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:121 (January 2006).

§313. Re-Enrollment

A. A participant who revokes the participation agreement as set forth in §311.A may execute a new participation agreement to defer compensation payable no earlier than the payroll period after the first day of the next following month, or as soon as administratively practicable, if later, provided such new participation agreement is executed by the participant and accepted by the commission.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:121 (January 2006).

§319. Qualified Military Service

A. …

B. Protection of Persons Who Serve in a Uniformed Service. An employee whose employment is interrupted by qualified military service under Code §414(u) may elect to make additional annual deferrals upon resumption of employment with the employer equal to the maximum annual deferrals that the employee could have elected during that period if the employee's employment with the employer had continued (at the same level of compensation) without the interruption or leave, reduced by the annual deferrals, if any, actually made for the employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998), amended LR 32:121 (January 2006).

§321. Correction of Excess Deferrals

A. If the total amount deferred on behalf of a participant for any calendar year exceeds the limitations described above, or the total amount deferred on behalf of a participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the participant under another eligible deferred compensation plan under Code §457(b) for which the participant provides information that is accepted by the administrator, then the total amount deferred, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 32:121 (January 2006).

Chapter 7. Distributions

§701. Conditions for Distributions

A. - A.4. …

5. the calendar year in which an in-service participant attains age 70 1/2, but only if such participant revokes all deferrals of compensation into the plan prior to beginning distributions.

B. Payments from a Participant's Rollover Account(s). If a participant has a separate account attributable to rollover contributions to the plan, the participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006).

§703. Severance from Employment

A. …

B. Upon notice to participants, and subject to §§701.A, 703.B, and 721.A, the administrator may establish procedures under which a participant whose total §457 Deferred Compensation account balance is less than an amount specified by the administrator (not in excess of $1,000 or other applicable limit under the *Internal Revenue Code*) may receive a lump sum distribution on the first regular distribution commencement date (as the employer or administrator may establish from time to time) following the participant's severance from employment, notwithstanding any election made by the participant pursuant to §721.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006).

§705. In-Service Distributions

A. - B. …

1. the portion of the total amount payable to the participant under the plan does not exceed an amount specified from time to time by the commission (not in excess of $1,000 or other applicable limit under the *Internal Revenue Code*);

2. - 3 …

C. Participants in the plan providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for In-Service *De Minimus* distributions.

D. Purchase of Defined Benefit Plan Service Credit

1. If a participant is also a participant in a defined benefit governmental plan [as defined in IRC §414(d)], such participant may request the commission to transfer amounts from his or her account for:

a. the purchase of permissive service credit [as defined in IRC §415(n)(3)(A)] under such plan; or

b. a repayment to which IRC §415 does not apply by reason of IRC §415(k)(3).

2. Such transfer requests shall be granted in the sole discretion of the commission, and if granted, shall be made directly to the defined benefit governmental plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006).

§707. Deferred Commencement Date at Separation from Service

A. …

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the termination date on which all such participant's contracts to provide services to or on behalf of the employer expire; and

2. in no event shall a distribution payable to such participant pursuant to §703.A commence if, prior to the conclusion of the one-month period following cessation of services under contract, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006).

§709. Unforeseeable Emergency

A. - A.4. …

B. The following events are not considered unforeseeable emergencies under the plan:

1. enrollment of a child in college;

2. purchase of a house;

3. purchase or repair of an automobile;

4. repayment of loans;

5. payment of income taxes, back taxes, or fines associated with back taxes;

6. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;

7. marital separation or divorce; or

8. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006).

§711. Death Benefits

A. …

B. If there are two or more beneficiaries, the provisions of this §711 and of §717.A shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

C. Death of Participant before Participant's Required Beginning Date. If the participant dies before the required beginning date, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

1. If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in this §711, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 1/2, if later.

2. If the participant's surviving spouse is not the participant's sole designated beneficiary, then, unless the beneficiary elects the five-year rule, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

3. If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

4. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Subsection C will apply as if the surviving spouse were the participant.

D. Death On or After Participant's Required Beginning Date

1. Participant Survived by Designated Beneficiary. If the participant dies on or after the participant's required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows.

a. The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

b. If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

c. If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.

2. No Designated Beneficiary. If the participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after

the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

E. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006).

§713. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with §715.A. Subject to applicable law and the other provisions of this plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;

2. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis), which extends no longer than the life expectancy of the participant or beneficiary as permitted under the requirements of IRC §401(a)(9) using the Uniform Lifetime Table at regulation. §1.041(a)(9)-9, A-2 for the participant's age on the participant's birthday for that year. If the participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the participant's age is less than age 70. The account balance for this calculation (other than the final installment payment) is the account balance as of the end of the year prior to the year for which the distribution is being calculated;

3. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:123 (January 2006).

§715. Default Distribution Option

A. In the absence of an effective election by the participant, beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of IRC §§401(a)(9) and 457(d), and proposed or final treasury regulations thereunder. In the absence of an effective election by the beneficiary or alternate payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:123 (January 2006).

§723. Eligible Rollover Distributions

A. …

B. Definitions. For purposes of this §723, the following definitions shall apply:

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distribute, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies and the distributee's designated beneficiary, or for:

a. a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under IRC §401(a)(9);

c. any distribution that is a deemed distribution under the provisions of IRC §72(p);

d. the portion of any distribution that is not includable in gross income; and

e. any hardship distribution or distribution on account of unforeseeable emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:123 (January 2006).

Chapter 11. Participant Loans

§1103. Maximum Loan Amount

A. -A.1.b. …

2. one-half of the participant's account balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1500 (June 2002), LR 32:123 (January 2006).

§1107. Loan Terms and Conditions

A. - A.3. …

4. The participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the employer to make payroll deductions from his or her compensation as long as the participant is an

employee and to transfer such payroll deduction amounts to the trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a participant may prepay the entire outstanding balance of his loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a participant is on an unpaid leave of absence or is no longer employed by a participating employer (that has consented to make payroll deductions for this purpose) or the participant's paycheck is insufficient for any other reason, the participant shall pay directly to the plan the full amount that would have been deducted from the participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

5. - 7. …

8. Security for Loan. Any loan to a participant under the plan shall be secured by the pledge of the portion of the participant's interest in the plan invested in such loan.

9. Default

a. In the event that a participant fails to make a loan payment under this Article IV by the end of the calendar quarter following the calendar quarter in which such payment was due, a default on the loan shall occur. In the event of such default:

i. all remaining payments on the loan shall be immediately due and payable;

ii. interest will continue to accrue on the unpaid balance until the loan is repaid in full; and

iii. the participant shall be permanently ineligible for any future loans from the plan unless, in the administrator's sole discretion, the participant is deemed to be credit worthy and agrees to repay the loan through payroll deduction.

b. In the case of any default on a loan to a participant, the administrator shall apply the portion of the participant's interest in the plan held as security for the loan in satisfaction of the loan on the date of severance from employment. In addition, the administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the account balance of the participant.

c. Notwithstanding anything elsewhere in the plan to the contrary, in the event a loan is outstanding hereunder on the date of a participant's death, his or her estate shall be his or her beneficiary as to the portion of his or her interest in the plan invested in such loan (with the beneficiary or beneficiaries as to the remainder of his or her interest in the plan to be determined in accordance with otherwise applicable provisions of the plan).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 32:123 (January 2006).

Subpart 3. Nominations and Elections

Chapter 101. Nomination and Election of Participant Members

§10101. Election Procedures

A. The Louisiana Deferred Compensation Commission (the "commission") developed the following procedures for the election of participant members to the commission, revised August 16, 2005. These procedures shall remain in effect until amended.

1. On or before the first day of January of each year, the commission shall appoint a nominating committee consisting of three to five participants, no two of whom are employed by the same department of state government and none of whom are members of the commission. Public notice of the appointment of the nominating committee shall be given in the same manner as that required for giving public notice of meetings of the commission. All participants shall be notified by means of a notice mailed to them by either the fourth quarter statements or via direct mail that an election will be held, and the method by which the election will be held.

2. The nominating committee shall submit to the commission the name of at least one participant for each vacancy that has occurred and the name of at least one participant for each term that is about to expire. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated.

3. Upon the receipt of the report of the nominating committee, the commission shall notify personnel officers of the receipt of the said report and shall request personnel officers to notify participants (by posting a notice in appropriate places or by other means) that the said report has been received and that additional nominations may be made by petition.

4. A participant may be nominated by petition if the petition contains the signatures of 12 participants and is received by the commission chairman or his/her designee prior to the deadline set forth in the notice supplied to personnel officers pursuant to Paragraph 3 above. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated by petition. Petitioning participants' signatures must be accompanied by a statement signed by the nominee in which the nominee expresses his or her willingness to serve if elected.

5. In the event two or more participants are nominated for a position on the commission, the commission chairman shall conduct a drawing to determine the order in which candidates' names will appear on the ballot. All nominees for a position shall be invited by the chairman to attend the drawing. Each ballot shall contain, in addition to the name of the nominee(s), a statement containing no more than 35 words, which statement shall be prepared by the nominee and shall contain biographical information and/or a statement concerning the nominee's position on one or more issues pertinent to the deferred compensation program. If and when the commission determines that the use of photographs of the nominees on the ballots will be feasible,

the chairman shall provide all nominees with the opportunity to submit suitable photographs of themselves for use in preparation of the ballots. The submission of such a photograph shall be optional for each nominee.

6. A participant shall be eligible to participate in an election if that participant receives a first quarter statement of his account with the Louisiana Deferred Compensation plan during the year in which the election is held. The commission may elect to distribute the ballots to the eligible participants via the first quarter statement, or via direct mail. The commission may also contract through a third party vendor to provide vote collection services, including electronic votes utilizing an Interactive Voice Response ("IVR") telephone voting system, electronic votes utilizing the Internet and also paper ballot votes. Election services include the production of election materials, mailing services, barcode system services, election ballot processing and counting using automated scanning, and other related services. If the voting process is sent via the statement or mail, each ballot shall be accompanied by a ballot envelope (clearly marked with instructions that the completed ballot shall be placed therein and the envelope sealed), a mailing envelope on which is printed the name and address of the commission's designated return address, and a signature slip.

7. The commission may require that the participant's signature appear on the signature slip together with the last four digits of the participant's Social Security Number. The signature slip and the ballot envelope shall be placed in the mailing envelope. The signature slip must not be placed in the ballot envelope. The mailing envelope shall be mailed or delivered to the commission at the address printed on the mailing envelope.

8. The commission or the commission chairman, if authorized by the commission, shall appoint a ballot counting committee and the commission chairman shall invite all nominees to be present for the ballot counting.

9. The deadline for return of ballots and the date on which ballots will be counted shall both be fixed by the commission or by the commission chairman, if authorized by the commission.

10. Prior to counting the ballots, the ballot counting committee shall make such verification as is deemed appropriate. The committee shall verify that each ballot has been submitted correctly. Any ballot not submitted correctly will be deemed invalid. If a third party vendor is contracted for vote collection services, the ballot counting committee shall examine and verify the database representing the final vote tally.

11. No nominee shall be required to receive a majority of the votes in order to be elected. The nominee receiving a plurality of the votes cast shall be declared elected. In the event two or more nominees receive the same number of votes, the winner shall be chosen by the toss of a coin.

12. Upon completion of its work, the ballot counting committee shall submit a written report to the chairman concerning the result of the election. The chairman shall make public the result of the election at the next commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 32:124 (January 2006).

Emery J. Bares
Chairman

0601#082

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spotted Seatrout Management Measures (LAC 76:VII.341)

The following Section is being repromulgated for clarification. This repromulgation corrects codification errors and also combines two Rules that were published in the July and November 2004 issues, both amending the same Section.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishing
§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The commercial season for spotted seatrout whether taken from within or without Louisiana state waters shall remain closed until January 2 of each year, when it shall open and remain open through July 31 of each year, or until the quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever comes first.

2. The commercial quota for spotted seatrout shall be 1,000,000 pounds for each fishing season.

3. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of $100 for residents of this state and $400 for those who are nonresidents. This permit, along with other applicable licenses, authorizes the bearer to sell his spotted seatrout catch.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements.

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant using any of the methods listed below.

(a). Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

(b). Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal Form 1040, Form W-2, etc.), which has been filed and stamped "received" at a local IRS office accompanied by a signed cover letter acknowledging receipt by the IRS.

(c). Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e., Schedule C of federal Form 1040, Form W-2, etc.) along with an IRS stamped transcript and IRS signed cover letter. Transcripts are available at local IRS offices.

iii. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:325.3 D(1)(b).

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a Class Three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. No person shall qualify for a charter boat fishing guide license and a spotted seatrout permit during the same licensure period.

B. General Provisions. The commercial closure shall apply to spotted seatrout taken, landed or possessed on the water whether taken from within or without Louisiana waters. Effective with the closure, no person shall commercially harvest, take, land or possess spotted seatrout in excess of a recreational limit in Louisiana. Effective with the commercial closure no person shall sell, barter, trade, exchange, purchase or attempt to sell, barter, trade, exchange or purchase spotted seatrout. Nothing herein shall prohibit the purchase, sale, barter or exchange of spotted seatrout off the water by licensed commercial dealers taken during any open period or which are legally imported into the state if appropriate records are properly maintained in accordance with R.S. 56:306.5 and R.S. 56:306.6 and those that are required to do so shall be properly licensed in accordance with R.S. 56:303, 56:306 or 56:306.1.

C. Recreational Regulations. Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, of the daily take and possession limit of 25 fish currently set out at R.S. 56:325.1A.(2)(b), no person shall possess, regardless of where taken, more than two spotted seatrout exceeding 25 inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational bag limit and possession limit.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006).

Dwight Landreneau
Secretary

0601#037

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Advisory Commission on Pesticides

Commercial Applicators Certification
(LAC 7:XXIII.125)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend an existing regulation clarifying which commercial applicators may engage in antimicrobial pest control using restricted use pesticides. Confusion has arisen as to whether pest control operators licensed by the Structural Pest Control Commission are commercial applicators who may engage in antimicrobial pest control. The department has determined that these proposed Rules are necessary to alleviate the confusion and to ensure that there are sufficient licensed commercial applicators to help reduce the health risk to the citizens of this state. The presence of adequate numbers of commercial applicators, including pest control operators, licensed by this state will help ensure that citizens requiring antimicrobial pest control will receive such services from reputable persons answerable to a state regulatory body. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being "ripped off" by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.

This Rule complies with and are enabled by R.S. 3:3203.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticides
Chapter 1. Advisory Commission on Pesticides
Subchapter F. Certification
§125. Certification of Commercial Applicators

A. - B.2.h.iv. …

v. Antimicrobial Pest Control (Subcategory 8e). This subcategory is for commercial applicators, including those in Subcategory 7(a) found at LAC 7:XXIII.125.B.2.g.i, engaged in antimicrobial pest control using restricted use pesticides.

B. 2.i. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:

Family Impact Statement

The proposed amendments to Rules XXIII.125 regarding antimicrobial pest control should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through the close of business on February 24, 2006, at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these Rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Applicators Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No estimated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Structural pest control operators will be affected by the action; however, there will be no effects on costs, workload or paperwork. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being victimized by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of the Commissioner

Meat and Poultry Inspections (LAC 7:XXXIII.Chapter 1)

The Commissioner of Agriculture and Forestry proposes to amend regulations regarding the Meat and Poultry Inspection Program, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The proposed changes will remove from the regulations all references to the word *permit* and replaces it with the word *license*, removes references to *USDA Handbook 191* and replaces it with the statement "latest addition of the *Code of Federal Regulations*", and removes all references to blueprint submissions.

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

Title 7
AGRICULTURE AND ANIMALS
Part XXXIII. Meat and Poultry Inspections
Chapter 1. Meat and Poultry Inspection Program

§107. License for Establishments Coming under Inspection

A. All slaughter, processing, custom and combination establishments must obtain a license from the Louisiana Cooperative Federal/State Meat and Poultry Inspection Program prior to conducting intrastate commerce.

B. All establishments applying for permits shall meet the basic minimum facility requirements outlined in Part 416 of the Code of Federal Regulations.

C. All new applications for licenses shall consist of a completed Form 401 (available on request from the state office (Baton Rouge) of the Federal/State Meat and Poultry Inspection Program).

D. Applications for license shall be submitted to the Federal/State Meat and Poultry Inspection Program, Office of Animal Health Services, State Department of Agriculture, Box 1951, Baton Rouge, Louisiana 70821.

E. A license number shall be assigned to each establishment upon approval and the license shall be issued to the establishment within 30 days of final approval, in one of the following categories:

1. slaughter;
2. processing;
3. custom;
4. combination of 1, 2 and/or 3 above.

F. All establishments receiving licenses shall display the license at a prominent location in the principal place of business.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Louisiana Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§109. Application for Approval of Addition and/or Renovation of Previously Approved Establishments

A. Additions and/or renovations of previously approved establishments must be in conformance with the requirements of the latest addition of the *Code of Federal Regulations*.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§111. Change of Ownership of Previously Approved Establishments

A. Whenever the ownership of a previously approved establishment changes, the new owner must submit an application for a license to the state Department of Agriculture at least 30 days prior to the scheduled sale date.

B. New owners are required to meet all of the requirements of the latest addition of the *Code of Federal Regulations*.

C. Applicants for a license after change of ownership must submit the following:

1. certified copy of act of sale;
2. evidence that sanitary conditions are or have been maintained throughout the interim during the change of ownership.

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

HISTORICAL NOTE: promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner at LR 31:

§115. Custom Slaughter Facility, Combination Custom Slaughter and Processing Facility and Custom Processing Facility

A. To assure the continuing certification of the Louisiana Cooperative Federal/State Meat and Poultry Inspection Program, all custom facilities defined in §103 hereof must meet the applicable requirements of the latest addition of the *Code of Federal Regulations* and the applicable requirements of the federal meat and poultry inspection regulations, provided that custom facilities are not required to provide an inspector's office.

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§123. Stamping of Carcasses

A. All beef, calf and veal carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 7 in Appendices attached immediately following, §139.

B. All swine carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 8 in Appendices, §141.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§127. Appeals from Decisions of the Cooperative Federal/State Meat and Poultry Inspection Program

A. Any person, firm, association or corporation which is subject to any of the inspection procedures and/or requirements contained in the federal meat and poultry inspection regulations, the latest addition of the *Code of Federal Regulations*, or these rules and regulations may appeal any decision made there under in accordance with the procedures set forth in this rule.

B. - F. ...

G. No license shall be permanently removed from any establishment without a full hearing on the matter. Whenever, for any reason, the commissioner of agriculture contemplates the permanent withdrawal of a permit for inspection services, he shall call a public hearing on the matter.

H. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2276 and R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§129. Hearings on Alleged Violations of Law and/or Regulations

A. Whenever any establishment which is subject to the requirements of the State Meat and Poultry Inspection Act (R.S. 40:2271-R.S. 40:2299), the Federal Meat and Poultry Inspection Regulations, the latest addition of the *Code of Federal Regulations* and/or these rules and regulations appear to be in violation of any provision(s) thereof, the commissioner of agriculture shall convene a public hearing on the matter, which hearing shall be conducted in accordance with §127 hereof.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Family Impact Statement

The proposed amendments to LAC 7:XXXIII.Chapter 1, regarding the Meat and Poultry Inspection Program should not have any known or foreseeable impact on any family as defined by R. S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through February 24, 2006, to Mike Windham, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Meat and Poultry Inspections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No estimated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to 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 is estimated to be no costs and/or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is estimated to be no effect on competition and employment.

Skip Rhorer	Robert E. Hosse
Assistant Commissioner	Staff Director
0601#043	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of the Commissioner
Soil and Water Commission

Master Farmer Certification Program
(LAC 7:XLI.Chapter 3)

The Commissioner of Agriculture and Forestry proposes to amend regulations regarding the Master Farmer Certification Program, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The Louisiana Master Farmer Program focuses on helping agricultural producers voluntarily address the environmental concerns related to the production of agriculture, as well as enhancing their production and resource management skills that will be critical for the continued environmental and economic viability of Louisiana agriculture. This program involves producers becoming more knowledgeable about environmental stewardship, resource-based production, and resource management through a producer certification process. Individuals that complete the program are certified by the Louisiana Department of Agriculture and Forestry as a Master Farmer.

This Rule is enabled by R.S. 3:304.

Title 7
AGRICULTURE AND ANIMALS
Part XLI. Soil and Water Conservation

Chapter 3. Master Farmer Certification

§301. Definitions

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Farm—all acreage within a watershed owned, operated or managed by an individual or legal entity if the acreage is used for the commercial production and harvesting of any agronomic, agricultural, aquacultural, floricultural, horticultural, silvicultural, or vitacultural product, including but not limited to, beans, cotton, fruits, grains, livestock, nursery stock, sugarcane, timber, crawfish, catfish, and vegetables.

LSU AgCenter—the Louisiana State University Agricultural Center.

Master Farmer—an individual who has obtained his or her master farmer certification from the commissioner.

NRCS—the Natural Resources Conservation Service of the United States Department of Agriculture.

Resource Management System Plan—an individual comprehensive whole-farm soil and water conservation plan for a farm that incorporates best management practices, meets the standards and specifications of NRCS, the department, and the affected soil and water conservation district, and is approved by the department.

Watershed—an area of land in Louisiana that drains toward a given point and which has been mapped and identified by a name and 11 digit number in accordance with United States Department of Agriculture and United States Geological Survey protocols.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§303. Application for Master Farmer Certification

A. The following individuals are eligible to apply to become a master farmer:

1. an individual who owns and operates one or more farms in his own name or through a legal entity in which the individual owns a controlling interest;

2. an individual who operates one or more farms on land leased by him or her;

3. an individual who manages or operates one or more farms for a legal entity in which the individual does not own a controlling interest.

B. An eligible individual may apply to the commissioner for certification as a master farmer if the individual has successfully completed the master farmer curriculum established by the LSU AgCenter, attended a model farm field day sponsored by the LSU AgCenter, and has implemented a resource management system plan for at least one farm.

C. An applicant who manages or operates one or more farms for a legal entity in which the individual does not own a controlling interest will be considered to have implemented a resource management system plan if the owner of the farm implements such a plan.

D. Each application shall be made in writing on a form approved by the commissioner and shall be accompanied by:

1. a document from the LSU AgCenter showing successful completion of the master farmer certification curriculum established by the LSU AgCenter;

2. a document from the LSU AgCenter showing attendance at a model farm field day sponsored by the LSU AgCenter; and

3. a document from NRCS or the department showing that a resource management system plan has been implemented for a farm;

4. a statement by the applicant that he or she agrees to attend at least six hours a year of continuing education approved by the LSU AgCenter or (and) the department during the time he or she holds a master farmer certification;

5. a statement by the applicant that he or she agrees to develop, implement and maintain, in accordance with these regulations, a resource management system plan for all farms the applicant owns, operates, or manages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§305. Issuance of Master Farmer Certification

A. The commissioner or his designee shall review each application for a master farmer certification to determine if the applicant successfully meets the requirements established by R.S. 3:304 and these regulations for obtaining a master farmer certification. If the commissioner approves an application the department shall issue a master farmer certification to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§307. Cancellation of Master Farmer Certification

A. A master farmer shall remain certified as a master farmer so long as he or she actively maintains the resource management system plan in accordance with best management practices for each farm owned, operated, or managed by that individual.

B. A master farmer shall be actively maintaining a resource management system plan in accordance with best management practices so long as all of the following requirements are met.

1. The resource management system plan or best management practices incorporated into the plan are utilized and maintained on a consistent basis.

2. The records required by the resource management system plan are maintained as long as the resource management system plan is in effect.

3. Department personnel are allowed to inspect the farm or to review the records as long as the resource management system plan is in effect.

4. A comprehensive review of the resource management system plan with NRCS or the department is completed at least once every five years for the purpose of updating the plan and incorporating new best management practices as may be necessary.

5. Attendance at a minimum of six hours a year of continuing education approved by the LSU AgCenter or (and) the department.

6. The active development, maintenance, and review, in conjunction with NRCS or the department, of a resource management plan for all farms owned, operated, or managed by the individual.

C. The commissioner may cancel an individual's master farmer certification for failing to abide by the requirements established by R. S. 3:304 and these regulations only after an administrative adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act, or upon the written request or approval of the individual holding the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Family Impact Statement

The proposed amendments to Title 7 Part XLI. Chapter 3 regarding the Master Farmer Certification Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through February 24, 2006, to Bradley Spicer, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Master Farmer Certification Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to 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 is estimated to be no costs and/or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is estimated to be no effect on competition and employment.

Skip Rhorer — Robert E. Hosse
Assistant Commissioner — Staff Director
0601#045 — Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Horticulture Commission

Licenses (LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby proposes to amend regulations regarding the required standards of practice for the landscape architect license.

The Department of Agriculture and Forestry, Horticulture Commission intends to adopt these rules and regulations for the purpose of amending the landscape architect license requirements.

This Rule is enabled by R.S. 3:3801.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission
Chapter 1. Horticulture
§117. Required Standards of Practice

A. - B.4. ...

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect, ("licensee"), to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour must contain at least 60 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits must contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and

approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act, (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee must detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee must also provide any additional information asked for in consideration of the request.

C. - I.5. …

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 32:

All interested persons may submit written comments on the proposed Rule through February 28, 2006 to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on this Rule on February 28, 2006 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble concerning the proposed rules is available.

Family Impact Statement

The proposed amendments to LAC 7:XXIX.117 regarding the required standards of practice for the landscape architect license and the re-issuance of suspended, revoked or un-renewed license or permit 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.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no anticipated increase in costs to state or local agencies to implement the proposed rules. The Horticulture Commission is proposing to amend its rules to require Landscape Architects to complete continuing education hours in order to be eligible to renew their license. If this rule is adopted, landscape architects will be required to complete eight hours of continuing education each year. Current staff will accomplish the additional work of reviewing the certification document at license renewal time. The certification document will be a one-page form completed by the licensee that will accompany the renewal form. The audit documents, to be provided by licensees selected for audit, will be reviewed by the Continuing Education Committee at no additional costs to state agencies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Minimal cost is anticipated in the vast majority of cases, though costly options do exist. Average annual cost is estimated to be about $300, with a range from $0 to $500. Paperwork requirements will consist of maintaining records of CE session hours attended and an annual one-page reporting and certification form. Minimal paperwork and workload effects are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Structural Pest Control Commission

Termite Control Licensing
(LAC 7:XXV.101, 107, 113, 115 and 121)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations combining the license phases of Termite Control and Wood Destroying Insect Report Inspector, creating a phase for certified technicians, definition of terms and adding to the requirements of obtaining a termite control license.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to insure that those persons with a Termite Control License and certified technicians can properly treat and inspect for termites. This Rule allow the department to better regulate the pest control industry by insuring that they are better trained to conduct wood destroying insect inspections.

This Rule complies with and is enabled by R.S. 3:3203.

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 1. Structural Pest Control Commission
§101. Definitions

* * *

License—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows.

1. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anticoagulant rodenticide and traps.

2. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation.

3. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

4. *Fumigation*—the use of lethal gases and/or rodenticides in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin.

* * *

Wood Destroying Insect—subterranean termites, drywood termites, powder post beetles, old house borers, carpenter ants, and carpenter bees.

Wood-Destroying Organisms—all species of insects, fungi or other organisms which attack and damage wood in buildings for obtaining food for themselves and perpetuating the species, such as the old house borer, powder post beetles, termites and wood decay.

Wood-Infestation Report—any written document issued by a pest control operator which pertains to subterranean termites, but not including a bid, a proposal or a contract for any structural pest control services.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), LR 31:26 (January 2005), LR 32:

§107. License to Engage in Structural Pest Control Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

A. No person may perform structural pest control work of any kind, or advertise to provide structural pest control services, until licensed to do so by the commission.

B. Each applicant for license must possess one of the following qualifications in order to take the examination(s).

1. General Pest Control, Commercial Vertebrate Control and Fumigation:

a. a degree from an accredited four-year college or university with a major in entomology; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

2. Termite Control:

a. a degree from an accredited four-year college or university with a major in entomology and complete a commission approved comprehensive termite program; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent

in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a Commission approved comprehensive termite program; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations and complete a commission approved comprehensive termite program. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

C. - H. …

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. general pest control;
2. commercial vertebrate control;
3. termite control;
4. structural fumigation;
5. ship fumigation;
6. commodity fumigation.

J. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated R.S. 3:3366 and 3:3368).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), LR 32:

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. Each licensee must register every employee under his supervision with the commission within 30 days after the commencement of the employee's employment and shall test as required by R.S. 3:3369.H.

B. - Q.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:

§115. Certified WDIR Technician

A. Requirements of a Certified WDIR technician, prior to conducting WDIR inspections, are as follows:

1. shall be registered as a termite technician, and
2. complete department approved WDIR training, and
3. pass WDIR technician test with a score of 70 or greater.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:855 (July 1997), amended LR 32:

§121. Wood Destroying Insect Report

A. A wood infestation report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood infestation report or written instrument issued for the transfer of real property shall be issued by a person who is licensed by the Structural Pest Control Commission in Termite Control or certified WDIR technician, and is working under the supervision of a person who is licensed by the Structural Pest Control Commission in Termite Control. This instrument shall carry a guarantee that the property will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found within 90 days from date of inspection.

B.1. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), LR 31:26 (January 2005), LR 32:

Family Impact Statement

The proposed amendments to the Structural Pest Control Commission, Chapter 1, combining the license phases of Termite Control and Wood Destroying Insect Report Inspector, creating a phase for certified technicians, definition of terms and adding to the requirements of obtaining a termite control license should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Bobby Simoneaux through the close of business on February 24, 2006 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on this Rule on February 24, 2006 at 9 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding this Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Termite Control Licensing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No estimated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is estimated to be no costs and or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0601#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework (LAC 28:CXXV.101, 301-317)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework*. Bulletin 121 will be printed in codified format as Part CXXV of the Louisiana Administrative Code. The proposed addition of STAR replaces a product purchased outside of Louisiana with one developed in Louisiana. This new course is designed to strengthen the link between secondary and postsecondary education while providing students an opportunity to explore teaching as a career, in their home state of Louisiana.

Title 28
EDUCATION
Part CXXV. Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework

Chapter 1. General Provisions

§101. Introduction

A. In an effort to confront the national teacher shortage, Louisiana has been offering secondary courses in teacher preparation for over 10 years. Through a consolidated effort between the Louisiana Department of Education (LDOE), Northwestern State University (NSU), and the Consortium for Education, Research, and Technology of North Louisiana (CERT), a committee of various educators was formed. This committee has compiled a complete curriculum titled, STAR-Students Teaching and Reaching, to serve as the one teacher preparation course to be used by all secondary teachers in Louisiana.

B. The STAR curriculum is designed to provide a career focus by offering an overview of the teaching profession. STAR students are provided with means and guidance for self-assessment, learning about others, and diversity within Louisiana classrooms. Students will gain a foundational knowledge of the history of education, both national and statewide. In addition, students will be provided meaningful field experiences, with an emphasis in critical shortage areas, designed to paint a realistic picture of the teaching profession. They will be given tools that help them manage what is one of the most important and ever-changing careers.

C. Mandates

1. The curriculum has "stars" on each lesson plan as well as related information. The "star" in the upper right hand corner of each lesson plan designates the lesson plan number within the curriculum. Those lesson plans that have "Required LP" above the lesson plan number are lesson plans that must be taught as a part of the curriculum. Those that do not have "Required LP" at the top are optional lesson plans to be taught if time permits.

2. Students are required to document their field experience hours on the student weekly and cumulative time sheets (in the Forms Section of the curriculum).

3. STAR students are required to have 20 hours of field experiences. They must observe in preschool/elementary, middle school, high school, and special education classrooms (for a total of no more than five hours total for all observations). The additional 15 hours of field work will be spent in one classroom doing tutorial, one-on-one, small group, and/or large group work. STAR students must teach one lesson under the close supervision of the cooperating teacher to a small group or whole class of students. STAR teachers will be responsible for securing, monitoring, and evaluating field placements for STAR students.

4. STAR students are required to complete a portfolio of their work. Specific documents to be included can be found in the STAR curriculum approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 3. Strands, Standards, Benchmarks, and Objectives

§301. Strand—Self-Assessment

A. Focus. Self-Assessment focuses on the STAR student learning about himself/herself as a person and a learner. The STAR student will become excited about gaining knowledge regarding the concept of learning through this strand.

1. Standard 1. STAR students will identify and analyze elements of self and how these relate to others.

a. Benchmark 1A. The student will explain the importance of self-esteem.

1A-1	Define self-esteem
1A-2	Examine factors that raise self-esteem

b. Benchmark 1B. The student will demonstrate techniques to build self-esteem.

1B-1	Create affirming statements for others.
1B-2	Role-play situations that model self-esteem building.

c. Benchmark 1C. The student will recognize how values and needs shape personal choices.

1C-1	Examine personal values as a tolerant community of learners.
1C-2	Explain and analyze Maslow's hierarchy of needs.
1C-3	Compare Maslow's self-actualized individual to students' view of a self-actualized person.

d. Benchmark 1D. The student will assess his/her learning style and personality type as related to student/teacher instructions.

1D-1	Complete a learning style inventory (or more than one) and relate results to personal and/or learning experiences
1D-2	Examine various facets of personality and complete a self-reporting personality inventory.
1D-3	Correlate student/teacher personality combinations to classroom expectation and student work.

e. Benchmark 1E-1. The student will develop interpersonal skills to interact effectively with students, parents, and colleagues.

1E-1	Identify and evaluate effective interpersonal skills vital to working with a variety of groups.
1E-2	Demonstrate effective communication skills 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:

§303. Strand—Human Development

A. Focus. This strand naturally follows that of "Self-Assessment." Once the STAR student has learned about himself/herself as a person and a learner, he/she is ready to become skilled at recognizing the unique characteristics of others.

1. Standard 2. STAR students will characterize stages of human development.

a. Benchmark 2A. The student will explain the influence of prenatal care on human development.

2A-1	Describe prenatal factors that adversely effect children.
2A-2	Recommend ways to minimize or eliminate adverse prenatal factors.

b. Benchmark 2B. The student will trace the stages of physical, moral, social, and cognitive growth.

2B-1	Describe the stages of development in these four domains.
2B-2	Examine how knowledge of development can assist educators in planning and teaching.

c. Benchmark 2C. The student will compare typical and atypical language development and its effect on learning.

2C-1	Examine the stages of atypical language development for children.
2C-2	Recognize atypical language and how it affects learning.

d. Benchmark 2D. The student will discriminate between appropriate and inappropriate materials and activities.

2D-1	List characteristics of appropriate and inappropriate activities and materials used with diverse learners.
2D-2	Evaluate appropriateness of activities and materials according to age and/or development.

e. Benchmark 2E. Students will create materials and learning activities for diverse learners.

2E-1	Create age/developmentally appropriate learning materials.
2E-2	Create age appropriate reading book.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§305. Strand—Diverse Learners

A. Focus. This strand focuses on the distinctive characteristics of learners and how those characteristics affect teaching and learning.

1. Standard 3. STAR students will recognize the impact of diversity on learning.

a. Benchmark 3A. The student will apply information about brain-based learning to classroom instruction.

3A-1	Contrast the traits of left and right brain learners.
3A-2	Discuss how teachers use brain-based learning to meet needs of learners.

b. Benchmark 3B. The student will develop an understanding of diverse cultures.

3B-1	Explain how a student population can be diverse.
3B-2	Examine methods to infuse diverse cultures into lessons.

c. Benchmark 3C. The student will differentiate between various learning styles and multiple intelligences.

3C-1	Define at least four learning styles.
3C-2	Complete a multiple intelligence inventory and "exercise" a variety of intelligences.
3C-3	Demonstrate how learning styles or intelligences can be accommodated.
3C-4	Create tasks, materials, or activities appropriate for specific learner types.

d. Benchmark 3D. The student will examine the role of special education and the inclusion of learners with exceptionalities into the mainstream environment.

3D-1	Describe areas of special education and categories of students with exceptionalities.
3D-2	Define basic terminology used in special education (i.e., inclusion, least restrictive environment, self-determination).
3D-3	Propose ways to modify lessons to meet the needs of students with exceptionalities (disabilities and gifted) in general education classrooms.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§307. Strand—Foundations of American Education

A. Focus. Our history of education, including laws, court cases, and important events, provides a framework for understanding the system of education in America. Societal influences are integral to a full understanding of education.

1. Standard 4. STAR students will recognize the evolution of educational systems.

a. Benchmark 4A. The student will review the history of education.

4A-1	Describe individuals who have influenced American education.
4A-2	Discuss events that have influenced American education.

b. Benchmark 4B. The student will recognize effects of past and current laws and court cases.

4B-1	Summarize laws that have formed the foundation of educational practice.
4B-2	Examine benchmark court cases and identify how they have modified our educational system.

c. Benchmark 4C. The student will analyze and interpret current trends and issues effecting future education.

4C-1	Locate and synthesize information on alternatives to traditional public education.
4C-2	Identify future directions for school systems based on current available information.

d. Benchmark 4D. The student will identify functions and duties of federal, state, parish, local, and school educational authorities.

4D-1	Illustrate how educational practice is governed by federal and state entities.
4D-2	Describe the hierarchy and duties of officials on the state, parish, and local level.

e. Benchmark 4E. The student will compare and contrast major schools of educational philosophy.

4E-1	Identify schools of educational philosophy.
4E-2	Correlate schools of philosophy to educational practice.

2. Standard 5. STAR students will describe schools as a microcosm of society at large.

a. Benchmark 5A. The student will recognize the socializing features of educational systems.

5A-1	Identify the ways in which teachers and school settings teach children acceptable and unacceptable social behavior.
5A-2	Show how schools promote social and group relationships.
5A-3	Explain how schools function as centers of social activity.

b. Benchmark 5B. The student will explain the relationship between schools and society.

5B-1	Discuss the role of social conditions on schools and children.
5B-2	Evaluate ways that schools can counter problems in society exhibited in schools themselves (i.e.; violence, racism, drug abuse).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§309. Strand—Instructional Design

A. Focus. Once STAR students understand themselves, others, and historical influences, they are ready to embark on learning about the practice of teaching.

1. Standard 6. STAR students will identify and model effective instruction and assessment practices.

a. Benchmark 6A. The student will relate motivation to learner performance.

6A-1	Describe external and intrinsic motivation.
6A-2	Connect teacher action to student motivation.

b. Benchmark 6B. The student will identify the basic elements of a lesson plan.

6B-1	Explain basic parts of lesson plans (i.e., anticipatory set, modeling, guided practice, independent practice, evaluation, closure).
6B-2	Explain how sequencing of activities can enhance learning.
6B-3	Describe how parts of a plan work together to form an effective lesson.

c. Benchmark 6C. The student will describe a variety of teaching practices, methods, and techniques.

6C-1	Examine scientifically-based teaching practices in a variety of content areas.
6C-2	Match teaching practices with diverse student needs.

d. Benchmark 6D. The student will construct lesson plans to meet the diverse needs of all learners.

6D-1	Write a lesson plan that includes all basic elements.
6D-2	Delineate on the lesson plan how diverse needs are met.
6D-3	Reflect on the planning process.

e. Benchmark 6E. The student will apply a variety of teaching practices, methods, and techniques.

6E-1	Utilize appropriate practices in specific settings.
6E-2	Incorporate more than one practice, method, and/or technique in a lesson.

f. Benchmark 6F. The student will construct appropriate assessments.

6F-1	Identify different assessment methods.
6F-2	Create a sample assessment device.
6F-3	Justify how and with whom the device should be used.

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:

§311. Strand—Management

A. Focus. This strand focuses on the crucial role of management in effective teaching and learning. This management focus includes time management, classroom/school management, and stress as it affects teaching and learning.

1. Standard 7. STAR students will explain the role management plays in the classroom and school.

a. Benchmark 7A. The student will assess the impact of school climate and organization on learning.

7A-1	Define classroom management.
7A-2	Define time management and discuss its relationship to learning.
7A-3	Provide examples of an "inviting" an "uninviting" classroom and/or school.
7A-4	Examine how the physical arrangement of a classroom impacts learning.

b. Benchmark 7B. The student will recognize various behavior management strategies.

7B-1	Identify behavior management strategies that are proactive (i.e., assertive discipline, student generated rules, token economy).
7B-2	Examine various methods for decreasing conflict (i.e., peer mediation, conflict resolution, etc.).

c. Benchmark 7C. The student will examine stress and its effects on learning and teaching.

7C-1	Identify stress factors for both teachers and students.
7C-2	Explain methods of stress management.

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:

§313. Strand—Technology

NOTE: While technology is treated as a separate strand, it should also be embedded into all of the other strands and should be interwoven through the curriculum.

A. Focus. In order to produce citizens that are able to deal with the rigors of a highly technological world, STAR students must be well versed in a variety of technologies and be able to impart this knowledge to learners.

1. Standard 8. STAR students will utilize technology to enhance planning and learning.

a. Benchmark 8A. The student will use appropriate technology to locate, evaluate, and collect information from a variety of sources (K-12 Tech Standards).

8A-1	Examine how and where to find technology to meet a variety of needs.
8A-2	Utilize a variety of technological sources to meet diverse needs in and out of the classroom.

b. Benchmark 8B. The student will use available technology to produce a variety of works.

8B-1	Create lesson plans using technology.
8B-2	Create teaching materials using technology.

c. Benchmark 8C: The student will collaborate with peers, experts, and others to compile, synthesize, and disseminate information, models, and other creative works (K-12 Tech Performance Indicators).

8C-1	Assemble information with peers through technological means.
8C-2	Publish materials utilizing 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:

§315. Strand—Field Experiences

A. Focus. The focus of this strand is to immerse STAR students in a variety of field experiences. Through observations in a myriad of settings and situations, STAR students will be able to make informed choices regarding their goals for the future.

1. Standard 9. STAR students will participate in a variety of field experiences.

a. Benchmark 9A. The student will observe in a variety of educational settings.

9A-1	Job shadow school personnel.
9A-2	Observe at all levels: pre-school, elementary, middle, high school, and special education programs.
9A-3	Observe a school board meeting.
9A-4	Visit an education facility/site apart from a traditional school.

b. Benchmark 9B. The student will participate in educational activities at their assigned school(s).

9B-1	Provide community service as a volunteer.
9B-2	Teach/tutor students in the classroom setting.
9B-3	Discuss classroom issues with the participating teacher.
9B-4	Reflect on field experiences in oral and written form.
9B-5	Create a portfolio documenting classroom and field experiences.

c. Benchmark 9C. The student will plan and teach a lesson.

9C-1	Develop a lesson plan containing essential elements of lesson design.
9C-2	Teach a lesson targeted for an age/developmentally appropriate audience.

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:

§317. Strand 10—Professionalism

A. Focus. STAR students must have knowledge about how to become effective teachers, how to remain teachers, and the professional attributes necessary for success in the profession.

1. Standard 10. STAR students will examine qualifications and attributes of effective educators.

a. Benchmark 10A. The student will identify elements necessary for licensure.

10A-1	Describe college requirements for obtaining an education degree.
10A-2	Trace steps necessary for obtaining a teaching license.
10A-3	List and describe the basic concepts underlying LaTAAP.

b. Benchmark 10B. The student will describe job opportunities in education.

10B-1	Identify occupations that relate to or support classroom teaching.
10B-2	Determine critical need area in Louisiana and local school district.

c. Benchmark 10C. The student will compare and contrast professional organizations.

10C-1	Examine the purpose behind various professional organizations.
10C-2	Describe standards developed by content specific organization.

d. Benchmark 10D. The student will examine professional ethics for teachers.

10D-1	Define ethics.
10D-2	Describe ethical behavior for teachers.
10D-3	Identify legal responsibilities of teachers.

e. Benchmark 10E. The student will describe professional responsibilities of teachers.

10E-1	Explain those attributes individuals must possess to be professionals (timeliness, dress, attitude, compassion, cooperation, etc).
10E-2	Discuss the importance of professional development.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., March 11, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change a Career and Technical course offering. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require purchasing items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change is being requested to replace a course purchased outside the state with one developed within Louisiana. The new course is designed to strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining skills for their continued education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained qualified pool from which to select employees.

Marlyn J. Langley	Robert E. Hosse
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0601#084

NOTICE OF INTENT

Board of Elementary and Secondary Education
Bulletin 1196—Louisiana Food and Nutrition Programs—Policies of Operation
(LAC 28:XLIX.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *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 state policy changes, which have already been implemented by the sponsors. These revisions update state policies.

Title 28
EDUCATION
Part XLIX. Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation
Chapter 7. Meal Planning and Service
§701. General

A. The USDA School Meals Initiative for Healthy Children underscores our national health responsibility to

provide healthy school meals that are consistent with the recommended Dietary Allowances (RDA), age appropriate caloric goals and the Dietary Guidelines for Americans. Every School Food Authority (SFA) should strive to serve meals that are nutritionally adequate, attractive, and moderately priced.

B. SFAs shall ensure that schools provide to children meals that meet the USDA School Meals Initiative for Healthy Children's nutrition goals. The nutritional goal of school lunches, when averaged over one week, is to provide one-third of the RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B and C of this Chapter. Breakfast should provide one-fourth of students' RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Lastly, school lunches shall follow the recommendations of the most recent Dietary Guidelines for Americans with emphasis on limiting total fat to 30 percent based on the actual number of calories offered, limiting saturated fat to 10 percent based on the actual number of calories offered, reducing the levels of sodium and cholesterol and increasing the level of dietary fiber.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2135 (December 2001), amended LR 29:2026 (October 2003), LR 32:

§711. Meal Planning Options

A. - D.1.b.i. ...

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Bread	2 Meat/Meat Alternates	1 Grains/Breads 1 Meat/Meat Alternate
Sample Breakfast		
Combination 1	**Combination 2**	**Combination 3**
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
Orange Juice	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both. Schools must offer fluid milk in a variety of fat contents and may offer flavored, or unflavored milk and lactose-free milk. Shelf-stable milk may be used only to provide a milk option when milk requiring refrigeration may not be the best choice for service. Acceptable uses for shelf-stable milk include summer food service, satellite meal service, field trips, breakfast in the classroom and other grab and go type food service, before/after extended vacation times or other school calendar breaks or unexpected closures (hurricanes or snow days), expanding flavor choices to include flavors not available from the local dairy or regular milk provider, and special promotional or theme days. The state agency may conduct unannounced visits when reports of noncompliance are received. Failure to provide corrective action may result in withholding of funds.

e. - e.i.(a).(viii).[2].[e].[iii]. …

(b). Vegetable/Fruit

(i). Two or more servings of different vegetables and/or fruits must be offered to meet the vegetable/fruit requirement at lunch. Menu items such as fruit cocktail or mixed vegetables are considered as only one serving. However, large combination vegetable/fruit salads served as an entree that contains at least the minimum daily requirement of vegetables/fruits in combination with a meat/meat alternate, such as a chef's salad or a fruit plate with cottage cheese, are considered as two (or more) servings of vegetable/fruit and will meet the full requirement.

(ii). Full-strength vegetable or fruit juice may not be used to meet more than one-half of the total vegetable/fruit requirement at lunch. Any product, liquid or frozen, labeled as "juice," "full-strength juice," "single-strength juice," or "reconstituted juice" is considered full strength. Liquid or frozen "juice drinks" may contain only a small amount of full-strength juice. If used to meet a part of the vegetable/fruit requirement for lunch, the product must contain a minimum of 50 percent full-strength juice. Only the full-strength juice portion may be counted toward meeting the vegetable/fruit component requirement. At breakfast, only full-strength juice may be served to meet the vegetable/fruit requirement.

(iii). Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but not as both food components in the same meal. Potato chips, corn chips, and other similar chips may not be counted as a vegetable/fruit. Small amounts (less than 1/8 cup) of vegetables/fruits used for flavoring or as a garnish, may not be counted toward the vegetable/fruit requirement.

(iv). Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the fruit/vegetable contribution. In situations when neither is the case, a certified product formulation statement on the product from the manufacturer containing yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c). ...

(d). Milk

(i). Schools are required to offer fluid milk at breakfast and lunch. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Fluid milk in a variety of fat contents should be offered. Milk can be flavored or unflavored and lactose-free. For use of shelf-stable milk refer to §711.D.1.d.

(ii). Each student must be allowed to select his/her choice from the milk varieties available. If a

milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, 8 ounces of fluid milk.

(iii). No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(e). Other Foods

(i). Other foods refers to food items that do not meet the requirements for any component in the meal patterns. They are frequently used as condiments and seasonings, to improve meal acceptability, and to satisfy the students' appetites. Other foods supply calories that help to meet the energy needs of growing children and contribute varying amounts of protein, vitamins, and minerals essential to good nutrition. Since many of these foods are high in salt, sugar, or fat, the amount and frequency of use should be limited. Other foods must be included as part of the nutrient analysis conducted.

f. - f.ii.(b).(i). ...

(ii). Three food items from at least two different food components are required for a reimbursable breakfast. To count as a component, the student must take a full serving of that component. The full serving may be one food item or may be split among two or more food items of the same component (i.e., grains/breads or meat/meat alternate), as long as the combined total quantity served is equal to a full serving of that component: for example, one full serving equals 1/2 slice toast and 1/2 oz. whole grain or enriched cereal or 1/2 oz. lean meat and 1/2 oz. cheese.

1.f.ii.(b).(iii). - 2.b.i....

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Breads	2 Meat/Meat Alternates	1 Grains/Breads
		1 Meat/Meat Alternate
Sample Breakfast		
Combination 1	**Combination 2**	**Combination 3**
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
Orange juice	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both. Schools must offer fluid milk in a variety of fat contents and may offer flavored, unflavored, and lactose-free milk. For use of shelf-stable milk refer to §711.D.1.d.

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Enhanced School Lunch/Breakfast Pattern charts found in §755.K and L. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, the school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). Meat/Meat Alternate

(i). Any food item used to meet the meat/meat alternate requirement must be listed in the USDA Food Buying Guide or must have a Child Nutrition (CN) label or a certified product formulation statement. Foods that may be counted as a meat/meat alternate include lean meat, poultry or fish; cheese; egg; cooked dry beans or peas; peanut butter or other nut or seed butters; yogurt; peanuts, soynuts, tree nuts, or seeds. Alternate protein products, as outlined in this Section, may also be used as meat alternates. If schools do not offer choices of meat/meat alternates each day, it is recommended that no one meat alternate or form of meat (e.g., ground, diced, pieces) be served more than three times in a single week.

2.e.i.(a).(ii). - 2.e.i.(b).(iv). ...

(v). Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations where neither is the case, a certified product formation statement on the product from the manufacturer providing yield information on the product must be maintained on file by the SFA to indicate the contribution toward the meal requirements.

(c). - (c).(i).[3]. ...

(d). Milk

(i). Schools are required to offer milk as a beverage. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Fluid milk in a variety of fat contents must be offered. Flavored, unflavored, and lactose-free milk may be offered. For use of shelf-stable milk refer to §711. D.1.d.

(ii). Each student must be allowed to select his/her choice from the milk varieties available. If a milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, 8 ounces of fluid milk.

(iii). Milk can never be offered as a choice against another beverage. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(iv). The school meal patterns specify fluid milk as a component; the only substitutions allowed are for

documented medical reasons on a case by case basis. (Refer to §727.Meal Substitutions for Medical or Dietary Reasons). Ethnic or religious reasons may also permit substitutions. (Contact the state agency for specific information.)

e.i.(e). - f.ii.(a).(vi). ...

(b). Breakfast

(i). Students must be offered all four-food items as listed in the Enhanced School Breakfast Pattern chart in §755.N. SFAs are allowed, but not required to implement Offer versus Serve at breakfast. Under this provision, students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

f.ii.(b).(ii). - h.i ...

3. Nutrient Standard Menu Planning (NSMP)

a. Nutrient Standard Menu Planning (NSMP) requires that meals are planned to meet the appropriate Nutrient Standards and requires computerized nutrient analysis of school meals using a USDA approved software program. NSMP allows menu planners to break away from the food-based method of planning menus and use a variety of foods to meet the Nutrient Standards without requiring specific food components, with the exception of fluid milk, ~~or~~ and no required amounts, except that Food of Minimal Nutritional Value (FMNV) do not count when served alone.

b. - e. ...

f. Menu Items

i. In NSMP, the menu planner uses menu items instead of food components and food items. A menu item may be a single food or a combination of foods. Whether a food can be counted as one or two menu items is determined by the way the food is served. If two or more foods are grouped together, the food items may be counted as one menu item. If the food items are served separately, they are counted as two menu items: for example, a hamburger patty served on a bun is counted as one menu item, but a hamburger patty served with a bun on the side is counted as two menu items.

(a). Entree

(i). An entree is a menu item that is a combination of foods or a single food that is served as the main dish. The entree may be any food (i.e., meat, grain, bread, fruit, vegetable, etc.) except fluid milk, condiments, or a food of minimal nutritional value. There is no entree requirement at breakfast. (Refer to 1196 Supplement Guidance and Forms for a listing of foods of minimal nutritional value.)

(b). Side Dish(es)

(i). Any menu item offered other than the entree and milk is considered a side dish. The side dish may be any food except condiments or those foods of minimal nutritional value or have foods of minimal nutritional value as the main ingredient.

(c). Milk

(i). Schools are required to offer fluid milk as a beverage at lunch or as a beverage or on cereal at breakfast. All milk served shall be pasteurized fluid types of milk that meet state and local standards. Fluid milk in a variety of fat contents must be offered. Milk may be flavored or unflavored and lactose-free. For use of shelf-stable milk refer to §711.D.1.d.

(ii). Each student must be allowed to select his/her choice from the milk varieties available.

(iii). No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(d). Other Menu Items

(i). The category, other menu items, refers to any food other than the entree, fluid milk and foods of minimal nutritional value. (Refer to 1196 Supplement Guidance and Forms for a listing of foods of minimal nutritional value.) The menu planner may consider the "other menu items" category to be side dishes. Condiments such as relishes, catsup, mustard, mayonnaise, jelly, syrup, gravy, etc. may not be counted as other menu items.

g. - l.i. ...

4. Assisted Nutrient Standard Menu Planning

a. Assisted Nutrient Standard Menu Planning (ANSMP) is designed for SFAs that lack the technical resources to implement Nutrient Standard Menu Planning but would like to take advantage of its features. This option allows SFAs to use the expertise of outside entities, such as other SFAs, the state agency, or a consultant, to develop a cycle menu, recipes, procurement specifications and production schedules that will allow school meals to meet the nutrient standards. These menus, recipes, etc. must be followed precisely. The SFA must have state agency approval of initial menu cycle along with nutrient analysis, recipes, product specifications, and any other documentation requested by the state agency. (For specific requirements, refer to §711, Nutrient Standard Menu Planning., and Summary of Required Documents §709.A.5)

5. Any Reasonable Approach

a. On May 29, 1996, President Clinton signed Public Law 104-149, the Healthy Meals for Children Act, which provides that schools may use any reasonable approach to menu planning that will achieve compliance with the nutrition standards as long as the approach conforms to guidelines issued by the Department of Agriculture. SFAs must obtain state agency approval prior to implementation. (Contact your state agency for guidelines.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2137 (December 2001), amended LR 29:2028 (October 2003), LR 32:

§713. Infant Meal Patterns

A. - B.2.a. ...

3. Reimbursement for Infant Meals

a. A SFA may claim reimbursement for meals that are served to infants younger than four months of age and that contain only breast milk and no other items for four to eight months when breast milk or breast milk and one other item is provided. This regulation applies only to meals for which milk is the only required item and for which breast milk is served. If iron-fortified infant formula is served and is provided by the parent or an agency other than the SFA, reimbursement may not be claimed.

b. Meals served to infants eight months of age or older that require breast milk and at least one additional item cannot be claimed for reimbursement unless the SFA provides at least one item. Also, if the parent supplies the formula, the meal cannot be claimed. A reimbursable breakfast or lunch has three components.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2148 (December 2001), amended LR 29:2028 (October 2003), LR 32:

§727. Meal Substitutions for Medical of Dietary Reasons

A. ...

B. Any changes to the regular school meal for medical or special dietary reasons must be appropriately documented. Changes to existing diet orders must also be documented. This documentation is required to justify that the modified meal is reimbursable and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child. When special meals or modifications are requested, a form that includes required information should be given to the parent or guardian so that the student's physician may correctly assess the condition and identify meal changes. (Refer to the sample in 1196 Supplement Guidance and Forms) Although the form itself is not required, either a physician's statement or a diet prescription that includes the same information is required and must be kept on file in the school.

C. - C.1.f. ...

2. Students without Disabilities but with Special Dietary Needs

a. Schools may, at their discretion, make substitutions for individual children who do not have a disability as defined under 7 CFR 15b.3, but who are medically certified as having a special medical or dietary need. Such determinations must be supported by a diet prescription that specifies the need for substitution and that is signed by a recognized medical authority. The state agency currently accepts the following professionals as recognized medical authorities: physicians, physician assistants, nurse practitioners, and licensed or registered dietitians. A diet prescription submitted by a registered nurse is acceptable only when co-signed by a physician. The diet prescription must include the information provided below:

i. an identification of the medical or other special dietary need that restricts the child's diet; and

ii. the food or foods to be omitted from the child's diet and the food or choice of foods to be substituted.

b. Schools are not required to make substitutions for students whose conditions do not meet the definition of "children with disabilities." The special dietary needs of students that do not have a disability may frequently be managed within the regular meal service when a well-planned variety of nutritious foods is available and when Offer versus Serve is implemented.

c For students who cannot consume fluid milk because of a medical or other special dietary need other than a disability, the SFA may choose to implement an acceptable milk substitute. The standards for the milk substitute include a nondairy beverage that is nutritionally equivalent to fluid milk, meeting all nutrition standards (established by the secretary) to levels found in cow's milk.

i. The substitutions may be made if the school/SFA notifies the state agency that the school is implementing this variation. A written statement requesting a substitute is required from a medical authority, or by a student's parent or legal guardian. Using this substitute variation, the school shall not be required to provide beverages other than beverages the school has identified as acceptable substitutes. Expenses incurred in providing these substitutions that are in excess of expenses covered by reimbursements under this Act shall be paid by the SFA.

d. If the authorized substitute foods are not normally kept in inventory or are not generally available in local markets, the parent or guardian should provide the substitute food item prescribed by the recognized medical authority.

3. Ethnic and Religious Variations

a. The Food and Nutrition Services of the USDA may approve variations in the food/menu items required for lunch and breakfast in any school where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic or religious needs. (Contact the state agency for additional information.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2149 (December 2001, amended LR 29:2028 (October 2003), LR 32:

§729. Nonstudent Meals

A. - A.2.a. ...

3. Contract Meals

a. SFAs may contract meal service to nonschool programs such as Head Start, day care programs, and elderly feeding programs. There must be an annual contract between the two agencies stipulating the necessary terms. Contracts should protect both parties and be reviewed by an attorney. (Refer to sample in 1196 Supplement Guidance and Forms.) Copies of new and renewed contracts must be submitted to the state agency. Contracts will become part of the SFAs permanent agreement with the state agency. (Refer to §337.A.1.f, Costing of Contract Meals, for additional information.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2150 (December 2001), amended LR 29:2029 (October 2003), LR 32:

§737. Extra Sales

A. Extra items may be sold only to those who have received a complete meal. The purchase of extras must occur at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. À-la-carte meal service is prohibited. Extra sale items must meet component requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §337.A.1.i: Pricing for Extra Sales Items, for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

C. Adults must be charged for all second servings. If extra sales are available at the school, each item would be sold to the adult at the appropriate price. If extra sales are not available, the adult must pay the at cost price of the meal regardless of the number of menu items served.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 31:1973 (August 2005), LR 32:

§741. Competitive Foods

A. Act 331 of the 2005 regular Louisiana legislative session establishes healthy standards for foods and beverages sold on school grounds within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day. When food and beverage items are sold through vending, concessions or other such sales on school grounds, outside the National School Lunch Program (NSLP) and School Breakfast Program (SBP), during the times mentioned, elementary and middle school children can be offered only those products that meet or exceed the content and nutritional standards established in Act 331. When food and beverages are offered to high school students on school grounds during the times mentioned, at least 50 percent of the items offered must meet the content and nutritional standards established in Act 331. Schools must use the approved list of snacks that meet the nutritional standards established in Act 331. The snack list has been approved by Pennington Biomedical Research Center. Pennington Biomedical Research Center may recommend additional nutritional restrictions for certain nutrients based on nutritional research. Fresh pastries as defined by Pennington Biomedical Research Center will not be allowed for sale, without exception, within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day.

B. A high school shall mean any school whose grade structure falls within the 6 through 12 range and includes grades in the 10 to 12 range or any school that contains only grade 9 as defined in Act 331.

C. Beverages that may be sold at any time beginning 1/2 hour before the start of the school day and ending 1/2 hour after the end of the school day for elementary and secondary schools include the following:

1. 100 percent fruit juices or vegetable juice that do not contain added natural or artificial sweeteners (no more than 16 ounces);

2. unsweetened flavored drinking water or unflavored drinking water (any size);

3. low-fat milk, skim milk, flavored milk and non-dairy milk (any size).

D. Food items which may not be sold to elementary and secondary students at any time beginning 1/2 hour before the start of the school day and ending 1/2 hour after the end of the school day are listed below:

1. foods of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations;

2. snacks or desserts that exceed 150 calories per serving, have more than 35 percent of their calories from fat, or have more than 30 grams of sugar per serving, except for unsweetened or uncoated seeds or nuts.

E. Elementary Schools

1. After the end of the last lunch period, the only items that may be sold include the following:

a. Snacks or desserts that have:

i. 150 calories or less per serving;

ii. 35 percent or less of their calories from fat; and

iii. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

2. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis outside of the nutritional standards as established by Act 331 before the end of the last lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account and expended only for Child Nutrition Program purposes.

F. Secondary Schools (High Schools)

1.a. Beginning the last 10 minutes of each lunch period, high schools may choose to offer food and beverages of their choosing to students, so long as at least 50 percent of such items are healthy snacks. Healthy snacks are defined as having the following:

i. 150 calories or less per serving;

ii. 35% percent or less of their calories from fat; and

iii. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

b. The approved list of snack items can be found on the Louisiana Department of Education (LDOE) website at http://www.louisianaschools.net. If an item is approved for inclusion on the list of allowable food items for sale on school grounds per Act 331 and SBESE Bulletin 1196, the list is only valid for the item as submitted with nutritional information to the Louisiana Department of Education. It is the responsibility of any school district/school, that chooses to sell such food/items, to ensure that products sold on school grounds meet the minimum standards required by Act 331 and SBESE Bulletin 1196.

2. Reimbursement for Child Nutrition Program meals may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the

time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

3. The SFA shall be required to reimburse the school food service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no circumstances can foods in competition be sold to children in food service areas during the lunch period(s).

4. School systems must establish local rules or regulations as are necessary to control the sale of foods in competition with meals served under the National School Lunch and Breakfast Programs. The state's competitive foods policy will be managed and monitored by both local and state personnel as follows.

a. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

5. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

6. All complaints received by state DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

7. Monitoring of competitive foods/concessions shall be conducted in the following manner.

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The state or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

8. State DNA personnel will monitor competitive foods operations at local school systems on all state reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 32:

§755. Appendices

A. - L. ...

M. Infant Breakfast and Lunch Meal Pattern

Appendix A. - Appendix L. ...

Appendix M. Infant Breakfast and Lunch Meal Pattern

Infant Breakfast Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula[1] or Breast Milk[2 3]	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal[1] 4		0-3 Tablespoons (Optional)	2-4 Tablespoons and
Fruit and/or Vegetable 4			1-4 Tablespoons

Infant Lunch Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula[1] or Breast Milk[2 3]	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal[1 4]		0-3 Tablespoons (Optional)	2-4 Tablespoons and/or 1-4 Tablespoons Meat/Alternate* and
Fruit and/Or Vegetable [4]		0-3 Tablespoons (Optional)	1-4 Tablespoons

[1]Infant formula and dry infant cereal shall be iron-fortified.

[2]It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

[3]For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

[4]A serving of this component is required only when the infant is developmentally ready to accept it.

*One to four tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or peas or 1/2-2 ounces cheese or 1-4 tablespoons cottage cheese, cheese food, or cheese spread.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2153 (December 2001), amended LR 29:2030 (October 2003), LR 32:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., March 11, 2006, 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 1196—Louisiana Food and Nutrition Programs—Policies of Operation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs (savings) to state or local governmental units. This is a revision of Bulletin 1196 which has incorporated all Federal and State policy changes which have already been implemented by the sponsors. There will be no costs due to the fact the Bulletin will be on the Website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately $272.00. Funds are currently budgeted for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection 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 directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley	Robert E. Hosse
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0601#083

NOTICE OF INTENT

Office of the Governor
Division of Administration
Board of Cosmetology

Examination of Applicants; Transfer Students
(LAC 46:XXXI 309 and 313)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend certain Rules regarding examinations of applicants and transfer of students who attended schools which are unable to provide certification of payment of contractually owed fees due to temporary or permanent closure or due to loss of records.

The revision is necessary to change the requirements for applying for an examination, for a certificate of registration or for a license when the school attended by the applicant is unable to provide certification of payment of contractually owed fees due to temporary or permanent closure or due to loss of records.

There should be no adverse fiscal impact on the state as a result of these revisions. The Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXI. Cosmetologists
Chapter 3. Schools and Students
§309. Examination of Applicants

A. - B. ...

C. Fees

1. All fees contractually owed by an applicant to a cosmetology school from which they graduated must be paid before applying for an examination, for a certificate of registration or for a license. If the school attended by the applicant is unable to issue a certification due to temporary or permanent closure or loss of records, the applicant shall not be required to provide the certification required by this section in order to apply for an examination, for a certificate of registration or for a license.

2. Any applicant who does not provide the certification required by this Section prior to applying for an examination must provide the certification prior to issuance of a certificate of registration or a license, if the cosmetology school from which they graduated is able to issue the certification prior to issuance of the certificate of registration or license.

3. Any applicant who does not provide the certification required by this section prior to issuance of a certificate of registration or a license, shall provide the certification required by this subsection prior to renewing the certificate of registration or license, if the cosmetology school from which they graduated is able to issue the certification prior to renewal of the certificate of registration or license.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(4) and 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:

§313. Transfer Students

A. ...

B. In-State. When enrolling a transfer student from another school within Louisiana, the school owner must provide the board with the following:

1. ...

2. certification of payment of contractual fees owed to the former school, unless the former school is unable to certify payment of contractual fees owed due to temporary or permanent closure or loss of records; however, any student who transfers without certifying payment of contractual fees owed, shall provide certification of payment of contractual fees owed to the former school prior to applying for an examination, certificate of registration, license or renewal of the certificate of registration or license in accordance with §309.

B.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:

Interested persons may submit comments on this proposed rule to Jackie Burdette, 11622 Sunbelt Court, Baton Rouge, LA 70809, by close of business February 20, 2006.

Jackie Burdette
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Examination of Applicants; Transfer Students

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes clarify or revise requirements for examination, registration, or licensure by the board. There is no additional cost to state or local government associated with these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed changes more clearly define the procedure for a student to continue toward testing or licensure when a school can't provide records for reasons such as flood or fire. There is no effect on revenue collections to state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The private citizen (or student) will benefit from these changes as there will be a procedure for the person to apply for a test or a license should a school be destroyed or damaged.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect on employment as students will have a procedure available to apply for a license and therefore, would be qualified for employment at that time.

Jackie Burdette — Robert E. Hosse
Executive Director — Staff Director
0601#009 — Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Board of Cosmetology

Student Hours; Uniforms; Equipment, Permits, and Licenses
(LAC 46:XXXI.311, 321, 502, 701, 705, 707, 709, 713, 1109, 1111, 1113)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend certain Rules regarding responsibilities of schools, students, employment of managers, permits for shampoo assistants, safety and sanitation requirements and special and temporary permits.

These revisions are necessary to clarify the responsibilities of schools, students, the requirements for employing a manager, the requirements for obtaining a special permit as a shampoo assistant, to define the scope of practice for shampoo assistants, to revise rules regarding safety and sanitation and to revise rules regarding the issuance of special permits and temporary permits.

There should be no adverse fiscal impact on the state as a result of these revisions. The Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXI. Cosmetologists

Chapter 3. School and Students

§311. Reporting Student Hours

A. ...

B. Hours. Schools must register each student's hours with the board no later than on the tenth of the month for hours earned by each student in the prior month.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§321. Responsibilities of Students

A. - B. ….

C. School Uniforms. Students attending schools shall maintain a professional image and shall wear clean uniforms.

1. Female students may wear pants or skirts; however, skirt hemlines must not be shorter than just above the knee.
2. Students may wear white lab coats with white shirt and black trousers.
3. Students must wear clean, enclosed shoes with sock and/or hose.
4. Students shall wear a nametag with their name and the word student.
5. The following items may not be worn:
   a. leggings;
   b. capri pants;
   c. tube tops;
   d. jeans;
   e. shorts;
   f. jogging suits;
   g. undershirts;
   h. sandals;
   i. flip flops;
   j. low waist pants;
   k. tank tops;
   l. shirts which expose the midriff;
   m. tops with spaghetti straps;
   n. clothing which is made of see through fabric.

D. Testing. Students taking examinations shall wear school uniforms as required by this Section except no nametag shall be worn while testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:

Chapter 5. Licensees

§502. Managers

A. For purposes of R.S. 37:589 a shop owner shall not be required to employ a manager, if absent from his shop more than two days per week during periods of vacation or sickness, provided such periods of absence do not exceed eight weeks annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 32:

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology Salons and Cosmetology Schools

A. ...

B. Supplies. All beauty shops and salons and cosmetology schools shall have available sterilizers or sanitizers which shall be used in accordance with the manufacturer's instructions. All instruments, including disposable equipment shall be kept clean and sanitized.

C. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§705. Equipment Required in Salons Offering Hair Dressing Services

A. - A.7. ...

8. sterilizer or sanitizers for each occupied station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§707. Equipment Required in Salons Offering Esthetics Services

A. - A.3. ...

4. sanitizers or sterilizer for implements;

A.5. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:

§709. Equipment Required in Salons Offering Manicuring Services

A. ...

1. sanitizer or sterilizer for implements;

2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:

§713. Procedures for Manicuring Services

A. - A.2. ...

3. wash all implements with antimicrobial wash prior to sanitization or sterilization;

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 32:

Chapter 11. Special and Temporary Permits

§1109. Special Permit for Shampoo Assistants

A. - C. …

D. Scope. Shampoo assistants possessing a current special permit may perform the following services at the request of a licensed cosmetologist:

1. cleanse synthetic or natural hair;
2. apply and remove conditioner;
3. apply and rinse perm solution and perm neutralizer;
4. remove hair color, tint or other chemicals applied to natural hair by a cosmetologist; and
5. remove foil or perm rods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2781 (December 2003), LR 32:

§1111. Special Permit for Make-Up Application

A. - B. …

C. The 40-hour curriculum for make-up artists shall include a minimum of:

1. two hours of study of composition of facial cosmetics;
2. two hours of study and two hours of practical work in recognition of facial shapes;
3. two hours of study of make-up cosmetics and purpose;
4. three hours of study and 12 hours of practical work in make-up application;
5. three hours of study and 10 hours of practical work in procedure for corrective make-up;
6. one hour of study and two hours of practical work in procedure for eveing make-up;
7. one hour of study in safety and sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 32:

§1113. Temporary Permits

A. Permits. The board shall issue permits to persons who are licensed to practice cosmetology, esthetics or manicuring in another state.

B. Applications

1. Applications for temporary permits to participate in hair shows, beauty pageants or demonstrations shall be submitted to the board for review not less than 30 days prior to the requested period of the permit.

2. Applications for temporary permits pending application and testing shall be issued to individuals who:

a. have filed a complete application for licensure,

b. have provided verification of current licensure in the state of last employment, and

c. reside in Louisiana and plan to work in Louisiana.

C. An individuals who receives a temporary permit issued under Paragraph B.2 shall practice under the supervision of an individual licensed in Louisiana in the discipline for which the temporary permit was issued.

D. Any individual issued a temporary permit under the this Part who violates any of the provisions of the Cosmetology Act or of any rule or regulation promulgated by the board may be denied licensure or testing by the board.

E. Transfer. Hours of study used to obtain any temporary permit authorized by this Chapter shall not be counted toward the number of hours necessary to receive any other license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 32:

Interested persons may submit comments on this proposed Rule to Jackie Burdette, 11622 Sunbelt Court, Baton Rouge, LA 70809, by close of business February 20, 2006.

Jackie Burdette
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Student Hours; Uniforms; Equipment, Permits, and Licenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change has no impact on expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change will increase revenue collections by approximately $2,000 annually for the Louisiana State Board of Cosmetology.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Employment opportunities will increase as students will be able to receive training and licenses as make-up artists. A fee of $25 will be charged for a professional license annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes should allow for additional employment opportunities. This will allow for a new category of specialized labor for qualified individuals.

Jackie Burdette
Executive Director
0601#010

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Chiropractic Examiners

Peer Review Committee (LAC 46:XXVII.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Chiropractic Examiners hereby gives notice that rulemaking procedures have been initiated to amend and make additions to Title 46, Part XXVII.Chapter 7 of the Rules governing the Board of Chiropractic Examiners.

The proposed additions create an Impaired Chiropractic Substance Abuse Recovery Program that applies to all chiropractors licensed in the state of Louisiana and allows the Peer Review Committee, which functions under the authority of the Board of Chiropractic Examiners, to manage the newly created program. The proposed amendments to the language of Chapter 7 were made to be consistent with the new additions to Chapter 7.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXVII. Chiropractors

Chapter 7. Peer Review Committee

§701. Purpose and Composition of Committee

A. Area Covered—state of Louisiana.

B. Structure. The Peer Review Committee shall function under the Board of Chiropractic Examiners, a state agency created and empowered by the legislature to license and regulate the practice of chiropractic in Louisiana in accordance with R.S. 37:2801 et seq., R.S. 37:1734 and R.S. 49:950 et seq.

C. Purpose. The purpose of the committee is to review, upon request of any party involved including the chiropractic physician himself, any matter relative to the appropriateness of care rendered by any doctor of chiropractic licensed to practice and practicing in the state of Louisiana, as well as, substance abuse impairments.

D.1. Composition of Committee. The committee shall be comprised of five doctors of chiropractic currently licensed by the state of Louisiana and practicing within the state of Louisiana, and appointed by the Louisiana Board of Examiners.

2. All chiropractors chosen to serve on the committee shall attend a peer review school. In that the Board of Examiners will be administering and functioning as an appeals option, its members shall also attend the peer review school. The Board of Examiners shall bear the cost of this special training.

E. Per Diem/Expenses. Committee will be afforded a per diem payment and reimbursement for reasonable expenses incurred as a result of attending review meetings. Per diem shall not exceed $50 per day plus mileage at the current state rate, all as required by and set forth in R.S. 37:2802.F. Members will be reimbursed only from review fees collected.

F. Who May Submit Claims. Chiropractic physicians, an impaired chiropractic physician requesting his own admittance for review through the substance abuse policy, an interested third party reporting an impaired chiropractic physician, third party reimbursement organizations, patients, professional standards review organizations, health maintenance organizations may request a review if they are directly involved in the claim by the fact of being the patient treated, the doctor administering or receiving payment for treatment or the third-party contracting to pay the claim. This shall also include an impaired chiropractic physician requesting his own admittance for review through the substance abuse policy.

G.1. All costs of administrating this program will be borne by the Peer Review Committee out of the fees charged.

2. Any party making a peer review request will be charged a fee to cover the administrative costs of performing the review. The fee will be commensurate with the administrative costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 22:192 (March 1996), LR 32:

§702. Guidelines

A. For the purpose of claims review, this board authorizes the use of the Chiropractic Manual, 2nd Edition, as a reference for assessing the appropriateness of chiropractic health care. Recognizing that it is impossible to set forth specific parameters of care appropriate for each individual case, the board intends this manual to serve only as a general guide for standards of care within the chiropractic profession. Specifically, these guidelines are not meant to provide absolute "cut-off" points for treatment. In assessing appropriateness of care, it is imperative that the reviewer remain sensitive to the normal variants in a chiropractic practice and the necessity for treatment tailored to the specific needs of each individual patient. The level and frequency of treatment implemented should be in accordance with the physical and analytical findings substantiated by the appropriate reports and diagnostic information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 17:968 (October 1991), repromulgated LR 32:

§703. Procedure for Review (Except Those Concerning the Impaired Chiropractic Substance Abuse Recovery Program)

A. All reviews will be blind reviews. The identity of the patient and treating physician will be unknown to the committee.

B. The review will be conducted upon request by any party as defined in §701.F. Participation will be made available to non-requesting party or parties. Participation by the non-requesting party or parties is not mandatory.

C. No requests for review shall be assessed or actual reviews conducted by the committee unless a quorum is present and participating. Three of the five members shall constitute a quorum.

D. A member of the Board of Examiners appointed for a one-year term by the board shall serve as chairman of the Peer Review Committee and have voting power only in the case of a tie. The board member shall review all final decisions of the Peer Review Committee to insure proper procedure has been followed in the review process.

1. If the board member determines that proper procedure has been followed then the recommendation of the Peer Review Committee stands and any party to the review shall have the appeal options set out in Subsection E. The board member who serves as chairman of the Peer Review Committee shall be recused in the case of appeal to the board.

2. If the board member determines that proper procedure has not been followed, he shall state the violation of procedure in writing and submit same to the Peer Review Committee at which point the case will be reconsidered by the committee.

E. Appeals Process. An appeal of any decision rendered by the Peer Review Committee shall, at the option of the person appealing, either be:

1. submitted to the members of Board of Examiners for review:

a. any person aggrieved by a decision of the Peer Review Committee shall submit to the board within 10 days of receipt of notice of the ruling of the Peer Review Committee a notice of intent to appeal. All notices shall be forwarded via certified mail;

b. upon receipt of the notice of appeal, the board shall notify the opposing party of appeal and schedule a hearing date;

c. the Peer Review Committee will then transfer the record to the board;

d. the appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing;

e. the parties may present oral argument to the board at the appeal hearing. Each party will be allowed 20 minutes;

f. the decision of the Board of Chiropractic Examiners shall be final;

2. placed in binding arbitration:

a. arbitration shall be conducted by a committee of three chiropractors; one chosen by the treating chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. If no agreement can be reached by the original two chiropractors as to the third, within 10 days of their appointment, the board of examiners shall appoint the third chiropractor within 30 days of receiving notice of such lack of agreement. All parties involved shall agree in advance to abide by the decision of the Arbitration Committee;

b. the aggrieved party shall notify the board of his intent to appeal by binding arbitration within 10 days of receipt of notice of the ruling of the Peer Review Committee. All notices shall be forwarded via certified mail;

c. the board will schedule the appointment of arbitrators giving the appealing and opposing parties 25 days to select an arbitrator, then giving the two arbitrators an additional 10 days to select the third arbitrator;

d. the Arbitration Panel will schedule a hearing within 60 days of the formation of the panel;

e. the Peer Review Committee will forward the record to the Arbitration Committee;

f. the appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing;

g. the parties may present oral argument to the Arbitration Committee at the appeal hearing. Each party will be allowed 20 minutes;

h. the decisions of the Arbitration Panel shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 17:968 (October 1991), LR 22:193 (March 1996), LR 32:

§ 704. Procedure for Review of Substance Abuse Policy

A. The purpose of this policy is to limit alcohol abuse and illegal use of other drugs that are associated with the

numerous health, safety, and social problems. The performance of chiropractors may be adversely affected by engaging in substance abuse. This policy, including the prohibitions and provisions therein, will be used to promote and safeguard the public from the consequences of alcohol and drug abuse of the chiropractic profession.

B. The Peer Review Committee may permit an applicant or licensee to actively participate in the Impaired Chiropractic Substance Abuse Recovery Program if:

1. the Peer Review Committee has evidence that the applicant or licensee is impaired, which includes substance abuse;

2. the applicant or licensee has not been convicted of a felony relating to substance abuse, which includes alcohol or drug abuse, in a court of law of the United States or a court of law of any state or territory, or another country;

3. the applicant or licensee enters into a written consent order with the Peer Review Committee for a license with appropriate restrictions and he timely complies with all the terms of the consent order, including making satisfactory progress in the program and adhering to any limitations on the licensee's practice imposed by the Peer Review Committee to protect the public; and

4. as part of the consent order, the applicant or licensee shall sign a waiver allowing the substance abuse program to release information to the Peer Review Committee if the applicant or licensee does not comply with the requirements of the consent order or the program or is unable to practice or work with reasonable skill or safety.

C. Failure to enter into a consent order pursuant to this Rule shall precipitate the board's right to pursue formal disciplinary action against the applicant or licensee which may result in denial, suspension, or revocation of a license to practice chiropractic after due notice and hearing.

D. Failure to comply with the requirements of the consent order or the substance abuse program or the inability to practice or work with reasonable skill or safety shall result in denial, suspension, or revocation of a license to practice chiropractic after due notice and hearing.

E. The applicant or licensee shall be responsible for any costs associated with the consent order and/or the substance abuse program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 32:

§705. Impaired Chiropractic Substance Abuse Recovery Program

A. Medical Evaluation. Participant will, at participant's expense, within seven days of agreeing to enroll in the Impaired Chiropractic Substance Abuse Recovery Program (the Program), or as otherwise specified in the Program Specifications in Subsections J and K, enter into an inpatient treatment facility (the "Primary Treatment Facility") approved by the Peer Review Committee, as designated in the Program Specifications, for inpatient assessment and diagnostic evaluation. The program shall be managed under the authority of the Peer Review Committee.

B. Initial Primary Treatment. (Defined as the initial treatment following the evaluation, whether it is inpatient, partial, outpatient or residential). If, upon such medical evaluation participant is diagnosed to be suffering from chemical dependency, substance abuse, or other condition which may impair the participant's capacity to practice chiropractic with reasonable skill and safety to patients, participant will immediately submit to such inpatient evaluation and treatment and/or continuing outpatient treatment and aftercare thereafter as may be prescribed or recommended by addictionologist and treatment team at the Primary Treatment Facility for not less than the treatment period specified in the Treatment Plan. The Peer Review Committee reserves the right to obtain further evaluations from other medical professionals to ensure public safety. Within 48 hours of participant's discharge from primary treatment, participant shall give telephonic notice of such discharge to the program.

C. Continuing Treatment and Aftercare. Participant shall confirm discharge in writing to the Peer Review Committee within five days of discharge from treatment. Such written notice shall be accompanied by a copy of the discharge treatment plan or contract prescribed or recommended by the treatment program for participant's continuing outpatient care and aftercare and a designation of the name, address and telephone number of participant's primary treating physician for outpatient care and aftercare, which physician shall be knowledgeable in the treatment of chemical dependency. The terms and conditions of any such treatment plan or contract shall be incorporated into, and deemed incorporated in, the program specifications, and any such continuing outpatient care and aftercare program shall continue in effect for not less than one year from the date of participant's discharge from primary treatment or for such other period as may be specified in the treatment plan. The participant will attend weekly continuing care (aftercare) at the program-approved treatment center specified in the treatment plan. If continuing therapy is recommended, therapist must be approved in advance by the Peer Review Committee.

D. Attendance at AA/NA Meetings. Following discharge from primary inpatient treatment, or concurrent with outpatient treatment, participant will attend Alcoholics Anonymous ("AA") and/or Narcotics Anonymous ("NA") meetings at such location and at such frequency as specified in the program specifications. Within two weeks of discharge from primary inpatient evaluation treatment, or as specified by treatment team, participant will give notice to the Peer Review Committee upon obtaining AA and/or NA sponsor(s), which will thereupon be incorporated in the program specifications. The participant will maintain contact with participant's AA and/or NA sponsor(s) a minimum of once per week. The Peer Review Committee may request reports from the sponsor. Participant shall submit monthly verification of participant's attendance at AA/NA meetings, aftercare and facilitated meetings of the participant.

E. Random Drug Screens. Participant must agree that, during the term of this agreement, participant shall be subject and shall voluntarily submit to supervised random drug screens, inclusive of bodily fluids, breath analysis, hair analysis, or any other procedure as may be directed by the program. Random drug screens will be at least monthly during the first 18 months following discharge from inpatient treatment. At that time, participant and compliance will be evaluated for possible bi-monthly testing. The results of any such testing will be reported directly to the Peer

Review Committee. Any and all such testing shall be performed at participant's expense.

F. Employment; Employer's Agreement. The participant will not return to professional employment, on a full-time or part-time basis, until and unless participant's addictionologist at the Primary Treatment Facility advises participant and the Peer Review Committee in writing that, in their professional opinion, the participant's prognosis for continued recovery is good and that participant is capable of practicing chiropractic with reasonable skill and safety to patients. The treating addictionologist must complete and return the Fitness for Duty Form. Participant must have approval from the Peer Review Committee and all employment process must be completed prior to returning to work. Before accepting or engaging in chiropractic practice of any kind, whether as an employee or independent contractor and whether on a full-time or part-time basis, the participant will enter into an agreement with each and any such employer or contractor, in the form and substance prescribed by the Peer Review Committee.

G. Information and Reports. During the term of agreement, the participant will authorize, consent to and cause the following information, reports and notices to be given to the Peer Review Committee, as indicated.

1. Consent to Release of Medical Information. The participant will execute a written authorization and consent for the disclosure to the Peer Review Committee and its representatives of the records, information and opinions of the primary treatment facility, participant's attending physician and counselors at such facility relative to the participant's diagnosis, course of treatment, prognosis, and fitness and ability to practice chiropractic with reasonable skill and safety to patients.

2. Primary Treatment Facility Records. Participant shall authorize physicians and counselors at primary treatment facility to furnish the Peer Review Committee with a written report on participant's diagnosis, course of treatment at the facility, prescribed or recommended care and aftercare, fitness for duty form, and prognosis. Such records should be furnished to the Peer Review Committee within 20 days of discharge.

3. Primary Treatment Physician Records. Participant will authorize and cause participant's primary treating physician to furnish the Peer Review Committee, not less frequently than quarterly during the term of this agreement, with written report on participant's diagnosis, course of treatment and prognosis for continuing recovery.

4. Contact With, Reports to Program. The participant shall keep the Peer Review Committee advised of the participant's current address and employment addresses and telephone numbers, the nature of participant's employment, and participant's course of continuing recovery. The participant shall notify the Peer Review Committee within 24 hours of any change in participant's residence address or employment status or location, and shall furnish written notice of any such change to the Peer Review Committee within five days of any such change.

5. Verification of attendance at AA/NA, aftercare and facilitated meeting shall be submitted on a calendar monthly. Meeting attendance should be verified by initials and calendar received by the Peer Review Committee no later than the tenth of the month.

6. Counselor Progress Reports. Participant will authorize and cause Participant's counselor(s) at the aftercare treatment center designated in the treatment plan to furnish the Peer Review Committee with written reports on participant's progress. Such reports shall be submitted monthly for 12 months following participant's discharge from treatment or for the length of aftercare treatment if more than 12 months.

7. Other forms and records deemed necessary by the Peer Review Committee to fulfill the program will be forwarded to Peer Review Committee.

H. Misconduct. The participant shall not have any misconduct, criminal convictions, or violations of any health care regulations reported to the Peer Review Committee related to this or any other incidents. Any such misconduct, criminal convictions or violations will result in immediate suspension of license.

I. Maintenance of Abstinence. The participant shall maintain complete and total abstinence from the use of controlled substances, alcohol or any other mood-altering, addictive or dependency inducing substance except as may be prescribed for a bona fide medical condition by a treating physician who is knowledgeable in, and aware of participant's treatment for, chemical dependency. A physician's statement describing the medical condition including medications administered and/or a copy of the prescription for medications obtained for self-administration shall be forwarded immediately and not later than five days after medication is prescribed.

J. Program Specifications

1. The participant shall enter a treatment facility for chemical dependency upon the approval of the Peer Review Committee.

2. The participant shall follow all treatment, continuing care or aftercare recommendations as prescribed in Subsections A-G.

3. Additional Program Specifications will be outlined and delineated following discharge from treatment and prior to re-entry to practice.

K. Post Program Specifications

1. The participant shall attend AA/NA meetings/week as outlined under Subsections A and D. The participant attendance verification shall be forwarded to the Peer Review Committee monthly.

2. The participant shall insure aftercare reports and all reports outlined under Subsection H are forwarded to the Peer Review Committee monthly. The participant shall have the Peer Review Committee's approval for therapist prior to engaging in recommended therapy.

3. The participant shall submit to random supervised drug screens as described under Subsection F and also when there is cause to question abstinence.

L. Confidential. Except as authorized by the participant's response to inquiry by the Chiropractic Licensing Authority of another state or by an employer by which the participant is employed or to which the participant has applied for employment, or pursuant to the rules of order of the court of competent jurisdiction, the records, files and information of the program relative to the participant shall be maintained in confidence and not disclosed to any other person, firm, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The stability of the family will be positively affected by the Peer Review Committee working with impaired chiropractors allowing them to maintain family relations and protect the safety of the public.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This new Rule will aid the parents by protecting their children from the possibility of impaired chiropractors.

3. What effect will this Rule have on the functioning of the family? The functioning of the family will be positively affected by this Rule, as the peer Review Committee will attempt to oversee the continued work of clean living for impaired chiropractors.

4. What effect will this Rule have on the family earnings and family budget? This will provide impaired chiropractors the opportunity to maintain their practices while continuing to receive treatment for their impairment. The new Rule will not substantially affect the family's budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This should not affect the behavior or personal responsibility of children. The lives of impaired chiropractor's children will be improved as the impaired chiropractors receive treatment for impairments.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This new Rule will allow for families to feel safe in receiving chiropractic treatment, and will promote competent health care through chiropractic services.

Any interested person may submit data, views or positions, orally or in writing, to the Louisiana State Board of Chiropractic Examiners, 8621 Summa Ave., Baton Rouge, LA 70809, or by telephone at 225-765-2322.

Patricia A. Oliver
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Peer Review Committee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at $272 in fiscal year 2006.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no financial effect upon 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 significant effect on costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed rule creates the "Impaired Chiropractic Substance Abuse Recovery Program" and establishes policies and procedures relative to administration of the program. The proposed rule provides that any licensed Chiropractic physician that participates in the program will be responsible for the payment for any inpatient or outpatient services and/or any laboratory testing required by such program (estimated to be an average of $2,500 per participant).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Patricia A. Oliver
Executive Director
0601#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Practical Nurse Examiners

Temporary Permits (LAC 46:XLVII.501, 1705)

The Board of Practical Nurse Examiners, proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change to Section 501 is to redefine the term *temporary permit* in order to ensure that the definition is consistent with the substance of the proposed Rule change to Section 1705. The purpose of the proposed Rule change to Section 1705 is to allow the board to issue an eight week work permit to applicants for licensure by endorsement, provided that the applicants are otherwise qualified for licensure in Louisiana and are in possession of a current and unencumbered license to practice practical nursing in another state or U.S. territory.

The proposed Rule change is required to ensure that there is a sufficient supply of qualified licensed practical nurses in the state and, specifically, to allow those nurses applying for licensure by endorsement to enter practice immediately. Under the current Rule, licensure by endorsement takes from 24 hours to eight weeks. Under the proposed Rule, the qualified applicant may be issued a temporary permit to practice within minutes.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 1. Practical Nurses

Chapter 5. Definitions

§501. Terms in the Manual

A. …

* * *

Temporary Permit—short term authorization to practice practical nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:337 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR

18:1259 (November 1992), amended LR 26:2617 (November 2000), amended LR 32:

Chapter 17. Licensure

§1705. Temporary Permit

A. - C. ...

D. An eight week temporary permit may be issued to applicants for licensure by endorsement upon receipt of all of the following: verification of current licensure, in good standing, from another state or U.S. territory; a notarized sworn statement, by the applicant, that the applicant meets the requirements for licensure in this state and has a negative history for criminal activity, a negative history for chemical dependency, and a negative history for complaints against and/or related to any and all licenses held for any profession in any state or U.S. territory; the required fee. The temporary permit shall be immediately revoked upon receipt of information indicating that the applicant may not qualify for licensure. A temporary permit may not be reissued to any person, under any circumstances, including reapplication for licensure by endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), amended LR 32:

Family Impact Statement

The proposed amendments, to Rule XLVII.Subpart 1, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., February 10, 2006, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano, RN, MN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Temporary Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at $100 in fiscal year 2006.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no financial effect upon 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 significant effect on costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed rule change is required to ensure that there is a sufficient supply of qualified licensed practical nurses in the state and, specifically, to allow those applying for licensure by endorsement to enter practice immediately. Under the current rule, licensure by endorsement takes from 24 hours to 8 weeks. Under the proposed rule, the qualified applicant (approximately 200 per year) may be issued a temporary permit to practice within minutes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN	Robert E. Hosse
Executive Director	Staff Director
0601#014	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Correspondence and Packages
(LAC 22:I.765)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the Department of Public Safety, Division of Youth Services, Office of Youth Development hereby gives notice of its intent to adopt §765, Correspondence and Packages. The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures for receiving and sending mail and packages at all secure care facilities.

Title 22
CORRECTIONS
Part I. Corrections

Chapter 7. Youth Services

Subchapter C. Field Operations

§765 Correspondence and Packages

A. Purpose. To establish the deputy secretary's policy and procedures for sending and receiving mail and packages at all secure care facilities.

B. Applicability—assistant secretary, deputy assistant secretaries and all facility directors. Each director is responsible for implementing this policy and for conveying its contents to youth, affected employees and affected members of the public.

C. Policy. It is the deputy secretary's policy that reasonable restrictions (consistent with acceptable custody practices and the interests of crime victims) may be placed on youth's ability to receive letters, publications and packages through the mail. Reading or censorship of letters and publications should generally be limited to those items containing material that interferes with legitimate Youth Services (YS) objectives (including, but not limited to, deterrence of delinquency, youth rehabilitation, facility security, freedom from sexual harassment) or if the reading or censorship is necessary to prevent the commission of a crime or to protect the interests of crime victims. All outgoing mail shall be stamped to indicate that it originated from a secure care facility. The receipt of packages through the mail must conform to the list of approved package items.

Packages must be inspected and handled in accordance with this policy. All incoming and outgoing mail and packages must include the youth's JIRMS number.

D. Definitions

Indigent Youth—a youth under the supervision of YS who has little or no money.

E. Procedures for Letters

1. Receiving and Sending Letters through the Mail

a. Restrictions on the number of letters written or received and the length or the language of the letter must be justified in accordance with this policy and documented. Restrictions on whom youth may send letters to and receive letters from must be justified in accordance with this policy. Youth may not send or receive letters to or from inmates in adult prisons unless the person is officially listed in their record as an identifiable parent, legal spouse, sibling or grandparent, or unless the director has approved the exception.

b. Upon written request of the person receiving correspondence from a youth, or if requested by the minor's parent or legal guardian, the facility may refuse to mail correspondence addressed to that person.

c. All incoming and outgoing mail shall be handled without unjustified delay. Letters should be held no longer than 24 hours and packages should be held no longer than 48 hours, exclusive of weekends, holidays and emergency situations. This does not prohibit the holding of mail for youth who are temporarily absent from the facility.

d. No record shall be kept of whom a youth corresponds with, except when the director determines that it is necessary for legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. The keeping of such record must be authorized in writing. Facility staff may maintain copies/logs for verification purposes.

e. Youth may not initiate contact with the victim(s) of their crime(s) or the victims' family members except in accordance with specific procedures established by the director in conjunction with Crime Victims Services Bureau.

2. Inspection of Letters

a.i. Outgoing Letters. All outgoing letters must be posted unsealed and inspected for contraband. The youth's name, JIRMS number, living area and the address of the facility shall be written or typed in the upper left hand corner of the envelope. Drawings, writing and marking on envelopes, other than the return and sending address, is not permitted. All outgoing mail shall be stamped to indicate that it originated from a secure care facility. Exception: Outgoing privileged mail to the following may be posted sealed and will not be opened or inspected except as indicated in Paragraph E.4:

(a). identifiable court;

(b). identifiable prosecuting attorneys;

(c). identifiable probation and parole officers;

(d). state and local chief executive officers;

(e). identifiable attorneys;

(f). deputy secretary, undersecretary or designee, deputy assistant secretary and other officials and administrators of grievance systems of YS; and

(g). local, state or federal law enforcement agencies and officials.

ii. It is the responsibility and duty of the facility staff to verify the legitimacy of the official listed on the envelope. For purposes of this exception, *identifiable* means that the official or legal capacity of the addressee is listed on the envelope and is verifiable. If not, the letter is to be treated as regular mail and an appropriate inquiry made into the youth's intent in addressing the envelope as privileged mail.

b.i. Incoming Letters. Incoming letters may be opened and inspected for contraband. Incoming privileged mail (see following list) may be opened and inspected for contraband only in the presence of the youth addressee except as indicated in Paragraph E.4:

(a). identifiable courts;

(b). identifiable prosecuting attorneys;

(c). identifiable probation and parole officers;

(d) state and local chief executive officers;

(e). identifiable attorneys;

(f). deputy secretary, undersecretary or designee, deputy assistant secretaries, and other officials and administrators of YS grievance systems; and

(g). local, state, or federal law enforcement agencies and officials.

ii. See Clause E.2.a.ii for the definition of *identifiable*. Upon the determination that this mail is not identifiable privileged mail, it shall be treated as all other incoming mail and shall be opened and inspected for contraband and an appropriate inquiry made as to the sender's intent in addressing the envelope as privileged mail.

3. Reading of Letters. Youth's letters may be read only when the director or his designee has information that the correspondence may contain material that interferes with legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. In such cases, a written record shall be kept and shall include:

a. youth's name and number;

b. the specific reason it is necessary to read the mail;

c. approximate length of time the mail is to be read;

d. a photo copy and a list of each piece of correspondence including the date received and the name of the sender; and

e. signature of the director or his designee.

4. Mail Precautions. The directors are authorized to open and inspect incoming and outgoing privileged mail outside of the youth's presence under the following circumstances (see also YS Policy No. A.2.30 "Mail Precautions" for additional information):

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

b. packages and letters of a size or shape not customarily received or sent by the individual;

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

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

e. when reasonable suspicion of illicit activity has resulted from a formal investigation and the deputy secretary or designee has authorized inspection.

5. Stationary, Envelopes, and Stamps

a. These items shall be available for purchase in the canteen.

b. Indigent youth shall have access to the postage necessary to send out approved legal mail on a reasonable basis and the basic supplies necessary to prepare legal documents.

F. Procedures for Packages

1. Approved Items for Packages. Legitimate catalog vendors shall be used to the maximum extent feasible to minimize the possibility of contraband being introduced into the facilities. Generally, items available in the canteen should not be approved for receipt in packages.

2. Inspection of Packages. All packages shall be inspected for contraband. Such inspection shall be done in a manner that is not intended to damage the contents of the package. A list shall be kept of the items that a youth has received through the mail. Employees will note brand names of each item received whenever possible. Upon discovery of unapproved items in an incoming package, the youth will be sent a notice of the contents of the package, the date of its receipt, and the reason that the package is unacceptable. If the unapproved items (other than perishables) are of a nature to be returned, the youth will be notified that he has 21 days to provide return postage for the package. At the end of the twenty-first day the disposal process may begin as outlined in Paragraph F.3. Postage will be provided for indigent youth. When a package is returned to sender, a note will be sent with it specifying the reason for its return. Exception: All sealed packages, may be opened and inspected in the presence of the youth, in which case an inventory of the packaged contents is not required. Upon receipt of a package handled in this manner, the youth shall sign a statement that the youth agrees that all items due him are in the package. If the youth agrees that all contents are in the package, staff shall document this in accordance with facility procedures, including giving the youth the option of either returning the package or accepting the package and dealing directly with the vendor regarding any dispute.

3. Disposal of Items Received in Packages and Letters. No items, other than perishables, should be disposed of prior to the exhaustion of an administrative appeal. Failure to timely file an appeal constitutes exhaustion.

a. Unapproved items for which no postage has been provided and for which appeals have been exhausted shall be disposed of in the following manner with the method of disposal documented:

i. perishable items shall be destroyed,

ii. non-perishable items may be placed in use in the facility if legitimately needed, clothing may be used for youth discharging;

iii. items may be donated to a charitable organization;

iv. items of little or no value may be destroyed; and

v. cash shall be deposited as self-generated revenue in the facility's operating appropriation in accordance with R.S. 14:402(F).

b. The following list of contraband items received in a letter or package, and any other pertinent information, shall be turned over to law enforcement authorities in the parish where the facility is located, with notification to the local FBI agent (if appropriate) or the U.S. Postal Service:

i. any controlled dangerous substance;

ii. any weapon or explosive;

iii. any escape plans; and

iv. any plans for criminal activity or acts that constitute criminal behavior.

c. Appropriate documentation shall be maintained on all items returned to sender or otherwise disposed of.

d. No unapproved items shall be given to or purchased by an employee of YS.

e. Upon approval of the director, unapproved items, other than those listed in Subparagraph F.3.b, may be disposed of by turning the item(s) over to an approved visitor of the youth who received the unapproved item(s). The approved visitor must sign a receipt for the item(s).

G. Procedures for Publications

1. Books, magazines, newspapers, pamphlets, leaflets, brochures, and other printed material are considered publications. Such printed material may be read and inspected for contraband and unacceptable depictions and literature. Unless otherwise provided by facility rules, all printed material must be received directly from the publisher.

2. Refusal of Publications. Printed material shall only be refused if it interferes with legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. This includes, but is not limited to, the following categories:

a. the printed material concerns escape methods or plans;

b. the printed material concerns plans to violate or disrupt facility rules or routines;

c. the printed material concerns the introduction, purchase or instructions for the manufacture of controlled dangerous substances, alcohol, or other substances or apparatus not consistent with the security or stability of the facility;

d. the printed material concerns the introduction of or instructions in the use, manufacture, storage, or replication of weapons or instructs in the use of martial arts;

e. the printed material contains material which, reasonably construed, is written for the purpose of communicating information which could promote the breakdown of order by youth disruption, such as strikes or riots or instigation of youth unrest for racial or other reasons; or

f. the material features depictions of nudity on a routine or regular basis or promotes itself based upon such depictions, or is sexually explicit and may contribute to a sexually offensive environment and the sexual harassment of staff or youth. This includes material presented in a manner to provoke or arouse lust, passion, or perversion, or exploit sex.

3. Newspapers and magazine clippings are considered publications for the purpose of censorship and review pursuant to this policy. However, they are not required to originate from the publisher. The quantity received may be limited by what can be reasonably viewed for security reasons in a timely manner.

4. If the printed material contains a presentation of sexual behavior that meets the definition of "material harmful to minors" as established in R.S. 14:91.11, it shall be refused. Such material generally exploits, is devoted to or principally consists of descriptions of illicit sex or sexual immorality for commercial gain and is presented in a manner to provoke or arouse lust, passion, or perversion or exploit sex.

5. Procedures When Publication Is Refused. When a publication is refused, the youth may appeal by filing a "Request for Administrative Remedy" pursuant to YS Policy No. B.5.3. The facility should retain possession of the disputed item(s) until the exhaustion of an administrative appeal and judicial review. Failure to timely file constitutes exhaustion.

6. Youth are not allowed multiple copies of publications.

H. Collection and Distribution of Mail

1. Youth may not collect or distribute mail. An employee will give mail directly to youth.

2. When mail is received for a youth who has been transferred to another facility or released, the facility should attempt to forward the mail to the youth.

3. Youth will be notified when incoming or outgoing letters are withheld in part or in full.

I. Procedures for Photographs or Digital or Other Images

1. Youth will not be allowed to receive or possess photographs or digital or other images that interfere with legitimate YS objectives or to prevent the commission of a crime or to protect the interests of crime victims. This includes photographs or digital or other images that expose the genitals, genital area (including pubic hair), anal area, buttocks, or female breasts (or breasts that are designed to imitate female breasts). These areas must be covered with non-transparent garments. Lingerie will not be acceptable whether transparent or not. Swimwear will only be acceptable if the overall context of the picture is reasonably related to activities during which swimwear is normally worn. Suggestive poses may be sufficient cause for rejection regardless of the type of clothing worn.

2. Each facility shall develop a procedure to reasonably restrict a youth's possession of multiple copies of the same photograph or digital or other image.

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

4. The term "photograph" includes other images such as those created by a digital imaging device or electronic mail.

5. When a photograph or digital or other image is refused, the youth may appeal by filing a "Request for Administrative Remedy" pursuant to YS Policy No. B.5.3. The facility shall retain possession of the disputed item(s) until the exhaustion of the administrative appeal process. Failure to timely fail constitutes exhaustion.

AUTHORITY: Promulgated in accordance with R.S. 14:91.11, R.S. 14:402 and R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of children.

3. The proposed Rule will not affect the functioning of the family.

4. The proposed Rule will not affect family earnings or family budget.

5. The proposed Rule will not affect the behavior or personal responsibility of children.

6. The proposed action is a state enforcement function.

Interested persons may submit written comments until 4:30 p.m., February 10, 2006, to Kathe R. Zolman, Department of Public Safety and Corrections, Office of Youth Development, Legal Department, 7919 Independence Blvd., State Police Building, Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Correspondence and Packages

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) for state or local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection for 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 directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Simon G. Gonsoulin — Robert E. Hosse
Deputy Secretary — Staff Director
0601#075 — Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Tobacco-Free and No Smoking Policy (LAC 22:I.705)

In accordance with the applicable provisions of R.S. 49.950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development hereby gives notice of its intent to adopt §705, Tobacco-Free and No Smoking Policy. The purpose of the promulgation of this

Rule is to establish the deputy secretary's policy and procedures to promote a healthy, tobacco-free and smoke-free work environment for all employees, youth and visitors.

Title 22
CORRECTIONS
Part I. Corrections

Chapter 7. Youth Services

Subchapter A. Administration

§705. Tobacco-Free and No Smoking Policy

A. Purpose. To establish the deputy secretary's policy to: protect the health and safety of Youth Services (YS) staff, youth and visitors who may be exposed to environmental smoke, reduce the risk of second-hand smoke, reduce the entrance of contraband, promote and encourage a positive and healthy environment for youth, promote a healthy and wholesome role model for our youth, establish a no smoking and tobacco-free policy for youth housed in secure care facilities, and to establish a policy regarding smoking and use of tobacco products by YS staff.

B. Applicability—All Employees, Youth and Visitors of YS.

C. Policy. The deputy secretary recognizes the health and safety issues caused by exposure to environmental smoke; therefore, the implementation of this policy shall be enforced for YS Central Office, regional offices and facilities. This policy is to promote a healthy, tobacco-free and smoke-free work environment for all employees, youth and visitors. Youth housed in secure care facilities will not be allowed to smoke or use tobacco products at any time. Accordingly, smoking and other tobacco product use is prohibited in all facility buildings, facility grounds, buildings located in the regional offices and at YS Central Office. Smoking is also prohibited in all state vehicles.

D. Definitions

Facility—all buildings and grounds related to any Office of Youth Development (OYD) secure care residential housing for youth.

Tobacco Product—any cigar, cigarette, smokeless tobacco, smoking tobacco or any other related product that contains tobacco.

Y.S. Central Office—Offices of the Deputy Secretary, Undersecretary of the Office of Management and Finance, and their support staff.

E. Procedures for Facilities Only

1. No smoking or tobacco products are allowed within the facilities at any time.

2. Smoking is permitted outside the facility gates in designated areas.

3. Tobacco products may be checked in at the front gate for use during breaks or lunchtime outside of the facility gates in the designated areas.

4. This policy applies to all clients, visitors, guests, vendors, contract workers, etc.

5. Signs shall be placed outside the facility gates declaring that the facilities are tobacco-free and smoke-free.

6. All YS facility job applicants shall be informed that the facilities are tobacco-free and smoke-free.

F. Procedures for Implementation (for all YS)

1. Copies of this policy shall be posted in all office workplaces.

2. "No Smoking" signs shall be clearly posted in all areas where smoking is prohibited.

3. The deputy secretary will designate a smoking area for YS Central Office.

4. Regional managers will designate a smoking area for each regional office.

5. Facility directors will designate a smoking area for each facility outside of the secure area of the facility.

6. Facility directors will notify the youth that they will not be allowed to smoke or use tobacco products at any time.

7. It is the responsibility of all employees to adhere to the provisions of this policy and to report any non-compliant activities to the appropriate supervisor.

8. Employees will not be granted additional breaks or additional time on regularly scheduled breaks to access designated smoking areas for the purpose of using tobacco products.

G. Disciplinary Actions

1. Any staff found guilty of non-compliance with this policy will be subject to disciplinary action.

2. Any youth found guilty of non-compliance with this policy will be subject to disciplinary action as tobacco products are considered contraband.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.21-1300.26 and R.S. 14:91.8.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will not affect the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in the proposed Rule? No, the action proposed is a state enforcement function.

Interested persons may submit written comments until 4:30p.m., February 10, 2006, to Kathe Zolman, Department of Public Safety and Corrections, Office of Youth Development, Legal Department, 7919 Independence Blvd., State Police Bldg., Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Tobacco-Free and No Smoking Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) for state or local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection for 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 directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Simon G. Gonsoulin
Deputy Secretary
0601#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police

Towing, Recovery, and Storage (LAC 55:I.Chapter 19)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.) and R.S. 32:1714, relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby proposes to adopt the following Chapter regarding the regulation of persons and businesses engaged in towing and/or storing of vehicles in Louisiana. This Chapter repeals the current rules in Chapter 19 and adopts new regulations in its place.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 19 Towing, Recovery, and Storage
Subchapter A. Authority, Exemptions, Definitions, Scope
§1901. Authority

A. The 1989 Legislature passed the Louisiana Towing and Storage Act in order to regulate persons and businesses engaged in towing and/or storing of vehicles in Louisiana. The act provides that the Department of Public Safety and Corrections, Public Safety Services, Office of State Police shall be the regulating agency. The office of state police (hereinafter referred to as the department) has authority in the effective regulation of Louisiana towing and storage businesses.

B. These rules shall apply to any person or entity engaged in the business of towing, recovery or storage of vehicles in Louisiana, either for direct or indirect compensation as defined by law.

C. The deputy secretary, or his designee, may grant, by written order, alternate means of compliance to these rules.

D. These rules are promulgated in accordance with R.S. 32:1711 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1903. Exemptions

A. These rules shall not apply to:

1. car haulers licensed with interstate operating authority capable of carrying five or more vehicles;

2. tow trucks owned by a governmental entity and not used for commercial purposes;

3. tow trucks registered and domiciled in other states with applicable interstate operating authority, operating solely in interstate commerce;

4. tow trucks transporting vehicles that are currently owned by the same tow company and ownership is supported by possession of a title, bill of sale, registration or other legal document while transported and the tow vehicle is permanently and prominently marked on both side in lettering at least 2 1/2 inches in height and 1/4 inch in width with the company's legal name, city and "NOT FOR HIRE;" or

5. tow trucks owned and operated by garages, automotive mechanic shop owners, or other places where vehicles are repaired that solely tow vehicles for the purposes of maintenance or repair at their facility. Such businesses must:

a. maintain insurance coverage as required by this Chapter;

b. license their tow trucks in accordance with this Chapter;

c. not respond to any crash or disabled vehicle scenes, participate in police rotation systems, conduct private property tows nor conduct non consensual tows;

d. not offer towing or tow-related services for direct or indirect compensation or store any vehicles, as defined by law; and

e. insure tow trucks are permanently and prominently marked on both side in lettering at least 2 1/2 inches in height and 1/4 inch in width with the company's legal name, city and "NOT FOR HIRE."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1905. Definitions

A. The definitions found in the Louisiana Highway Regulatory Act, specifically R.S. 32:1 and the Towing and Storage Act, specifically, R.S. 32:1711 et seq., are applicable to these rules and shall have the same meaning indicated unless the context clearly indicates otherwise.

Authorized Agent—a suitable company authorized by the department in accordance with this Chapter to process and exchange the Official Report of Stored Vehicle information.

Automobile Liability Coverage—insurance which covers damage to property and/or personal injury to third parties.

Deputy Secretary—the deputy secretary of the Department of Public Safety and Corrections, Public Safety Services.

Garage Keepers Legal Liability Insurance—insurance which provides coverage to owners of storage facilities,

garages, parking lots, body and repair shops, etc., for liability as bailees with respect to damage or loss to vehicles and contents left in their custody for safe keeping or repair.

Garage Liability Insurance—liability insurance covering storage facilities, automobile dealers, garages, repair shops, and service stations against claims of bodily injury and property damage that may arise through operation of such businesses.

Gross Combination Weight Rating (GCWR)—the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

Gross Vehicle Weight Rating (GVWR)—the value specified by the manufacturer as the loaded weight of a single motor vehicle.

License Holder—shall include, but not be limited to, a tow truck operator, towing service, storage facility or other entity requiring licensure pursuant to this chapter.

Offending Vehicle—the tow truck for which a violation of law, rule or regulation has been cited by the department and a administrative penalty has been assessed.

Offense—shall be synonymous with violation and mean any infraction of law, rule or regulation promulgated in accordance with this Chapter.

On-Hook Coverage—insurance specifically covering tow truck operators when engaged in the recovery, towing or transporting of a vehicle.

Owner—the last registered owner of a vehicle as shown on the records of the Office of Motor Vehicles and/or the holder of any lien on a vehicle as shown on the records of the Office of Motor Vehicles and/or any other person a documented ownership interest in a vehicle.

Place of Business—a permanent structure located within Louisiana used for business, staffed during regular business hours, equipped with phone and utility services, and houses records and other appropriate or required documents.

Responsible Party—the principal person or business that is civilly liable or criminally culpable for the occurrence or commission of a violation of law, rule or regulation.

Storage Area—an approved building, structure, yard, or enclosure used for the purposes of storing vehicles in Louisiana.

Storage Facility—any business or company that receives direct or indirect compensation for storing vehicles in Louisiana.

Tow Truck—a motor vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, under-reach equipment, and/or similar equipment including, but not limited to, trucks attached to trailers and car carriers designed for the transportation and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1907. Administrative Penalty Assessment; Arbitration; Recovery of Penalties

A. Administrative Penalty Assessment

1. A tow truck owner or operator, an employee or the agent of a tow truck owner or operator, a storage facility owner or operator, an employee or the agent of a storage facility owner or operator, determined by the department to have committed a violation of R.S. 32:1711 et seq., or adopted and promulgated regulations as provided in this Chapter, is subject to legal sanctions being imposed against them. Legal sanctions shall include, but are not limited to, administrative civil penalties, warnings, and suspension of the operator's license, storage inspection license, tow truck license plate or revocation of the tow truck license plate.

2. The department shall issue a citation or inspection report for violations of law, rule or regulation which shall specify the offense committed. The citation or inspection report shall provide for the payment of an administrative penalty to the department in an amount prescribed by the department. The penalty shall be paid within 45 days of issuance and mailing, by first class mail, of the initial notice of violation, unless within that period the person to whom the citation is issued files a written request for an administrative hearing within the 45 days.

3. All assessed and adjudicated administrative penalties and fees shall be paid to the department and deposited in the Towing and Storage Fund.

B. Administrative Hearings

1. A tow truck owner or tow truck operator or a storage facility owner or operator may submit a written request for an administrative hearing within 45 calendar days of the issuance of the initial notice of violation.

2. Hearing requests shall be adjudged in accordance with the Administrative Procedures Act.

3. Failure to submit a written request to the department for an administrative hearing within 45 days from the date of the initial notice of violation; or requesting a hearing, being notified by mail and failing to appear at the scheduled hearing date and location shall constitute a default and the violations shall become finally affirmed.

4. In such cases, on or after the forty-sixth day the department shall inform the responsible party by first class mail of the conviction and that he has 30 days from the date of this notice to pay the penalty or the Office of Motor Vehicles shall suspend his driver's license and/or vehicle registration.

5. For the purpose of this part, removal from the Louisiana State Police tow truck rotation list shall not constitute a department action subject to review under Subsection B of this Section. Placement on the Louisiana State Police rotation list is a privilege, not a right.

C. Forfeiture of Claims

1. Any person who fails to comply with any provision required by these rules and regulations shall be subject to the forfeiture of all claims for monetary charges relating to towing, recovery and storage of the respective vehicle(s), including, but not limited to, the imposition of administrative penalties.

D. Recovery of Administrative Penalties

1. The department in an attempt to recover administrative penalties, may, at its discretion:

a. order the removal of the offending vehicle's license plate or request the Office of Motor Vehicles (OMV) deny the renewal of the offending vehicle's registration, or both:

i. a tow truck license plate removed pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

b. recommend the suspension or deny the renewal of a responsible party's driver license, or both:

i. a driver license suspended pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

c. order the vehicles of responsible parties not registered in Louisiana be seized until outstanding fines and fees are paid.

2. These actions are not punitive and used only as a mechanism to garner payment of monies lawfully owed the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1909. Relationship to Other Laws and Regulations

A. Every tow truck operator, towing or storage facility, employees or agents of a towing or storage facility, subject to or licensed in accordance with this Chapter shall comply with the laws of Louisiana, Federal Motor Carrier Safety Regulations, Federal Hazardous Materials Regulations, specifically, 49 CFR Parts 100 through 399, if applicable, and rules promulgated herein. None of the rules contained herein shall exempt a tow truck operator, towing or storage facility, its employees or agents from complying with law, rule or regulation.

B. Each day's failure to comply with these rules shall constitute a separate offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1911. Code of Conduct

A. Adherence to Law, Rule or Regulation

1. A violation of the provisions of the Towing and Storage Act shall also constitute a violation of these rules.

2. Tow truck operators, towing services, storage facilities, their employees or agents shall comply with applicable federal and state laws, rules and regulations.

B. Dutiful Conduct

1. No tow truck operator, towing service, storage facility, their employees or agents, shall engage in unsuitable conduct or practices as described in this section or shall have a business association with any person which engages in unsuitable practices.

2. For the purposes of this Section, unsuitable conduct or practices shall include the following:

a. overcharging or charging for services not rendered;

b. misrepresentation of any material fact to the department or its officers;

c. obstructing or impeding the lawful activities of the department or its officers acting in their official capacity;

d. false or fictitious statements in any report, application, form or other document presented to the department, including, but not limited to, notarized documents required by this Chapter;

e. conviction of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle, and/or possession of stolen vehicles or vehicle parts; and

f. any impairment of an alcoholic beverage, narcotic or controlled dangerous substance when operating a tow truck:

i. impairment shall mean the tow truck operator's blood alcohol concentration is 0.02 percent or more by weight base on grams of alcohol per 100 cubic centimeters of blood or the operator uses or is under the influence of a controlled dangerous substance;

ii. tow truck operators shall submit to chemical testing when required by an officer of the department; and

iii. every owner or operator shall insure there is no presence of an alcoholic beverage, narcotic, or controlled dangerous substance within the tow truck.

C. Prohibited Business Practices

1. Stopping at the Scene of a Crash

a. The operator of a tow truck, towing service, employee or agent, shall not stop at the scene of a motor vehicle crash, disabled, or unattended vehicle for the purpose of soliciting business, either directly or indirectly; unless the owner or operator of said vehicle has specifically summoned the tow company or its employees or agents to such scene for towing or recovery purposes, or has been called to the scene by a law enforcement officer or agency pursuant to that agency's official duty and authority. This prohibition shall also include first responders utilizing tow vehicle as transportation to and from the scene of emergencies.

2. Moving a Vehicle Involved in a Crash

a. Tow truck operators and towing services shall not, without the express authorization of the investigating law enforcement agency, move any vehicle from a public highway or street or from any public property when such vehicle is abandoned, stolen, damaged in a crash, or left unattended.

b. Tow truck operators or towing services may, in emergency cases, move a vehicle damaged as the result of a crash, without the express authorization of the investigating law enforcement agency, when the movement of the vehicle is to extract a person from the wreckage or to remove an immediate hazard to life or property. In either event, the movement of the vehicle shall be no more than necessary to accomplish the purpose of the move and the movement shall be reported immediately to the investigating agency.

3. Reception of Police Radio Communications

a. Tow truck operators or towing services shall not use, or permit the use of, any communications devices capable of receiving police radio traffic, except two-way radios equipped with only the agency frequencies currently used and authorized by the head of a law enforcement agency within their jurisdiction.

4. Tow Trucks Shall Not Be Emergency Vehicles

a. Tow trucks, tow truck operators or towing services shall not install, equip, posses or permit the use of sirens, non-amber colored emergency warning lights, emergency flashing headlights or any other warning system

customarily equipped on emergency vehicles for the purpose of moving traffic out of the way of an approaching emergency vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter B. Tow Truck License Plate; Required Insurance

§1913. Tow Truck License Plate

A. Application

1. Applications shall be made to the Department of Public Safety and Corrections, in writing, upon forms prescribed and furnished by the department. Applications shall be complete, accurate and contain all required information. A non-refundable or transferable fee of $150, in addition to other required fees, must be submitted with each Louisiana tow truck license plate application. Fees shall be tendered to the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70896.

2. An application for a Louisiana tow truck license plate shall be made in the form of an affidavit containing the vehicle description and at least the following:

a. the name or names of owners or persons holding interest;

b. the trade or business name of the tow truck operator;

c. legal business entities such as corporations, limited liability corporations, partnerships, limited liability partnerships or other such legally recognized entities, whether registered with the office of the Secretary of State or not, should use their legally registered trade name as their business name. Such legally acknowledged entities shall include in the application:

i. the names of corporate officers;

ii. the name and address of the corporation's registered agent for service of process; and

iii. the names of shareholders;

d. a statement made, sworn and subscribed under oath. An example: "Under penalty of perjury, I hereby swear and affirm the information submitted in this application is true and correct to the best of my knowledge and I, as the individual with authority to execute on behalf of the company for which this application is made, hereby agree to abide by the laws and regulations governing towing and storage operations and the tow truck license plate for which this application is made;"

e. application date;

f. notarized signature of the applicant or appropriate corporate officer; and

g. proof of all required insurances overages, amounts, VINs and effective dates.

3. Trade Name; Tow Truck Markings

a. A tow truck owner or operator, prior to application for a tow truck license plate, shall use a trade name approved by the department, except in cases where a tow company is registered with the Secretary of the State.

b. Tow truck owners and tow truck operators shall list, by trade name as defined in this Section of this Chapter, the telephone number and address to their respective business. This listing will be in the official publication of the telephone company that services the area. Any towing service whose business is listed in Directory Services shall fulfill the intent of this Section.

c. Tow truck operators or owners shall permanently affix and prominently display on both sides of tow trucks the legal trade name of their business, telephone number and city of the vehicle's domicile in lettering at least 2 1/2 inches in height and not less than 1/4 inch in width.

d. The same legal trade name of the business used to mark the tow trucks shall be listed on the tow truck affidavit, registration, insurance certificates, towing and storage invoice and storage inspection license.

B. Issuance, Responsibilities of License Holder

1. Issuance

a. A tow truck license plate will be issued upon affirmation by an applicant that:

i. the application is made and filed in good faith;

ii. the information submitted is complete and accurate;

iii. the applicant's towing equipment meets the requirements set forth in the Towing and Storage Act and these rules.

b. A tow truck owner or operator shall not conduct towing or storage related business until issuance of all required licenses.

c. The holder of a tow truck license plate shall adhere to the requirements of the Towing and Storage Act, rules contained in this Chapter and the laws of this state.

2. Responsibilities

a. Tow truck owners or tow truck operators shall ensure tow trucks owned or controlled by them:

i. display a valid Louisiana Motor Vehicle Inspection Certificate;

ii. display a valid Louisiana towing and recovery license plate or a Louisiana apportioned license plate with proof of the towing and recovery endorsement;

iii. possess either a copy or the original valid registration receipt in the tow truck; and

iv. possess proof of all required insurance coverages and amounts at all times in the tow truck.

b. The holder of a tow truck license plate must notify the department in writing and within 10 days of any change in the original tow truck license plate application.

c. Tow truck license plate(s) are nontransferable, and can be issued to an individual, sole-proprietorship, corporation, or other legally recognized entities.

d. The holder of a tow truck license plate shall immediately surrender the tow plate to the department when there is a change of ownership.

e. A tow truck license plate shall remain affixed and prominently displayed on the tow truck for which it is assigned.

3. Denial of Applications

a. An application for a tow truck license plate shall be denied if:

i. a tow truck owner or operator is disqualified under the act;

ii. a tow truck has a GVWR of 10,000 pounds or less and it shall not be used for towing vehicles for compensation; or

iii. an application contains false or inaccurate information.

4. Renewal of Tow Truck License Plates

a. Tow truck license plate(s) shall be renewed annually in accordance with the schedule set forth by the Office of Motor Vehicles.

b. Tow truck license plates expire each year on the thirtieth day of June:

i. an administrative penalty shall be assessed for an expired tow truck license plate.

C. Suspension of the Tow Truck License Plate

1. A tow truck license plate may be suspended for failure to:

a. comply with lawful orders of the department, its officers or any court of this state;

b. pay fees or fines owed the Department of Public Safety; or

c. a violation of law, rule or regulation as provided in this Chapter.

D. Revocation of a Tow Truck License

1. A tow truck license plate may be revoked for:

a. violation of "Prohibited Business Practices" as found in §1911.C of this Chapter;

b. operation of a tow truck while under the influence of abused or controlled dangerous substance or alcohol;

c. operation of a tow truck during the commission of a crime;

d. obtaining a tow truck license plate under false pretenses;

e. removal of a vehicle from private property in violation of R.S. 32:1736;

f. monitoring police radio traffic for profiteering purposes;

g. habitual violation of law, rule, or regulation; or

h. disqualification under R.S. 32:1711 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1915. Insurance Requirements; Financial Responsibility

A. Required Insurance

1. A tow truck owner or operator shall maintain insurance coverage as prescribed by law. Insurance policies shall be in the name of the tow truck owner or operator, with proper limits of liability and shall remain in effect at all times. The types of required insurance coverage are outlined below:

a. worker's compensation and employer's liability insurance, if applicable;

b. automobile liability coverage in an amount of not less than $300,000 combined single limits coverage;

c. garage keeper's legal liability insurance in an amount not less than $50,000;

d. garage liability insurance in an amount of not less than $50,000;

e. on-hook coverage in an amount of not less than $25,000.

2. Proof of financial responsibility satisfactory to the Office of Motor Vehicles or certificates of insurance issued by an insurer licensed to do business in the state of Louisiana or a federally authorized insurance group licensed in their state of domicile and attesting to carriage with coverage in the amounts herein below listed shall be submitted with the application (R.S. 32:1717 B).

B. Insurance Certificates

1. Insurance certificates shall contain:

a. all information required by law;

b. all information required by the Commissioner of Insurance of the state of Louisiana;

c. effective and expiration dates, types and amounts of coverage;

d. the Vehicle Identification Numbers (VIN) of vehicles insured;

e. the mailing address and physical address of the tow truck owner or operator.

2. Insurance policies shall not be canceled or materially altered except after providing the department 20 days written notice of such cancellation or alteration.

C. Proof of Required Insurances

1. Insurance certificates containing all required information shall be kept at all times in each tow truck and at the place of business of the towing and storage entity available for inspection by officers of the department.

2. The tow truck, towing facility or storage facility owner or operator shall submit proof of insurance to the department immediately upon demand.

3. Certificates of required insurances as provided by this Chapter shall verify in writing limits of liability coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter C. Safety

§1917. Driver's License; Required Skills and Knowledge

A. Tow truck operators or towing services shall not operate, or permit the operation of, a tow truck unless the following requirements are satisfied:

1. the operator of a tow truck shall possess a valid Louisiana driver's license;

2. the driver's license shall be a minimum of a Class D, "chauffeurs license," and shall be of an appropriate class as required by law;

3. the operator of a tow truck shall possess proficiency in recovery and transport of vehicles;

4. an operator of a tow truck shall be at least 18 years of age;

5. the operator of a tow truck shall wear a uniform shirt displaying the towing company's and driver's name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1919. Tow Truck Lighting; Equipment

A. Tow truck operators and towing services shall ensure tow trucks are equipped with, and use, required lighting, pursuant to state law and if applicable, CFR Title 49. Auxiliary tow lighting shall be required and used if the rear tail lamps, stop lamps or turn signals on a combination of vehicles are obscured, inoperative, or not visible to the rear by approaching traffic. When auxiliary tow lights are required, they shall include a minimum of two properly functioning tail lamps, stop lamps and turn signals, which may be combined and shall be attached as far apart as practical on the rearmost portion of the towed vehicle and visible to the rear by approaching traffic.

B. Tow trucks shall comply with all equipment requirements found in, or adopted pursuant to Louisiana Revised Statutes Title 32, Chapter 1, Part V (Equipment of Vehicles), 32:1711 et seq. and, if applicable, CFR Title 49.

C. Tow truck shall be equipped with only amber colored flashing warning lights, strobes, light bars or beacons with sufficient strength and mounted in a location to be visible at 360 degrees at a distance of no less than 1,000 feet under normal atmospheric conditions. Each tow truck shall be equipped with at least one amber colored light bar or beacon mounted to the roof or a higher location on a tow truck.

D. Tow truck operators and towing services shall ensure warning lights are operable at all times and shall only be activated after arriving at a disabled vehicle or when towing or recovering a vehicle. Slide back tow trucks solely transporting vehicles on their beds may opt to activate their tow truck's warning lights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1921. Required Equipment

A. Tow trucks shall be equipped with the following properly functioning equipment at all times.

1. Oil-Absorbing Materials

a. Each tow truck shall be equipped with a minimum of 5 gallons of sand, dirt, or manufactured materials capable of absorbing sufficient quantities of fluids. Materials shall be carried in such a manner as to be free from exposure to the elements.

2. Broom

a. Each tow truck shall be equipped with a standard or push broom of a sufficient size to effectively clear debris.

3. Shovel

a. Each tow truck shall be equipped with a standard shovel of a sufficient size to effectively clear debris.

4. Flashlight or Electric Lantern

a. Each tow truck shall be equipped with an electric lantern or flashlight that provides sufficient lighting to facilitate recovery or towing work.

5. Fire Extinguishers

a. Tow trucks shall be equipped with a mounted fire extinguisher having no less than an Underwriters Laboratory rating of 10 B:C.

6. Emergency Warning Devices

a. Tow trucks shall be equipped with at least three, non-flammable emergency warning devices capable of warning motorists of a hazard in or near a roadway.

7. Steering Wheel Clamps

a. Steering wheel clamps, cable, ropes or their equivalents shall be of sufficient strength to adequately secure and lock the steering mechanism of a towed vehicle in a straight and forward position.

8. Tow Sling or Tow Plate

a. Tow trucks shall be equipped with a tow sling, plate, bar or equivalent that is structurally adequate to sustain the weight drawn. Slings or plates shall be properly and securely mounted to the tow truck without excessive "play" or slack.

b. The tow plates, slings and tow-bars shall be securely affixed to the towed vehicle by means of chains, hooks, straps or their equivalent. These devices shall be of a towing capacity equal to the weight of the towed vehicle requiring use of at least two chains, hooks, straps, etc.

9. Tow truck components including, but not limited to, winches, booms, cables, cable clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, bed locks, hydraulic components, etc., shall be in good working order and maintained to manufacturer/factory specifications.

B. Securement and Safety Devices; Detached or Shifting Loads

1. Securement and Safety Devices

a. Every vehicle towed by a tow truck shall be joined by at least two safety devices, chains or cables, spaced as far apart as practical to the forward portion of the towed vehicle, with a combined tensile strength equal to or greater than the gross weight of the towed vehicle times 1.3. Safety devices shall be attached in such a way as to prevent vehicle separation upon failure of the towing attachment and shall be anchored to both the tow truck and vehicle being towed with only enough slack to permit free turning of the vehicles.

b. In addition to Subparagraph a above, all towed vehicle placed in a wheel lift device shall be secured to the wheel lift on both sides by straps or chains of an adequate strength and design to safely couple the vehicle to the wheel lift.

c. Acceptable securement devices are chains, cables or synthetic webbing with a combined working load limit equal to or greater than one-half the gross weight of the transported vehicle and customarily used for securing a vehicle or load.

2. Slide-Back Tow Trucks; Trailers

a. A slide-back tow truck or trailer carrying a vehicle on its bed shall secure the vehicle with an acceptable securement device to the frame or other anchor points on the bed with at least one device (tiedown) securing the front and one device securing the rear of the transported vehicle in addition to the winch cable.

b. Transported vehicles over 10,000 pounds shall use a minimum of four acceptable securement devices (tiedowns); two at each end of the transported vehicle.

c. The securement devices shall not contain slack and shall prevent any movement of the transported vehicle and be of structural strength adequate to safely secure the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1923. Capacities and Specifications of Tow Equipment

A. Tow trucks shall not be licensed for a weight less than the manufacturer's GVWR.

B. Tow trucks shall be properly licensed to carry the weight of the tow truck and its load or laden weight.

C. A tow truck owner or tow truck operator found exceeding the weight for which the tow truck is licensed shall be assessed an administrative penalty.

D. A tow trucks shall have its factory VIN and GVWR posted on the tow truck in an accessible location.

E. Tow trucks licensed pursuant to this Chapter shall be equipped with only those winches, booms and cranes that have been produced and constructed by a manufacturer who carries product liability and which regularly produces winches and cranes of guaranteed quality.

1. A winch, boom or crane will not be prohibited by this subsection if the tow truck owner submits to the department a certification from a reputable testing laboratory, regularly engaged in the testing of such equipment, indicating that the capacity of the winch, boom or crane as mounted in the tow truck is not less than the weight for which the application has been made and the certification is carried in the truck at all times.

2. All costs of such testing and certification shall be borne by the tow truck owner or operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1925. Tow Truck Load Limitations; Specifications

A. Load Limitations

1. No tow truck operator shall tow or transport another vehicle unless the tow truck is capable of safely towing the vehicle.

2. A tow truck and its load shall not exceed the capabilities of the towing vehicle or hinder its ability to safely accelerate, stop, or maneuver.

B. Specifications

1. At no time shall a slide back tow truck or car carrier, transporting a vehicle on its bed, exceed its manufacturer's GVWR or the manufacturer's rated capacity for the towing assembly.

2. At no time shall any tow truck exceed the manufacturer's rated capacity for the towing assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1927. Inspections by the Department

A. Investigations

1. The department is responsible for the effective regulation of vehicle towing, recovery and storage businesses in Louisiana. Applicants seeking or issued a tow truck license plate or a storage inspection license shall be subject to background investigations to determine eligibility.

2. The department may require a licensee to submit records, invoices, documents, etc., as necessary to complete an investigation.

3. Tow truck and storage facility owners or operators have a continuing obligation to inform the department in writing of any legal action taken against them that may affect eligibility to possess a tow truck license plate or a storage inspection license.

B. Inspection of Records, Invoices, Documents

1. Place of Business; Tow Trucks; Storage Facilities

a. Anytime during regular or normal business hours or when staffed; a business location, vehicle storage yard or facility and the premises of a tow truck owner or tow truck operator shall be subject to inspection by the department, with or without advance notice, to promote compliance with the provisions of this Chapter.

b. Tow truck operators, towing services, storage facilities, their employees or agents shall render full cooperation and courtesy to department officers.

c. Department officers are authorized to enter upon any property and perform inspections of towing facilities, storage facilities or tow trucks licensed or subject to licensing pursuant to this Chapter.

2. Records

a. Upon request, a licensee shall make available to the department all required information and records and provide copies, as deemed appropriate by the department.

3. Other Law Enforcement Agencies

a. Law enforcement officers, within their jurisdiction, may inspect towing or storage businesses' records as part of an investigation during normal business hours.

4. Tow Truck Repair and Maintenance

a. Every tow operator or towing service shall systematically inspect, repair and maintain or cause to systematically inspect, repair and maintain all tow trucks and tow equipment subject to their control.

b. A tow truck owner or operator shall not operate, or allow or permit the operation of a tow truck in such a condition as to likely cause a motor vehicle crash, vehicle breakdown or malfunction.

5. Tow Trucks Declared Unsafe for Operation

a. Out-of-Service Criteria

i. Department officers shall declare and mark "out-of-service" any tow truck which, by reason of its mechanical condition or loading, would likely cause a motor vehicle crash or a breakdown.

ii. Department officers may place any tow truck out-of-service when such tow truck is found to be in need of repair to safely operate or an out-of-service violation exists as enumerated in the Commercial Vehicle Safety Alliance, Out-of-Service Criteria, revised January 1, 2004, or as amended hereafter.

iii. Department officers may place any tow truck driver out-of-service when such tow truck driver is found to be unqualified or unfit to drive or an out-of-service violation exists as enumerated in the Commercial Vehicle Safety Alliance, Out-of-Service Criteria, revised January 1, 2004, or as amended hereafter.

iv. A tow truck driver or tow truck that has been placed out-of-service shall remain as such until the required repairs are made and the condition is corrected and no longer exists.

6. Driving after Being Declared Out-of-Service

a. Drivers

i. No tow truck operator who has been declared out of service shall operate a tow truck or commercial vehicle until the driver may lawfully do so.

b. Tow Trucks

i. No tow truck owner or tow truck operator shall require or permit any person to operate nor shall any person operate any tow truck declared out-of-service until all repairs required by the out-of-service notice have been satisfactorily completed.

c. Penalty

i. Any tow truck owner or tow truck operator violating the provisions of Subparagraph B.6.a (Drivers) of this section shall be fined no less than $1,000 and no more than $2,750.

ii. Any tow truck owner violating the provisions of Subparagraph B.6.b (Tow trucks) of this Section shall be fined $2,750.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1929. Towing Services to Use Due Care

A. The towing service shall determine the method and manner of removing vehicles, and shall exercise due care to limit collateral damage during the towing, recovery or removal operations.

B. Tow truck and/or storage facility owners and operators shall adhere to any lawful orders or direction of a department law enforcement officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter D. Vehicle Storage

§1931. Storage Facility; Licensing, Fees, Inspection, Requirements

A. Storage Facilities

1. Storage facilities, subject to the provisions of R.S. 32:1711 et seq., shall be located within Louisiana and make application to the department for a Storage Inspection License for each storage location.

2. A valid Storage Inspection License must be issued by the department before conducting business as a storage facility or a new storage location being utilized.

3. A storage company with a change in name, address or ownership shall reapply and pay fees in accordance with this Section.

4. Storage Inspection Licenses shall expire annually on the thirtieth day of June and may be renewed 60 days prior to expiration. A company operating as a storage facility shall renew their storage inspection license prior to expiration.

B. Storage Facilities; General Requirements

1. Storage companies failing to comply with the requirements set forth in this Chapter shall be subject to administrative penalties.

2. Storage companies shall apply for and be issued a storage inspection license prior to charging or collecting storage or administrative fees. Any company found in violation of this subchapter shall be subject to administrative and/or criminal penalties and shall forfeit all storage and administrative fees.

3. All licensees and applicants shall be current in the payment of all penalties and fees owed to the Department of Public Safety. Companies failing to comply with this requirement are subject to having their Storage Inspection License suspended or revoked by the Office of State Police and the business shall not charge or collect storage or administrative fees.

4. Prior to obtaining a storage inspection license, all applicable parish and/or municipal occupational licenses required for a facility to operate within said parish or municipality shall be current and valid.

5. Towing companies and existing qualified businesses applying for a storage inspection license shall apply in the same legal name of their business.

6.a. Storage companies shall comply with the insurance requirements listed in this Chapter, namely:

i. garage keepers legal liability insurance in an amount not less than $50,000;

ii. garage liability insurance in an amount of not less than $50,000; and

iii. other applicable insurance requirements set forth in this Chapter.

b. A storage operator shall maintain the policies of insurance and adhere to the requirements set forth in §1915 of this Chapter, except automobile liability coverage and on-hook coverage shall not be required unless a company operates tow trucks.

7. Prior to a towing or storage company going out of business, the company, company owners or agents shall return all stored vehicles to the respective vehicle owners or legally dispose of all stored vehicles by obtaining permits to sell or using other vehicle disposal methods enumerated in the Towing and Storage Act.

C. Fees

1. An applicant for a Storage Inspection License shall:

a. remit the sum of $100 per storage location, payable to the Louisiana State Police, Towing and Recovery Unit;

b. mail completed applications to the Louisiana State Police, Towing and Recovery Unit, P.O. Box, 66614, Mail Slip A-26, Baton Rouge, LA 70896.

2. A Storage Inspection License shall expire on the thirtieth day of June of each year, is non-prorated, non-transferable and non-refundable.

D. Inspection of a Storage Facility

1. Storage facilities shall make business records available for inspection by department officers during normal business hours, unless exigent circumstances exist which may require access to records after hours and shall provide copies upon request.

2. Storage Inspection Licenses shall be clearly visible and prominently displayed at each storage location's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1933. Requirements for Official Report of Stored Vehicle (ORSV); Filing; Submittal; Option of the Department to Send and Receive ORSV Information

A. Storage Facility Requirements

1. When any vehicle subject to registration in this state has been stored, parked, or left at a garage where fees are charged for storage or parking, the owner of the storage or parking facility shall, unless exempted in R.S. 32:1721 or 32:1722, comply with R.S. 32:1719 and do the following.

a. File an Official Report of Stored Vehicle (ORSV) within three business days of receiving the vehicle in writing addressed to the Department of Public Safety and Corrections, Office of Motor Vehicles, Specialized Plate and Title Unit, P.O. Box 64886, Baton Rouge, LA 70896, or the department's authorized agent. If the vehicle is released to the vehicle owner within three business days of towing or receiving the vehicle, a storage/towing company shall not be required to submit the ORSV notification and if the ORSV notification is not made, there shall be no charge for related administrative fees.

b. Ensure that the ORSV contains make, model, VIN, license plate number, state of issuance and expiration date, vehicle storage date, adjusted storage date, stored vehicle's actual location, storage company's actual mailing address and State Police Storage Inspection License Number.

2. The department may charge an administrative fee of $9.50 to process the information exchange required in the

ORSV notification; which fees shall be deposited in accordance with R.S. 32:1731.

3. The department or the department's authorized agent, shall provide directly and in writing to the owner of the storage or parking facility, the most current owner information available on the stored vehicle and indicate if the vehicle is reported stolen. If the department reports that a stored vehicle is or has been registered in another state, that report shall indicate that the department has used due diligence in obtaining information from nationwide databases available to the department.

4. If a storage company has not complied with the storage inspection licensing requirements provided in this Chapter; the department, its authorized agent, or the office of motor vehicles shall:

a. provide the owner information requested on the ORSV to the storage/towing company; and

b. forward a copy of the ORSV to the Office of State Police, Towing and Recovery Unit, within three business days of receipt of the ORSV.

B. Procedures for Transmission and Receipt of ORSV Information

1. The department may, as it deems appropriate, establish procedures for the collection of stored vehicle information as listed in this Subsection, including, but not limited to:

a. requirements that ORSV information be forwarded through electronic means from licensed storage companies the department;

b. requirements that ORSV registrant information and vehicle owner information be forwarded to licensed storage facilities using electronic notifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1935. Owner Notification of a Stored Vehicle

A. Owners, employees and agents of storage facilities or business subject to licensing as storage facilities shall comply with the notification requirements found in R.S. 32:1720, 32:1720.1 and 32:1722.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1937. Administrative Fees

A. Administrative fees for storage of vehicles shall not be charged or otherwise collected without possession of a valid Storage Inspection License, and the timely filing of an ORSV or other notification requirements in the Towing and Storage Act.

B. Licensed storage companies may charge the vehicle owner/lien holder those administrative costs incurred by filing an ORSV along with any postal charges related to the mailing of the ORSV notices and certificate of mailing letters sent to the vehicle owner and any lien holder.

C. The maximum administrative fee that may be charged by a storage company for filing of the Official Report of Stored Vehicle notice shall be $25 for in-state notifications and $30 for out-of-state notifications. The maximum administrative fee that may be charged for mailing certificate of mailing letters to the vehicle owner and lien holder shall be no more than the rate for US Postal Service plus $4 per required letter.

D. All costs must be documented with receipts, which shall be made available to the department, vehicle owner and lien holder upon demand. Companies found in violation of this part shall be subject to criminal or administrative penalties prescribed in this chapter, including forfeiture of storage and administrative fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1939. Permits to Sell and Permits to Dismantle

A. Any business that stores vehicles pursuant to this Chapter, prior to filing for a permit to sell or for a permit to dismantle, shall have obtained a current Louisiana Storage Inspection License.

B. Any business that stores vehicles pursuant to this Chapter shall include with each permit to sell or permit to dismantle filing, a legible photocopy of their Storage Inspection License.

1. Applications for permits to dismantle or permits to sell without photocopies of the Storage Inspection License shall be rejected.

2. Any business that stores vehicles pursuant to this Chapter and provides the department a fictitious or fraudulent Storage Inspection License photocopy, or uses, or allows the use of, a Storage Inspection License of another business shall be subject to criminal and administrative penalties prescribed by law, including the revocation of the Storage Inspection License.

C. The department, or its authorized agents, shall not issue permits to sell or permits to dismantle, to a person or business failing to comply with the notification and storage inspection licensing requirements.

D. Storage facilities shall make notifications required in R.S. 32:1719 and 32:1720, unless R.S. 32:1722 is applicable, and shall comply with the requirements found in R.S. 32:1711 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1941. Storage and Towing Facilities; General Requirements; Procedures

A. A facility may only store and charge storage on vehicles that are in the facility's actual possession, located within the licensed storage facility and meets the requirements of this Chapter.

B. Vehicles shall be released immediately to the vehicle owner or lien holder, once payment is made, any applicable lien holder requirements (R.S. 32:1720.1) are met, and any applicable documented law enforcement or department hold orders are released.

C. Storage and towing facilities shall provide for the security and safety of vehicles stored in accordance with this Chapter. Storage areas shall have security barriers or safety apparatus suitable to insure the security of the property contained therein. Outside storage areas shall be enclosed by at least a six foot high chain link fence, or fence of similar strength or solid wall sufficient to protect against loss, trespass or vandalism. The loss, damage, theft or misappropriation of a stored vehicle or its contents shall be

evidence of a violation of this provision, if the loss, damage, theft or misappropriation was reported to local law enforcement and the loss was attested to by the vehicle owner.

D. Storage and towing facilities shall have a clearly visible sign maintained at all times at the business office and at the entrance to any outside storage area, stating the name of the business, telephone number and hours of operation. An after-hour telephone number shall be included on the sign advising the public how to make contact for the release of vehicles, contents or personal property prior to any company charging a gate fee.

E. Removable personal items shall not be withheld by the towing or storage facility. Any person with picture identification, who shows proof of ownership, or written authorization from the stored vehicle's registered or legal owner, may inspect, photograph, view the vehicle and remove non-affixed personal property, including the license plate, without charge during normal business hours. These items will be released to the owner or person authorized by the vehicle owner upon request if there is no police hold on them.

F. Storage areas shall be adequate in size and construction for storing vehicles.

G. Whenever any vehicle has been towed to a storage facility, other than by owner's request, where fees are charged for such storage or parking, the owner or operator of the storage facility shall comply with the law enforcement notification requirements found in R.S. 32:1718.

H. The shared use of a storage facility, towing facility, business office or tow trucks by two or more different towing or storage companies is expressly prohibited.

I. Towing and storage operators will maintain all records dealing with the towing and storage of vehicles for a minimum of three years.

J. Towing or storage companies shall not store vehicles or charge for a service performed by another business or individual, unless the vehicle's owner authorizes the service or the vehicle's transfer to another business in writing.

K. All third party tows or storage shall be prohibited, unless authorized by a law enforcement agency or in writing by the towed or stored vehicle's owner prior to the move.

L. Vehicles shall be handled and returned in substantially the same condition as they existed before being towed or stored.

M. Personal property left in a vehicle and not claimed prior to a company obtaining a permit to sell on said vehicle, shall be disposed of in accordance with existing applicable civil law.

N. The address that the towing or storage service lists on its applications shall be the business location where its business records are kept. The storage application shall also list all storage locations for vehicle redemption.

O. Vehicle repairs shall be authorized specifically by signature of vehicle owner or operator.

P. Towing and Storage Invoices, Bills, Repair Statements and Vehicle Repair Authorization Forms

1. All invoices, bills, statements and vehicle repair authorization forms shall be legible and include:

a. the legal name of the business and the physical and mailing address;

b. the vehicle description, VIN, license plate number, state of issue, vehicle year, vehicle make, and vehicle model and;

c. contain itemized charges for service as they occur.

2. All towing and storage invoices, bills, statements and vehicle repair authorization forms shall be:

a. provided to a vehicle owner at the time of recompense;

b. consecutively numbered and filed by number;

c. completed to indicate the date the vehicle was released, the person's name, driver's license number and signature of the person taking possession of the vehicle; and

d. readily available, containing all the required information, along with voided invoices, upon request by virtue of either being kept on the actual premises or electronically produced via fax or other similar technological medium with 10 minutes.

3. Towing invoices shall include the following legible information and shall be maintained with the towed vehicle at all times:

a. the requirements enumerated in Paragraph 1 above;

b. date, time and location of tow or service;

c. the tow-truck operator's name and time of dispatch; and

d. name and driver's license number of vehicle owner, operator, or other person with authority to authorize the tow, or the name of the law enforcement agency requesting and authorizing the tow.

Q. Storage facilities shall maintain storage records at the individual locations, which shall include at least the following information:

1. date and time call for service was received and location of vehicle if towed;

2. name of the person and company requesting and authorizing the tow or service;

3. description of the vehicle including VIN, license number and state, year, make, model and color;

4. the tow truck operator's name, if towed;

5. the date and location vehicle was placed in storage;

6. proof of filing ORSV or exceptions listed in the Towing and Storage Act;

7. letters of notification as required by these rules and law;

8. proof of all administrative costs; and

9. records of release of vehicles shall include the date and legal name, driver's license number of the person the stored/towed vehicle was released to.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1943. Storage Rates

A. Vehicle storage fees shall be based on a calendar day and documented by ORSV notification or the requirements in R.S. 32:1722.

B. Towing and/or storage facilities shall be staffed and open for business Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays.

C. The daily storage fee, as set by the Public Service Commission and department approved gate fees and

administrative fees shall be the only fees charged for storing a vehicle. There shall be no additional charges for locating or retrieving the vehicle in the storage facility, viewing of the vehicle, photographing the vehicle, removal of items from the vehicle, moving a vehicle, or for any other similar activity during business hours.

D. Each daily overcharge shall constitute a separate violation and additional administrative penalties may be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1945. Gate Fees

A. Business Hours

1. For the purposes of this part, business hours will be Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays.

2. Gate fees shall not be charged during business hours.

B. Gate Fee Charge

1. A towing or storage company that charges a gate fee shall not charge a fee greater than $45.

2. An owner of a vehicle charged fees in violation of this Chapter shall have cause of action to recover the amount of the excess fees, plus attorney fees and all court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Subchapter F. Rotation List

§1947. Law Enforcement Tow Truck Rotation List

A. Establishing a Rotation List

1. Louisiana law enforcement agencies may establish a rotation list of Louisiana towing companies using boom and/or slide back tow trucks and facilities licensed in accordance with the provisions of R.S. 32:1711 et seq., and rules and regulations promulgated herein.

2. Towing companies selected by a law enforcement agency to participate on their rotation list shall participate at the discretion of the law enforcement agency and may be removed for any violation of law, agency rule, or policy.

3. When a law enforcement officer determines that a motor vehicle must be towed, the law enforcement officer shall give the owner or operator of the motor vehicle the option to select a properly licensed towing company to tow his vehicle. If the owner or operator of the motor vehicle is unable to select a licensed towing company, chooses not to select a particular licensed towing company, or an emergency situation requires the immediate removal of the vehicle, the next available licensed towing company on the approved law enforcement rotation list shall be called by the law enforcement officer to tow the vehicle.

4. The towing company selected by the owner or operator of a vehicle or law enforcement agency shall be allowed to respond within to the call within 45 minutes. If the towing company fails to arrive within 45 minutes, the law enforcement officer may select the next available towing company from the approved rotation list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

§1949. Severability Clause

A. If for any reason a provision of these rules is declared invalid, the invalidity of that provision shall not affect the validity of the remaining rules or other provisions thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments on this proposed Rule to Tony Walker at P.O. Box 66351, Baton Rouge, LA 70896. Comments will be accepted through close of business, February 10, 2005.

Steve Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Towing, Recovery, and Storage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these rules. These rule changes are required to better reflect industry regulations. The approach to amending the rules is to simplify areas of confusion and multiple interpretations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue as a result of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group, as a result of these rules. The proposed rule

changes simply indicate the version, by revision date, of the federal regulations preciously adopted by reference.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Approximately 12 months of meeting with industry and consumer groups led to development of the updated Administrative Rules. Activity levels should not increase and the number of new entrants should not be affected by these changes. Therefore, we do not anticipate a change in competitive practices or levels of competition as a result of these changes in the Rules.

Stephen J. Hymel
Undersecretary
0601#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Presidential Disaster Relief Credits
(LAC 61:I.601)

Under the authority of R.S. 47:1511, R.S. 47:287.85(C)(2), R.S. 47:293(3), R.S. 47:287.785 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 adopt LAC 61:I.601 relative to certain federal disaster tax relief credits.

During the fall of 2005, Hurricanes Katrina and Rita made landfall on the southern gulf coast of the United States causing certain areas of Louisiana, Alabama, Texas and Mississippi to be presidentially declared disaster areas. Consequently, the 2005 First Extraordinary Session of the Louisiana Legislature was called to address, among other matters, Louisiana income tax relief. In particular, Act 23 of the 2005 Extraordinary Session was passed to amend and reenact R.S. 47:287.85(C)(2) and R.S. 47:293(3) to provide that the Louisiana income tax deduction for federal income taxes paid shall not be reduced by the amount of federal disaster relief tax credits. Normally, when federal income tax liability is decreased by credits Louisiana income tax liability increases since Louisiana provides a deduction for federal income tax paid. This provision prevents Louisiana taxpayers from paying additional tax because they received federal disaster relief credits.

Act 23 further amends R.S. 47:293(3) to authorize the secretary to determine which federal credits are disaster relief credits and to promulgate rules and regulations pertaining to the disaster credits with the approval of the Senate Revenue and Fiscal Affairs Committee and the House Committee on Ways and Means jointly. Recently, Congress has passed the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, 119 Stat. 2016 (H.R. 3768) and the Gulf Opportunity Zone Act of 2005 (H.R.4440), which provide for certain federal income tax credits. The purpose of the proposed Rule is to declare these credits as disaster relief credits and to provide guidance regarding their applicability.

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 LAC 61:I.601, regarding presidential disaster area disaster relief credits, 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. All comments must be received no later than 5:30 p.m., Monday, February 27, 2006. A public hearing will be held on March 1, 2006 at 10 a.m. in the Magnolia 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: Presidential Disaster Relief Credits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed regulation will have minimal impact on the agency's costs. There will be one-time costs of approximately $30,000 to implement the legislation and these corresponding rules. The costs are associated with tax reform redesign and additional instructions, computer program modifications and systems development. This $30,000 additional expense will be absorbed in the department's current operating budget.

There will be no impact on local government costs.

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. While this legislation precludes the state from receiving additional personal income tax collections of about $20 million, the official revenue forecasts do not incorporate an expectation of receiving any such revenue as the result of the hurricane Katrina and Rita events. Thus, the anticipated state revenue baseline is considered to be unaffected by the legislation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers receiving the benefit of federal disaster tax relief will see no increase in their Louisiana tax liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0601#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Food Stamp Program and FITAP—Lump Sum Payment as a Resource Exclusion (LAC 67:III.1235 and 1949)

The Department of Social Services, Office of Family Support, proposes to amend Louisiana Administrative Code 67 Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), and Subpart 3 Food Stamp Program.

Pursuant to P.L. 107-171, the Food Stamp Reauthorization Act of 2002 (also known as the Farm Bill), the agency proposes to amend §1949 in the Food Stamp Program and §1235 in the Family Independence Temporary Assistance Program (FITAP) to exclude from countable resources, lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. Section 4107 of the Farm Bill gives the state the option to exclude certain types of resources that the state agency does not include for TANF purposes.

The proposed resource exclusion currently applies in FITAP policy but is not codified in the Louisiana Administrative Code; therefore, §1235 is being amended to include this resource exclusion. Additionally, it is the agency's intention to provide program consistency by removing this barrier to food stamp eligibility and excluding these payments from countable resources in the Food Stamp Program.

An Emergency Rule effecting these changes was signed November 1, 2005, and published in the November issue of the *Louisiana Register*.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is $2,000. All resources are considered except:

1. - 22. ...

23. lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. This exclusion shall apply for six months following receipt of the payment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:45(January 2003), LR 32:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. - 5. ...

6. lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. This exclusion shall apply for six months following receipt of the payment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:657 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:143 (February 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1363 (December 1994), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The Rule will have a positive effect on the stability of the family because receipt of these payments will not make them ineligible for Food Stamps or FITAP.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will have a positive effect because the household will have at least six months to use the money for the purpose for which it was intended without adversely impacting their eligibility to receive Food Stamps or FITAP.

4. What effect will this Rule have on family earnings and family budget? The Rule will have no effect on earnings. It will have a positive impact on the family budget because they may be eligible to receive Food Stamps or FITAP and thus have more funds available to meet household needs.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by February 28, 2006, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed rule will be held on March 1, 2006, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the

Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Food Stamp Program and FITAP—Lump Sum Payment as a Resource Exclusion

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost to the state is $300. The minimal cost of publishing the rule, printing policy changes and form revisions is estimated to be approximately 600 and is routinely included in the agency's annual budget. Federal funds will cover one-half or $300 of these administrative costs.

There will be no costs to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs to any persons or non-governmental groups.

There is no available data on which to project the number of households affected or the amount of benefits that could be realized. However, the rule may have a positive impact on the family budget because they may be eligible to receive Food Stamps or FITAP and thus have more funds available to meet household needs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson	Robert E. Hosse
Assistant Secretary	Staff Director
0601#101	Legislative Fiscal Office

NOTICE OF INTENT

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

Emergency Refunds (LAC 58.I.1301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) proposes to amend LAC 58.I.1301. This amendment is needed to allow LASERS to more efficiently administer refunds of accumulated employee contributions.

No preamble for this Rule is necessary.

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System
Chapter 13. Emergency Refunds
§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or
2. the member has significant expenses for medical care for himself, spouse, or child; or
3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment. A document filed in the official legal proceeding for foreclosure or repossession or a notice of eviction shall be required as proof to qualify under this provision.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:

Family Impact Statement

The proposed amendment of LAC 58.I.1301 concerns emergency refunds of accumulated contributions. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 26, 2006, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Refunds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule. The proposed change is designed to put applicants for emergency refunds on notice regarding the type of proof required to obtain an emergency refund. This should allow LASERS staff to reduce the time needed to process these requests by reducing the number of follow-up questions regarding proof.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

LASERS members who have terminated employment with the State of Louisiana and subsequently seek a refund of their

accumulated employee contributions prior to the end of the 30 day waiting period set out in R.S. 11:403 (22) will be directly affected by the proposed rule change. There will be no cost to these persons since the proposal establishes a formal rule that has long been a part of LASERS refund procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated to result from the implementation of these rules.

Robert L. Borden
Executive Director
0601#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – DECEMBER 2005

LAC Title	Part.Section	Effect	Location LR 31 Month	Page
4	III.701-715	Adopted	Mar.	644
	V.2101	Amended	Jan.	56
	VII.1101,1245	Amended	June	1330
	VII.1105,1237,1275	Repealed	June	1330
7	I.101	Amended	Jan.	26
	V.513	Amended	June	1227
	XIII.123, 141, 143	Amended	July	1510
	XIII.125,143	Amended	Feb.	419
	XIII.139,141	Amended	Jan.	35
	XXI.111	Amended	Feb.	419
	XXI.1105,1303	Adopted	Aug.	1971
	XXI.2301,2305,2311,2313,2321	Amended	Sept.	2210
	XXV.101,119,121	Amended	Jan.	26
	XXV.107,117	Amended	Nov.	2761
	XXIX.107,109,113-117,123	Amended	May	1053
	XXXIII.133	Amended	May	1055
	XXXV.301-347	Adopted	Jan.	27
	XLI.101	Repromulgated	Apr.	898
10	I.303	Amended	Nov.	2894
	I.501	Amended	Nov.	2893
	I.507	Repealed	Nov.	2893
	XII.301	Adopted	Nov.	2893
13	III.101-117	Amended	Apr.	902
	III.131-147	Adopted	Apr.	902
	V.201-215	Adopted	Feb.	420
22	I.103	Amended	July	1600
	I.103	Amended	Aug.	2032
	I.105	Adopted	May	1097
	I.209,301,309,311	Repealed	Apr.	937
	I.306,307,310,319,327,331	Repealed	Apr.	937
	I.317,329	Amended	May	1097
	I.339,2103,2105	Amended	May	1099
	I.339,2103,2105	Repromulgated	June	1343
	I.365	Amended	May	1099
	I.367	Repealed	May	1097
	III.4701,4703,4715,4725	Amended	Aug.	2007
	III.4705,4709	Amended	Dec.	3159
	XIII.301	Amended	Aug.	2009
	XIII.503	Amended	June	1330
25	III.103	Amended	May	1055
	III.105	Amended	May	1057
	IX.101,301-307	Amended	Aug.	1979
	IX.308,309,310	Adopted	Aug.	1979
	IX.312	Repromulgated	Aug.	1979
	IX.313-321,329-333,500-507	Amended	Aug.	1979
	IX.900-919	Repromulgated	Aug.	1979
28	I.701,912	Repealed	July	1567
	I.901,906,930	Amended	Mar.	638
	I.903	Amended	Feb.	425
	I.903	Amended	Mar.	636
	I.903	Amended	July	1564
	I.903	Amended	July	1567
	I.903	Amended	Aug.	1971
	I.903	Amended	Oct.	2423
	I.903	Amended	Oct.	2424
	I.903	Amended	Dec.	3098
	I.903	Amended	Dec.	3099
	I.903	Amended	Dec.	3100
	I.903	Amended	Dec.	3101
	I.907,925	Repealed	Mar.	638
	I.919	Repealed	Apr.	917
	I.927,929,953	Repealed	Dec.	3109
	I.955	Amended	Dec.	3109
	I.1303	Amended	June	1319
28	I.1303,1705,1709	Amended	June	1319
	I.1710	Repealed	Dec.	3109
	IV.301,501,504,505,509,703,803	Amended	Jan.	36
	IV.301,703,803,1901,1903	Amended	Dec.	3112
	IV.501,506,2103	Amended	May	1060
	IV.701,703,1107	Amended	Sept.	2213
	IV.705,805	Amended	Dec.	3115
	IV.1001-1017	Adopted	Dec.	3109
	IV.1901,1903	Amended	Dec.	3109
	IV.1903,2107,2301-2313	Amended	Jan.	36
	VI.107,311	Amended	Mar.	639
	VI.315	Amended	Sept.	2216
	XXXVII.507	Amended	Nov.	2766
	XXXVII.2503	Amended	Mar.	638
	XXXIX.503,905,911	Amended	Aug.	1973
	XXXIX.503,1301	Amended	Dec.	3103
	XXXIX.1101,1301,1501	Amended	Aug.	1973
	XLV.1107,1109	Amended	Oct.	2427
	XLIX.335,337,343,737	Amended	Aug.	1972
	LVII.301,501-511,521-535	Amended	Apr.	915
	LXIII.Chapters 1-19	Amended	Nov.	2858
	LXXIX.Chapters 1-31	Amended	Dec.	3072
	LXXIX.2309,2311	Adopted	Dec.	3072
	LXXIX.2511	Amended	Mar.	636
	LXXXIII.301,501,517,519	Amended	July	1512
	LXXXIII.305,509,703	Amended	Nov.	2762
	LXXXIII.307,515-517	Amended	Oct.	2422
	LXXXIII.517,1101,1501,1705	Amended	Nov.	2763
	LXXXIII.703,4307,4310	Amended	Apr.	912
	LXXXIII.901	Repealed	July	1512
	LXXXIII.1301,1501-1505	Amended	July	1512
	LXXXIII.1401-1407	Adopted	July	1512
	LXXXIII.1701-1707,1901,1903	Amended	July	1512
	LXXXIII.2101,2301,3107-3111	Amended	July	1512
	LXXXIII.3101,3109,3111	Amended	Oct.	2422
	LXXXIII.3301,3303	Amended	Nov.	2763
	LXXXIII.3501,4310,4313	Amended	Feb.	423
	LXXXIII.3901-3905	Amended	Nov.	2762
	LXXXIII.3905	Amended	July	1512
	LXXXIII.4303,4313	Amended	June	1256
	LXXXIII.4310,4311,4313	Amended	Mar.	633
	XCI.101,105-111,301-317	Amended	Dec.	3104
	XCI.507,509	Amended	Dec.	3104
	XCV.111	Amended	Dec.	3065
	XCVII.305,307,311,501	Amended	Apr.	913
	XCVII.901-907	Adopted	Dec.	3102
	CVII.Chapters 1-13	Adopted	July	1517
	CXI.Chapters 1-35	Adopted	July	1526
	CXV.Chapters 1-37	Adopted	June	1257
	CXV.2301	Amended	Dec.	3070
	CXV.2319	Adopted	Sept.	2211
	CXV.2319	Amended	Dec.	3070
	CXV.2319,2363	Amended	Dec.	3072
	CXV.2333,2355,2364,2369	Adopted	Dec.	3069
	CXV.2504	Adopted	Dec.	3071
	CXVII.Chapters 1-7	Adopted	Dec.	3066
	CXIX.Chapters 1-17	Adopted	Nov.	2766
	CXXI.Chapters1-13	Adopted	Nov.	2833
	CXXIII.Chapters 1-21	Adopted	Nov.	2801
31	II.Chapter 7	Adopted	Dec.	3164
32	I.1501-1515	Adopted	Aug.	2009
	III.301,317	Amended	Feb.	441
	V.301,317	Amended	Feb.	439
	IX.301,317	Amended	Feb.	440
33	I.	Amended	Oct.	2431
	I.601-609	Adopted	June	1321
	I.1901-1911	Adopted	Oct.	2427

LAC Title	Part.Section	Effect	Location LR 31 Month	Page
33	I.3931	Amended	Apr.	918
	I.4503,4705	Amended	July	1570
	III.	Amended	Oct.	2431
	III.501	Amended	May	1063
	III.504,509	Amended	Dec.	3122
	III.504,509	Amended	Dec.	3155
	III.505,517,521	Amended	Oct.	2427
	III.507,1509,2305	Amended	May	1061
	III.507	Amended	July	1567
	III.1432	Amended	Mar.	639
	III.1115,1117	Repealed	July	1570
	III.2117	Amended	May	1062
	III.2160,3003,5116,5122	Amended	July	1567
	III.5122	Amended	Dec.	3115
	III.5151	Amended	July	1570
	III.5311,5901	Amended	July	1567
	V.	Amended	Oct.	2431
	V.108,1717,4003,4561	Amended	Oct.	2540
	V.109,305,1501,2201	Amended	Dec.	3116
	V.321,4303	Amended	Oct.	2427
	V.529,1109,1705,1907,1917	Amended	July	1570
	V.3023,3711,3719,4037,4901	Amended	July	1570
	V.3099	Amended	Apr.	918
	V.Chapter 38	Amended	Dec.	3116
	V.3810	Adopted	Dec.	3116
	V.4301	Amended	Dec.	3116
	V.4911	Adopted	Dec.	3116
	V.10107,10121	Amended	Mar.	693
	V.10307	Amended	Nov.	2953
	V.Chapters 301-304	Amended	Mar.	675
	VI.	Amended	Oct.	2431
	VI.1101-1119	Adopted	Sept.	2216
	VII.	Amended	Oct	2431
	VII.115,721	Amended	July	1570
	VII.517	Amended	Oct.	2427
	VII.10505	Amended	Dec.	3157
	VII.10505,10509,10519	Amended	June	1322
	VII.10521	Adopted	June	1322
	VII.10535,10537	Amended	June	1322
	VII.10539,10541,10543	Adopted	Dec.	3157
	IX.	Amended	Oct.	2431
	IX.1123	Amended	Apr.	917
	IX.1123	Amended	Apr.	920
	IX.2301,4901,4903	Amended	Apr.	918
	IX.2501,2707,3113	Amended	Feb.	425
	IX.2505	Amended	July	1570
	IX.2511	Amended	June	1321
	IX.2701	Amended	Oct.	2427
	IX.2901,2903,2905	Amended	Oct.	2427
	IX.4701-4709,4719	Amended	Feb.	425
	IX.4731-4747	Adopted	Feb.	425
	IX.5911	Amended	Feb.	425
	IX.7103	Repealed	Feb.	425
	XI.	Amended	Oct.	2431
	XI.103	Repromulgated	Aug.	2002
	XI.103,301-305,501-509	Amended	May	1065
	XI.103,1121,1139	Amended	July	1570
	XI.599	Adopted	May	1065
	XI.701-707,901-907,1301,1303	Amended	May	1065
	XI.1307,1311,1313	Amended	May	1065
	XV.	Amended	Oct.	2431
	XV.102	Amended	May	1064
	XV.102,113,325,326,351,399	Amended	Jan.	44
	XV.325	Amended	July	1578
	XV.361	Adopted	Jan.	44
	XV.399	Amended	July	1578
	XV.421,499,575,588,756,757	Amended	Jan.	44
	XV.613,615,915,917	Adopted	May	1064
	XV.703,704,763	Amended	May	1060
	XV.1503,1505,2017	Amended	Jan.	44
	XV.1517	Amended	Apr.	918
34	III.101-113,127,129	Amended	May	1076
	III.300,301-307	Repealed	May	1076
	V.105	Adopted	Mar.	640
35	I.302	Adopted	May	1058
	I.1716	Adopted	Dec.	3160
	III.5736	Amended	Dec.	3160
	XI.9913	Amended	Dec.	9913
37	I.101,301-313,501,701-705	Amended	Jan.	56
	I.2501,2701,2901,3101-3121	Amended	Jan.	56
	I.3201,3301,5101	Amended	Jan.	56
	XI.717,723	Amended	May	1096
	XIII.Chapter 5	Amended	Nov.	2902
	XIII.501,502,506,507,540	Repromulgated	Nov.	2902
	XIII.590,597	Repromulgated	Nov.	2902
	XIII.11101-1119	Adopted	Sept.	2259
	XIII.1901-1905,1909-1913	Amended	Feb.	461
	XIII.1915,1917,1937,1961	Adopted	Feb.	461
	XIII.1919,1921,1925-1935	Amended	Feb.	461
	XIII.1923,1941,1947,1951	Repromulgated	Feb.	461
	XIII.1939,1943-1945,1949	Amended	Feb.	461
	XIII.1953-1959	Amended	Feb.	461
	XIII.Chapter 21	Adopted	Oct.	2543
	XIII.Chapter 95	Adopted	Mar.	673
	XIII.10301-10319	Adopted	Apr.	932
	XIII.Chapter 105	Adopted	May	1092
	XIII.Chapter 107	Adopted	Oct.	2541
	XIII.Chapter 109	Adopted	Oct.	2550
	XIII.Chapter 113	Adopted	Nov.	2948
42	VII.2325,2723,4204,4209	Amended	July	1603
	VII.4209	Amended	July	1602
	VII.4214,4215	Amended	July	1603
	IX.2723,4103,4204,4209	Amended	July	1603
	IX.4209	Amended	July	1602
	IX.4214,4215	Amended	July	1603
	XIII.2325,2723,4204,4209	Amended	July	1603
	XIII.4209	Amended	July	1602
	XIII.4214,4215	Amended	July	1603
43	I.1921,1923	Adopted	Apr.	934
	XIII.307,503,507,509	Amended	Mar.	679
	XIII.913,921,923,1104	Amended	Mar.	679
	XIII.1105,1110,1305,1307, 1309	Amended	Mar.	679
	XIII.1321,1513,1721,1727	Amended	Mar.	679
	XIII.2305,2711,2712,2923	Amended	Mar.	679
	XIII.2939,2943,3105,3303	Amended	Mar.	679
	XIII.3309,3311,3313,3317	Amended	Mar.	679
	XIII. 3321,3325,3327	Amended	Mar.	679
	XIII.3329,3333,3335,3337	Amended	Mar.	679
	XIII.3339,3341,3343,3345	Amended	Mar.	679
	XIII.5103,5105,5109	Amended	Mar.	679
	XIX.537	Amended	Sept.	2262
	XIX.701,703,707	Amended	Nov.	2950
46	I.1901	Amended	Dec.	3159
	III.105,1101-1109,1113	Amended	June	1325
	III.1117-1121	Amended	June	1325
	III.1201,1203,1705,2501	Adopted	June	1325
	III.1301,1501,1703	Amended	June	1325
	III.2301	Repealed	June	1325
	III.2701-2711,2901	Adopted	June	1325
	V.7101,7103,7301-7309	Adopted	Apr.	921
	V.7501,7503, 7701-7713	Adopted	Apr.	921
	V.7901-7911	Adopted	Apr.	921
	XI.101,102,117,127,315-321,527	Amended	Aug.	2002
	XI.115,125,131,314,335	Adopted	Aug.	2002
	XI.123,129,133,135	Repromulgated	Aug.	2002
	XI.523,525	Repealed	Aug.	2002
	XIX.319,709	Amended	June	1329
	XXIII.107	Repromulgated	Jan.	43
	XXXIII.304,306,703	Amended	Apr.	927
	XXXIII.507	Repealed	Apr.	927
	XXXIII.1515	Adopted	Apr.	927
	XL.120	Amended	Aug.	2011
	XLI.Chapter 23	Adopted	May	1058
	XLV.303,311,353,385,407,413	Amended	July	1582
	XLV.415,418,419,437,447	Amended	July	1582
	XLV.1503,1505,1513,1514	Amended	Jan.	73
	XLV.1519,4501-4505	Amended	Jan.	73

LAC Title	Part.Section	Effect	Location LR 31 Month	Page
46	XLV.1521-1529,4506	Adopted	Jan.	73
	XLV.1967,1969,1971	Amended	Dec.	3161
	XLV.4511-4513	Amended	Jan.	73
	XLVII.701,1503	Amended	July	1587
	XLVII.3341	Amended	Aug.	2027
	XLVII.3403-3411,3419	Amended	July	1585
	XLVII.Chapter 45	Amended	Aug.	2012
	XLVII.4507	Amended	June	1340
	LIV.306	Adopted	Feb.	441
	LIX.201,203,301,405,409,813	Amended	July	1599
	LXX.6653	Adopted	Jan.	55
	LXIII.401-415	Adopted	Jan.	70
	LXVII.10101,10301-10307	Amended	June	1332
	LXVII.10308, 10509-10513	Adopted	June	1332
	LXVII.10309-10315	Amended	June	1332
	LXVII.10401-10411,10415	Amended	June	1332
	LXVII.10501-10507	Amended	June	1332
	LXXX.Chapters 1-19	Adopted	Mar.	646
	LXXXV.700,711	Amended	Dec.	3162
	LXXXV.1015	Amended	Apr.	928
	LXXXV.1515	Amended	Apr.	930
48	I.4113	Amended	Nov.	2955
	I.Chapter 80	Adopted	Feb.	442
	I.7401,7403,7413,7427,7443	Amended	Mar.	669
	I.7429	Repealed	Mar.	669
	V.7005	Adopted	July	1587
	V.7007,7009	Amended	July	1587
	IX.1501-1513	Adopted	Jan.	86
50	I.501,503	Adopted	Aug.	2032
	I.5503	Amended	July	1590
	II.10303,10307	Amended	July	1590
	II.10307	Amended	May	1081
	II.10351	Repealed	July	1590
	II.10375,10385	Adopted	July	1590
	VII.Chapters 301-331	Repromulgated	Sept.	2221
	VII.1305,1309	Amended	July	1596
	XIII.Chapter 133	Adopted	Sept.	2220
	XV.101-105,301,311-325,335,337	Adopted	May	1082
	XV.501,703,707-711,719,731-739	Adopted	May	1082
	XV.705	Amended	May	1082
	XV.755,757,901,1101,1103,1301	Adopted	May	1082
	XV.701	Adopted	Mar.	668
	XV.6903	Amended	Mar.	667
	XV.7101-7105	Amended	Mar.	664
	XV.7107	Adopted	Mar.	664
	XV.7107	Amended	Aug.	2030
	XV.8103-8109	Adopted	Aug.	2030
	XV.10701	Amended	Aug.	2032
	XV.Chapter 111	Amended	Aug.	2028
	XV.Chapters 201-207	Adopted	Aug.	2029
	XVII.101,301,501,503	Repromulgated	July	1597
	XVII.105,125,133	Adopted	Jan.	85
	XVII.1501-1505,1707,1907	Repromulgated	July	1597
	XVII.10117,10307	Repromulgated	July	1597
	XVII.Chapters 301-331	Adopted	Jan.	80
	XVII.30501-30503,30701	Adopted	Jan.	80
	XVII.2101-2113	Adopted	Jan.	81
	XXI.13707,13709	Adopted	Nov.	2900
	XXV.101,301,303,501,503,701	Repromulgated	July	1588
51	IX.101,327,329,331	Amended	Nov.	2895
	XIII.737	Amended	July	1914
52	I.101,301,1204	Amended	June	1227
	I.1701	Adopted	June	1227
	I.1901,1913-1917,2137-2139	Repromulgated	June	1227
	I.1902,1906,1907,1908,1909,1910	Repromulgated	Mar.	620
	I.1908	Repromulgated	Apr.	899
	I.2101-2114,2115-2123,2131-2135	Amended	June	1227
55	I.615	Amended	Apr.	938
	I.2901	Adopted	Nov.	2953
	V.Chapter 26	Adopted	Nov.	2950
	VII.305	Amended	Aug.	2034
	VII.305	Amended	Aug.	2035
55	VII.317	Amended	June	1344
	VII.503-509	Amended	Apr.	938
	VII.511	Adopted	Apr.	938
	VII.3115	Adopted	Aug.	2034
	VII.3117	Adopted	Aug.	2036
	IX.103-109,179-181	Amended	Oct.	2566
56	I.Chapters 1-7	Repromulgated	Apr.	942
	III.Chapters 1-7, 21,23	Repromulgated	Apr.	942
58	I.109	Adopted	July	1611
	I.303,503	Amended	Apr.	946
	I.1301	Amended	Jan.	107
	I.2715	Amended	Apr.	946
61	I.306	Amended	Mar.	696
	I.309	Amended	Jan.	90
	I.1134	Amended	Mar.	694
	I.4301	Amended	Mar.	697
	I.4311	Amended	May	1101
	I.4351	Amended	May	1101
	I.4355	Amended	Jan.	88
	I.4357	Amended	Jan.	100
	I.4359	Amended	Jan.	90
	I.4361	Amended	Jan.	100
	I.4363	Amended	Jan.	89
	I.4365	Amended	Jan.	91
	I.4367	Amended	Jan.	92
	I.4369	Amended	Jan.	97
	I.4371	Amended	Jan.	98
	I.4373	Amended	Jan.	94
	I.4402	Amended	Jan.	91
	I.4404	Amended	Jan.	99
	I.4406	Amended	Jan.	92
	I.4407	Amended	Jan.	99
	I.4408	Amended	Jan.	95
	I.4409	Amended	Jan.	93
	I.4410	Amended	Jan.	95
	I.4413	Amended	Jan.	88
	I.4416	Amended	Jan.	93
	I.4418	Amended	Jan.	94
	I.4420	Amended	Jan.	97
	I.4906	Adopted	Mar.	699
	I.4910	Amended	Feb.	483
	II.101	Repealed	May	1102
	III.1101	Adopted	Dec.	3164
	V.101,703,901,907,1103,1307	Amended	Mar.	699
	V.201-213,304,705,3511-3525	Adopted	Mar.	699
	V.1503,1701,2501,2503,2705	Amended	Mar.	699
	V.2707,3103,3105,3501	Amended	Mar.	699
67	III.1221,1247,5321,5705	Amended	Jan.	102
	III.1229,1980,5329	Amended	Nov.	2956
	III.1965,1966	Amended	June	1345
	III.2514	Amended	Sept.	2266
	III.2527,2540,2545	Amended	May	1102
	III.5102-5111	Amended	Sept.	2262
	III.5103,5107	Amended	Jan.	101
	III.5501,5509-5513,5525-5527	Repealed	Feb.	484
	III.5533,5537-5539,5547	Repealed	Feb.	484
	III.5553,5557,5567-5569	Repealed	Feb.	484
	III.5577,5601-5631	Repealed	Feb.	484
	III.5541,5545,5549,5561	Amended	Feb.	484
	III.5563,5573	Amended	Feb.	484
	III.5579	Adopted	Feb.	488
	III.5581	Adopted	July	1610
	III.5715,5727	Amended	Jan.	102
	V.1103	Amended	July	1609
	V.1105	Amended	July	1608
	V.2301	Amended	Jan.	101
	V.3507	Adopted	Feb.	484
70	I.315	Amended	Jan.	104
	II.1901-1923	Adopted	Jan.	105
	III.103-109	Amended	Mar.	727
	III.115	Adopted	Sept.	2266
	III.127,135,136,143,150	Amended	Apr.	944

LAC Title	Part.Section	Effect	Location LR 31 Month	Page
70	III.138	Adopted	July	1610
	III.155	Repealed	Apr.	944
	XI.101	Repromulgated	Apr.	898
	XIII.1,13,15,17,21	Repromulgated	Apr.	942
	XV.1,2	Repromulgated	Apr.	942
76	I.327	Amended	May	1103
	I.327-335	Repromulgated	June	1345
	I.329-335	Adopted	May	1103
	V.117	Amended	Sept.	2269
	V.321	Adopted	Sept.	2268
	V.701	Amended	Sept.	2267
76	VII.102	Adopted	Apr.	947
	VII.106	Adopted	Oct.	2569
	VII.110	Amended	Apr.	948
	VII.199	Adopted	Mar.	728
	VII.335	Amended	Dec.	3166
	VII.367	Amended	Jan.	108
	VII.515	Amended	July	1624
	VII.701	Amended	Apr.	947
	XV.101	Amended	Oct.	2569
	XIX.101,103	Amended	July	1627
	XIX.111	Amended	July	1611
	XIX.113,115,117	Amended	Dec.	3167

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 12-13, 2006, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 17, 2006
Re-Take Candidates:	March 3, 2006
Reciprocity Candidates:	April 23, 2006

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 17, 2006. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0601#027

POTPOURRI

Department of Agriculture and Forestry
Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given May 1-5, 2006, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is March 17, 2006. No applications will be accepted after March 17, 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 March 17, 2006. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0601#028

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Division of Pesticides and Environmental Programs

Imposition of Quarantines for Hurricanes Katrina and Rita

The Imposition of Quarantine for Formosan Termites for Hurricane Katrina and Imposition of Quarantine for Formosan Termites for Hurricane Rita; both of which were signed on December 7, 2005 and published in the Baton Rouge Advocate on December 13, 2005, and published in the *Louisiana Register* on December 20, 2005, supersedes all previously published Imposition of Quarantine for Formosan Termites relative to hurricanes Katrina and Rita and rendered all such previous Impositions of Quarantine for Formosan Termites relative to hurricanes Katrina and Rita null and void as of December 7, 2005.

If there are any questions or concerns regarding the Imposition of Quarantine for Formosan Termites relative to hurricanes Katrina and Rita please contact:

Bobby Simoneaux
Director, Pesticides and Environmental Programs
P. O. Box 3596
Baton Rouge, LA 70821
Telephone: (225) 925-3763
Fax: (225) 925-3760
E-mail: bobby_s@ldaf.state.la.us

Bob Odom
Commissioner

0601#048

POTPOURRI

Departmentof Agriculture and Forestry
Office of Forestry
and
Department of Revenue
Tax Commission

Timber Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission met jointly to adopt current average timber stumpage values for 2006 on December 12, 2005, which is the second Monday in December as required by the provisions of R.S. 47:633.

The valuations adopted by these commissions shall take effect on January 1, 2006 and continue through December 31, 2006. The values that were adopted are:

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	$358.08/MBF	$44.76/Ton
Hardwood & Cypress Sawtimber	$339.72/MBF	$35.76/Ton
Pine Chip and Saw	$110.80/CD	$41.04/Ton
Pulpwood		
Pine Pulpwood	$22.03/CD	$8.16/Ton
Hardwood & Cypress Pulpwood	$19.17/CD	$6.73/Ton

Conversion Factors		
MBF Pine Doyle Scale	16,000 lbs.	8.00 Tons
MBF Hardwood Doyle Scale	19,000 lbs.	9.50 Tons
Cord Pine	5,400 lbs.	2.70 Tons
Cord Hardwood	5,700 lbs.	2.85 Tons
Chip-N-Saw	5,400 lbs.	2.70 Tons

Bob Odom
Commissioner

0601#047

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Interstate Rule

On March 10, 2005, the Environmental Protection Agency (EPA) finalized the Clean Air Interstate Rule (CAIR). CAIR provides a federal framework requiring states to reduce emissions of sulfur dioxide (SO_2) and nitrogen oxide (NOx). EPA anticipates that states will achieve this primarily by reducing emissions from the power generation sector. NOx (annual and seasonal) allocations will be on a unit-by-unit basis; per CAIR definition, all SO_2 allocations were made under the Acid Rain Program. Besides distribution of allocations, all subject units contained within a Title V permit will need to apply for a CAIR permit.

As part of its effort to implement CAIR, the department has attempted to identify all units subject to CAIR. The department has reviewed data from its database, the National Electric Energy System Database (NEEDS 2000, 2003, and 2004), the Department of Energy, and the Acid Rain Program. The resulting list was revised/updated based on the response of the members of the CAIR stakeholder group. The facilities remaining on the list were contacted by the department to confirm the status of potentially subject units.

The department encourages all facilities with units that meet the definitions given below to review the final list of subject units (see list below). If a facility has a unit that will be subject to CAIR, but the unit does not appear on the department's list, the facility should contact Darlene Dosher-Collard, Office of Environmental Assessment, Air Quality Assessment Division, at 225-219-3580. Units not on the list will not receive NOx allocations. If a unit is subject but does not have SO_2 or does not receive NOx allocations, allowances must be purchased for the unit to operate. If a unit is located at a facility with a Title V permit, a CAIR permit must be acquired for the unit to operate in compliance.

Per the final CAIR rule, a subject unit is "… a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving … a generator with nameplate capacity of more than 25 MWe producing electricity for sale." This would include units that are permitted and still can be operated. A cogeneration unit is also subject to the CAIR provisions per the final CAIR if it is "… a cogeneration unit serving at any time a generator with nameplate capacity of more than 25 MWe and supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity of 219,000 MWh, whichever is greater, to any utility power distribution system for sale." For a copy of the final CAIR rule and any current information regarding the CAIR rule, go to http://www.epa.gov/cair/rule.html, EPA's CAIR site.

Louisiana Electrical Generating Units Potentially Subject to CAIR				
AI #	Facility Name	Name Plate Capacity (Megawatts)	Location (by Parish)	Facility Owner
703	A B Paterson Unit 3	51.7	Orleans	Entergy New Orleans Inc
703	A B Paterson Unit 4	81.2	Orleans	Entergy New Orleans Inc
86244	Acadian Energy Center (1-99)	165	Calcasieu	Calcasieu Development Co LLC
86244	Acadian Energy Center (2-99)	155	Calcasieu	Calcasieu Development Co LLC
83623	Acadia Energy Center CT1	185	St. Landry	Acadia Power Partners, LLC
83623	Acadia Energy Center CT2	185	St. Landry	Acadia Power Partners, LLC
83623	Acadia Energy Center CT3	185	St. Landry	Acadia Power Partners, LLC
83623	Acadia Energy Center CT4	185	St. Landry	Acadia Power Partners, LLC
83623	Acadia Power Station Unit 5	185	St. Landry	Central Louisiana Electric Co
83623	Acadia Power Station Unit 6	185	St. Landry	Central Louisiana Electric Co
1060	Arsenal Hill	125	Caddo	Southwestern Electric Power Co
286	Baton Rouge Cogen	422.1	East Baton Rouge	Exxon Mobil Chemical Co
92706	Bayou Cove Peaking Power Unit 1	110	Jefferson Davis	Bayou Cove Peaking Power LLC
92706	Bayou Cove Peaking Power Unit 2	110	Jefferson Davis	Bayou Cove Peaking Power LLC
92706	Bayou Cove Peaking Power Unit 3	110	Jefferson Davis	Bayou Cove Peaking Power LLC
92706	Bayou Cove Peaking Power Unit 4	110	Jefferson Davis	Bayou Cove Peaking Power LLC
11917	Big Cajun 1 Unit 1	133.6	Pointe Coupee	Louisiana Generating LLC
11917	Big Cajun 1 Unit 2	133.6	Pointe Coupee	Louisiana Generating LLC
38867	Big Cajun 2 Unit 3	632.5	Pointe Coupee	Louisiana Generating LLC/Entergy Gulf States
38867	Big Cajun 2 Unit 1	638	Pointe Coupee	Louisiana Generating LLC
38867	Big Cajun 2 Unit 2	632.5	Pointe Coupee	Louisiana Generating LLC
11917	Big Cajun 1 Peakers Unit 1	128	Pointe Coupee	Louisiana Generating LLC
11917	Big Cajun 1 Peakers Unit 2	128	Pointe Coupee	Louisiana Generating LLC
81859	Calcasieu Power LLC Unit 1	155	Calcasieu	Calcasieu Power LLC

Louisiana Electrical Generating Units Potentially Subject to CAIR				
AI #	**Facility Name**	**Name Plate Capacity (Megawatts)**	**Location (by Parish)**	**Facility Owner**
81859	Calcasieu Power LLC Unit 2	165	Calcasieu	Calcasieu Power LLC
51854	Carville Energy Center CT1	207	Iberville	Carville Energy LLC
51854	Carville Energy Center CT2	207	Iberville	Carville Energy LLC
8494	DG Hunter Unit 3	85	Rapides	City of Alexandria
8494	DG Hunter Unit 4	55	Rapides	City of Alexandria
585	Dolet Hills	720.7	De Soto	CLECO Corp
31135	Doc Bonin Unit 1	53.9	Lafayette	Lafayette Consolidate Government
31135	Doc Bonin Unit 2	100	Lafayette	Lafayette Consolidate Government
31135	Doc Bonin Unit 3	187	Lafayette	Lafayette Consolidate Government
1906	Evangeline Power Station Unit 6-1	222	St Landry	Cleco Evangeline LLC
1906	Evangeline Power Station Unit 6-0	113.6	St Landry	Cleco Evangeline LLC
1906	Evangeline Power Station Unit 7-0	243.1	St Landry	Cleco Evangeline LLC
1906	Evangeline Power Station Unit 7-1	222	St Landry	Cleco Evangeline LLC
1906	Evangeline Power Station Unit 7-2	222	St Landry	Cleco Evangeline LLC
121572	Hargis Hebert South Generating Sta.	50.4	Lafayette	Lafayette Utilities System
121572	Hargis Hebert South Generating Sta.	50.4	Lafayette	Lafayette Utilities System
1186	La Station Unit 1A	148	East Baton Rouge	Entergy Gulf States Inc
1186	La Station Unit 2A	148	East Baton Rouge	Entergy Gulf States Inc
1186	La Station Unit 3A	148	East Baton Rouge	Entergy Gulf States Inc
1186	La Station Unit 4A	274	East Baton Rouge	Entergy Gulf States Inc
1186	La Station Unit 5A		East Baton Rouge	Entergy Gulf States Inc
584	Lieberman Unit 3	114	Caddo	Southwestern Electrical Power Co
584	Lieberman Unit 4	114	Caddo	Southwestern Electrical Power Co
687	Little Gypsy Unit 1	247.7	St Charles	Entergy Louisiana Inc
687	Little Gypsy Unit 2	420.7	St Charles	Entergy Louisiana Inc
687	Little Gypsy Unit 3	582.2	St Charles	Entergy Louisiana Inc
1186	Louisiana 2 Unit 10	50	East Baton Rouge	Entergy Gulf States Inc
1186	Louisiana 2 Unit 11	50	East Baton Rouge	Entergy Gulf States Inc
1186	Louisiana 2 Unit 12	75	East Baton Rouge	Entergy Gulf States
32494	Michoud Unit 1	115.2	Orleans	Entergy New Orleans Inc
32494	Michoud Unit 2	261.8	Orleans	Entergy New Orleans Inc
32494	Michoud Unit 3	582.2	Orleans	Entergy New Orleans Inc
52463	Monroe Unit 11	37.5	Ouachita	Entergy Louisiana Inc
52463	Monroe Unit 12	75	Ouachita	Entergy Louisiana Inc
26326	Morgan City Unit 4	37.5	St Mary	LA Energy &Power Authority
7893	R S Nelson Unit 6	614.6	Calcasieu	Entergy Gulf States Inc
2841	Ninemile Point Unit 1	69	Jefferson	Entergy Louisiana Inc
2841	Ninemile Point Unit 2	112.5	Jefferson	Entergy Louisiana Inc
2841	Ninemile Point Unit 3	169.8	Jefferson	Entergy Louisiana Inc
2841	Ninemile Point Unit 4	783	Jefferson	Entergy Louisiana Inc
2841	Ninemile Point Unit 5	783	Jefferson	Entergy Louisiana Inc
83613	Ouachita Power LLC CTG 01	179.3	Ouachita	Cogentrix Energy Inc
83613	Ouachita Power LLC CTG 02	179.3	Ouachita	Cogentrix Energy Inc
83613	Ouachita Power LLC CTG 03	179.3	Ouachita	Cogentrix Energy Inc
83613	Ouachita Power LLC Steam Turbine 1	122	Ouachita	Cogentrix Energy Inc
83613	Ouachita Power LLC Steam Turbine 2	122	Ouachita	Cogentrix Energy Inc
83613	Ouachita Power LLC Steam Turbine 3	122	Ouachita	Cogentrix Energy Inc
85793	Perryville Power Station Unit 1-1	172.9	Ouachita	Entergy Louisiana Inc
85793	Perryville Power Station Unit 1-2	187.4	Ouachita	Entergy Louisiana Inc
85793	Perryville Power Station Unit 2-1	172.9	Ouachita	Entergy Louisiana Inc
85652	Plaquemine Cogen Facility Unit 500	170	Iberville	American Electric Power
85652	Plaquemine Cogen Facility Unit 600	170	Iberville	American Electric Power
85652	Plaquemine Cogen Facility Unit 700	170	Iberville	American Electric Power
85652	Plaquemine Cogen Facility Unit 800	170	Iberville	American Electric Power
2922	Rodemacher Unit 2	558	Rapides	CLECO Power LLC
2922	Rodemacher Unit 1	445.5	Rapides	CLECO Power LLC
1255	RS Cogen #5	165	Calcasieu	RS Cogen
1255	RS Cogen #6	165	Calcasieu	RS Cogen
19588	R S Nelson Unit 3	163	Calcasieu	Entergy Gulf States Inc
19588	R S Nelson Unit 4	591.8	Calcasieu	Entergy Gulf States Inc
8167	Ruston Unit 2	26.8	Lincoln	Ruston Municiple Utilities
8167	Ruston Unit 3	41.5	Lincoln	Ruston Municiple Utilities
19483	Sterlington Unit 10	247.7	Ouachita	Entergy Louisiana Inc
19483	Sterlington Unit 7AB	115.9	Ouachita	Entergy Louisiana Inc
19483	Sterlington Unit 7C	115.9	Ouachita	Entergy Louisiana Inc
1137	Taft Cogeneration Facility Unit 1	170	St. Charles	Taft Cogeneration LP
1137	Taft Cogeneration Facility Unit 2	170	St. Charles	Taft Cogeneration LP
1137	Taft Cogeneration Facility Unit 3	170	St. Charles	Taft Cogeneration LP
1137	Taft Cogeneration Facility Unit 4	325	St. Charles	Taft Cogeneration LP

Louisiana Electrical Generating Units Potentially Subject to CAIR				
AI #	Facility Name	Name Plate Capacity (Megawatts)	Location (by Parish)	Facility Owner
2432	Teche Unit 2	54	St Mary	CLECO Power LLC
2432	Teche Unit 3	348.5	St Mary	CLECO Power LLC
119640	T. J. Labbe North Generating Station	50.4	Lafayette	Lafayette Utilities System
119640	T. J. Labbe North Generating Station	50.4	Lafayette	Lafayette Utilities System
83619	Washington Parish Engy Center CT1	207	Washington	Washington Parish Engy Ctr LLC
83619	Washington Parish Engy Center CT1	207	Washington	Washington Parish Engy Ctr, LLC
83898	Waterford 1 & 2 Unit 1	445.5	St Charles	Entergy Louisiana Inc
83898	Waterford 1 & 2 Unit 2	445.5	St Charles	Entergy Louisiana Inc
2625	Willow Glen Unit 1	163.2	Iberville	Entergy Gulf States Inc
2625	Willow Glen Unit 2	239.4	Iberville	Entergy Gulf States Inc
2625	Willow Glen Unit 3	591.8	Iberville	Entergy Gulf States Inc
2625	Willow Glen Unit 4	591.6	Iberville	Entergy Gulf States Inc
2625	Willow Glen Unit 5	591.8	Iberville	Entergy Gulf States Inc
3647	#8 Turbine Generator	27.5	Jackson	Smurfit Stone Container Corp
8838	Houma Unit 15	26	Terrebonne	Terrebonne Parish Consolidated Government
8838	Houma Unit 16	41.5	Terrebonne	Terrebonne Parish Consolidated Government

Herman Robinson, CPM
Executive Counsel

0601#029

POTPOURRI

Department of Health and Hospitals
Board of Veterinary Medicine

Fee Schedule

Following are the fees that are charged by the Louisiana Board of Veterinary Medicine.

Doctors of Veterinary Medicine:

Annual Active Renewal Fee	$225
Annual Inactive Renewal Fee	$100
Renewal Late Fee	$125
Renewal Late CE Fee	$ 25
DVM Original License Fee	$225
Application Fee (Initial)	$ 75
State Board Examination Fee	$175
Duplicate Wall Certificate Fee	$ 25

Registered Veterinary Technicians:

Annual Renewal Fee	$ 30
Late Renewal Fee	$ 20
Examination Fee (VTNE) (does not include exam vendor's cost)	$ 40
Original Certification Fee	$ 30
Initial Application Fee	$ 25

Certified Animal Euthanasia Technicians:

Annual Renewal Fee	$ 50
Late Renewal Fee	$ 25
Course Fee	$ 80
Examination Fee	$ 50
Original Full Certification Fee	$ 50
Temporary Certification Fee	$ 50
Initial Application Fee	$ 25

Registered Equine Dentists:

Original Registration Fee	$200
Annual Renewal Fee	$125
Late Renewal Fee	$100
Initial Application Fee	$100

Wendy D. Parrish
Administrative Director

0601#016

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
Berkshire Oil Company	Golden Meadow	L	Estate of Elie Ducos	1	46257
W. D. Tarver	Big Island	M	Floyd SWD	1	170845
W. D. Tarver	Big Island	M	Deville Heirs	1	172875
W. D. Tarver	North Big Island	M	Paul 1 Su320; Price	1	121099
W. D. Tarver	North Big Island	M	Deville B	1	228817
Great West Energy & Expl., Inc.	Larto Lake	M	5200 Ra Sue; Missiana Frne	13	226370
Preston D. Watson	Monroe	M	Preston Watson	1	089023
J. J. Potts	Monroe	M	Reed-Robertson	2	015252
Lynn Barnett	Monroe	M	Lynn Barnett	1	094713

Operator	Field	District	Well Name	Well Number	Serial Number
O. B. Mitchell	Richland	M	O. B. Mitchell	2	129672
O. B. Mitchell	Richland	M	O. B. Mitchell	3	130592
Evangeline Pumpers, Inc.	Pine Prairie	L	Crowell Land & Minerals Corp C	12	107087
Evangeline Pumpers, Inc.	Pine Prairie	L	Crowell Land & Minerals Corp C	12-D	108460

James H. Welsh
Commissioner

0601#053

POTPOURRI

Department of Natural Resources
Office of Conservation
Injection and Mining Division

Docket No. IMD 2006-01

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, March 8, 2006, in the Mayor and Council Meeting Room at Arcadia City Hall, 1819 South Railroad Avenue, Arcadia, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Basic Energy Services, L.P., 400 W. Illinois, Suite 800, Midland, TX 79701. The applicant requests approval from the Office of Conservation to store, treat, and dispose of exploration and production waste (E&P Waste) by means of deep well injection. The facility is located in Section 032, Township 17 North, Range 7 West in Bienville Parish, near Sailes, LA.

The application is available for inspection by contacting Ms. Armanda Watson, Office of Conservation, Injection & Mining Division, Room 817 of the LaSalle Building, 617 North Third Street, Baton Rouge, LA, or by visiting the Bienville Parish Police Jury in Arcadia, LA, or the Bienville Parish Library in Arcadia, LA. Information may be received by calling Ms. Armanda Watson at 225/342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, March 15, 2006, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Injection and Mining Division
Post Office Box 94275
Baton Rouge, LA 70804-9275
Re: Docket No. IMD 2006-01
Commercial Facility
Bienville Parish

James H. Welsh
Commissioner

0601#085

POTPOURRI

Department of Natural Resources
Office of Conservation
Injection and Mining Division

Docket No. IMD 2006-02

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of Statewide Order No. 29-B (LAC 43:XIX.Subpart 1.Chapter 5), notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Thursday, March 16, 2006, in the Jefferson Davis Parish Police Jury Meeting Room at the Sidney E. Briscoe, Jr. Building, 304 N State Street, Jennings, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of MBO, Inc., 1431 Graham Drive Suite 215, Tomball, TX 77375. The applicant requests approval from the Office of Conservation to reopen its closed exploration and production waste (E&P Waste) land treatment facility as major modification to its E&P Waste Type A commercial facility permit for the receipt, temporary storage, treatment and disposal of E&P Waste generated from the drilling and production of oil and gas wells utilizing land treatment technology and subsurface injection. MBO, Inc. intends to operate the facility under the trade name of Lacassine Oilfield Services. The permitted facility is located in Jefferson Davis Parish, Section 013, Township 09 South, Range 06 West, approximately 1.6 miles north of Interstate 10, west of Highway 101, approximately 2.5 miles northwest of Lacassine, LA.

The application is available for inspection between 8 a.m. and 4:30 p.m., Monday through Friday in the Injection & Mining Division, Room 817 of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. Copies of the application are also available for review at the Jefferson Davis Parish Police Jury Office in Jennings, LA, or the Jefferson Davis Parish Library, 301 South Sarah Street, Welsh, LA. Information concerning the application may be obtained by contacting Mr. Eura DeHart, Jr. at (225) 342-5515.

All interested persons will be afforded an opportunity to present testimony, facts, or oral or written comments, at said public hearing. Written comments which will not be presented at the hearing must be received by the Office of Conservation no later than 4:30 p.m., Thursday, March 23, 2006, at the Baton Rouge Office. Comments should be directed to:

Eura DeHart, Jr.
Office of Conservation
Injection and Mining Division

P.O. Box 94275
Baton Rouge, LA 70804-9275
Re: Docket No. IMD 2006-02
Commercial Facility
Jefferson Davis Parish

James H. Welsh
Commissioner

0601#086

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 7 claims in the amount of $26,530.93 were received for payment during the period December 1, 2005-December 31, 2005.

There were 6 claims paid and 1 claim denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2905.020	9054.100	Terrebonne
2909.451	9107.189	Terrebonne
2915.892	8952.741	Jefferson
2917.353	8939.882	Plaquemines
2950.212	8922.853	St. Bernard
3000.571	8932.797	St. Bernard

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
Secretary

0601#087

CUMULATIVE INDEX
(Volume 32, Number 1)

2006	
Pages	Issue
1 – 186	January

EO—Executive Order
PPM—Policy and Procedure Memoranda
ER—Emergency Rule
R—Rule
N—Notice of Intent
CR—Committee Report
GR—Governor's Report
L—Legislation
P—Potpourri

ADMINISTRATIVE CODE UPDATE

Cumulative
January 2005—December 2005, 174

AGRICULTURE AND FORESTRY

Agriculture and Environmental Sciences, Office of
Advisory Commission on Pesticides
Antimicrobial pest control, 7ER
Commercial applicators certification, 127N
Pesticides and Environmental Programs, Division of
Imposition of quarantine for Hurricanes Katrina and Rita, 178P
Commissioner, Office of the
Chloramphenicol
in crabs and crabmeat, 7ER
in honey, 10ER
in shrimp and crawfish, 13ER
Meat and poultry inspections, 128N
Soil and Water Commission
Master Farmer Certification Program, 129N
Forestry, Office of
Timber stumpage values, 178P
Horticulture Commission
Landscape architect registration exam, 178P
Licenses, 78R, 131N
Retail floristry examination, 178P
Structural Pest Control Commission
Termite control licensing, 133N

ECONOMIC DEVELOPMENT

Secretary, Office of the
Capital Companies Tax Credit Program, 16ER

EDUCATION

Elementary and Secondary Education, Board of
Bulletin 121
Students Teaching and Reaching (STAR)
Content standards, 135N
Bulletin 1196
Louisiana Food and Nutrition Programs
Operation policies, 139N

ENVIRONMENTAL QUALITY

Secretary, Office of the
Legal Affairs Division
Clean air interstate rule, 179P
Legal Services Division
Emissions, new or revised estimation methods, 17ER
Sewage sludge regulatory management, 18ER

EXECUTIVE ORDERS

KBB 05-95—Emergency Procedures for Conducting State Business for the Louisiana Superdome, 1EO
KBB 05-96—Delay of the Qualifying Period and the February 4, 2006 and March 4, 2006 Elections in the Parish of Orleans, 2EO
KBB 05-97—Bond Allocation-Louisiana Public Facilities Authority, 2EO
KBB 05-98—Suspension of Certain Residency Requirements for Certain Boards, 3EO
KBB 05-99—Emergency Suspension of In-State Licensure Laws for Out-of-State Towing Operators—Extends Executive Order No. KBB 05-60, 3EO
KBB 05-100—Emergency Suspension of Certain Workers' Compensation Laws—Extends Executive Order No. KBB 05-52, 4EO
KBB 05-101—2005 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency Multi-Family Mortgage Revenue Bond Program, 4EO
KBB 05-102—2005 Carry-Forward Bond Allocation—Louisiana Public Facilities Authority—Student Loan Revenue Bonds, 5EO

GOVERNOR

Administration, Division of
Architectural Examiners, Board of
Associate, 83R
Cosmetology, Board of
Examination of applicants/transfer students, 146N
Student hours, uniforms, equipment, permits and licenses, 147N
Uniform Payroll, Office of
Payroll deduction, 84R
Law Enforcement and Administration of Criminal Justice, Commission on
Subgrant guidelines, 78R

HEALTH AND HOSPITALS

Chiropractic Examiners, Board of
Peer Review Committee, 149N
Dentistry, Board of
Licensure for dental healthcare providers, 35ER
Practical Nurse Examiners, Board of
Temporary permits, 153N
Secretary, Office of the
Health Services Financing, Bureau of
Dental services for pregnant women, expanded, 38ER
Durable Medical Equipment Program
Reimbursement, 36ER
Early and Periodic Screening, Diagnosis and Treatment Program
Dental services reimbursement, 37ER
Durable Medical Equipment Reimbursement, 37ER
Facility Need Review, 39ER
Home health agencies emergency preparedness, 40ER
Hospital(s)
Inpatient
Private
Hospitals, reimbursement, 41ER
Psychiatric services reimbursement, 41ER
Outpatient
Private hospitals, 56ER
ICF-MR (Intermediate Care Facility-Mentally Retarded)
Emergency preparedness
Community homes licensing, 42ER
Group homes licensing, 44ER
Residential homes licensing, 46ER
Private facilities reimbursement, 45ER
Mental Health Rehabilitation Program, 47ER
Nursing Facilities
Minimum licensing standards emergency preparedness, 54ER
Private, reimbursement, 56ER
Professional Services Program
Anesthesia services, 57ER
Physician services reimbursement, 58ER
Targeted case management, 59ER
Third party liability
Insurance carriers data match, 60ER
Primary Care and Rural Health, Bureau of
Medicare Rural Hospital Flexibility Program
Critical access hospitals, 99R
Public Health, Office of
Tuberculosis Control Program, 98R
Veterinary Medicine, Board of
Fee schedule, 181P

INSURANCE

Commissioner, Office of the
Hurricane Damage
Insurance
Residential claims, 60ER
Residential/Commercial
Right to cancel/nonrenew, 65ER
Military personnel, 94R

LABOR

Worker's Compensation, Office of
Worker's Compensation Second Injury Board
Settlements, requirements, computation of time, 92R

NATURAL RESOURCES

Conservation, Office of
Orphaned oilfield sites, 181P
Injection and Mining Division
Docket No. IMD 2006-01, 182P
Docket No. IMD 2006-02, 182P
Secretary, Office of the
Fisherman's Gear Compensation Fund
Loran coordinates, 183P

PUBLIC SAFETY AND CORRECTIONS

Gaming Control Board
Video draw poker, 108R
State Fire Marshal, Office of
Emergency generators health care facilities, 109R
State Police, Office of
Applied Technology Unit
Analysis of breath
Intoxilyzer 5000 maintenance inspection, 68ER, 110R
Operator certification, 69ER, 109R
Towing, recover, and storage, 159N
Youth Services/Youth Development, Office of
Correspondence and packages, 154N
Crimes committed on grounds, 101R
Freon recovery, 102R
Furlough process/escorted absence, 102R
Marriage requests, 107R
Selective service registration, 108R
Tobacco free and no smoking policy, 157N

REVENUE

Policy Services Division
Disaster relief credits, presidential, 69ER, 170N
Fire fighting equipment purchased by volunteer fire departments, 111R
Payment of taxes demand, 111R
Retail sale, 111R
Tax Commission
Timber stumpage values, 178P

SOCIAL SERVICES

Family Support, Office of
Food Stamp Program and FITAP
Lump sum payments resource exclusion, 171N
Temporary Emergency Disaster Assistance Program, 72ER
Truancy assessment and service centers, 73ER
Community Services, Office of
Legal fees in child protection cases, 112R
Management and Finance, Office of
Substance abuse, employee testing, 114R

TRANSPORTATION AND DEVELOPMENT

Highways/Engineering, Office of
Outdoor advertising, control of, 117R

TREASURY

Deferred Compensation Commission
Member election procedures, 118R
Public employees deferred compensation plan, 118R

Louisiana State Employees' Retirement System
Emergency refunds, 172N
Hurricane emergency
Employee contribution, 74ER
Refund, 73ER

Teachers' Retirement System
Purchase of service credit, 74ER

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission
King mackerel, 75ER
Oyster, 77ER
Red snapper, 75ER
Reef fish, 76ER
Shrimp
Closure, 77ER
Spotted seatrout, 125R