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Executive Orders

EXECUTIVE ORDER KBB 07-07

Clean-Up by Local Governments in the Parishes of St. Martin, Orleans and Jefferson

WHEREAS, on February 12 and 13, 2007, severe tornadic activity and rainfall caused flooding and high wind damage within the parishes of St. Martin, Orleans and Jefferson;

WHEREAS, the residents in the parishes of St. Martin, Orleans and Jefferson need all available assistance to clean-up debris left by the severe tornadic activity and rainfall, flooding and high wind damage; and

WHEREAS, parish and local elected officials are requesting the issuance of an executive order to allow employees of the parish or local governments to assist with debris removal;

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: Regular employees of local and municipal governments in parishes of St. Martin, Orleans and Jefferson who may be available to assist in removing debris left by severe tornadic activity and rainfall, flooding and high wind damage shall have authority, at the discretion of the parish or municipal chief elected official, to perform work on private property to expedite the clean-up efforts. However, any work performed by public employees on private property shall be in accordance with Attorney General Opinion Nos. 05-0360, 05-0360A, 05-0373, 05-0381 and 06-0041.

SECTION 2: Prior to the performance of any work on private property as contemplated by this Order, an agreement shall be executed by the owner of the land upon which such work is to be performed, whereby the landowner shall agree to hold the state of Louisiana and the local government or municipality harmless from any and all claims for damage which may in any way arise from such work performed on the private property.

SECTION 3: As to any work performed on abandoned property, the parish or local officials shall make a special effort to identify and document any and all damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

SECTION 4: Any local government or municipality seeking reimbursement from the Federal Emergency Management Administration (FEMA) for work performed as authorized by Section 1 of this Order shall comply with appropriate federal statutes and regulations.

SECTION 5: This Order is effective upon signature and shall continue in effect until March 31, 2007, 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 13th day of February, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0703#059

EXECUTIVE ORDER KBB 07-08

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 2007 (hereafter "the 2007 Ceiling");

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

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

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2007 Ceiling to be used to finance additions and improvements to the French Settlement Water Company's facilities located at or near 47450 N. Cherry Street (LA Hwy. 1065), in the city of Hammond, parish of Tangipahoa, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$1,000,000	Louisiana Public Facilities Authority	French Settlement Water Company

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

Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2007, provided that such bonds are delivered to the initial purchasers thereof on or before May 29, 2007.

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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of February, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0703#060

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Entertainment Industries Development

Louisiana Entertainment Industry Tax Credit Programs
(LAC 61:I.Chapter 16)

The Louisiana Department of Revenue, Department of Economic Development, Office of Business Development, and Governor's Office of Film and Television Development, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), adopt the following Rule for the Louisiana Entertainment Industry Tax Credit Programs, including: the Louisiana Motion Picture Investor Tax Credit Program; under the authority of R.S. 47:6007 and R.S. 47:1511. This Rule adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective upon publication and shall remain in effect for the maximum period allowed under the Act, or until the adoption of a permanent Rule, whichever occurs first.

The Department of Revenue, Department of Economic Development, Office of Business Development, and Governor's Office of Film and Television Development have found an immediate need to provide rules regarding the creation and regulation of the Louisiana Motion Picture Investor Tax Credit Program to immediately provide for tax credits for the encouragement of the development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape, digital and television program productions, in order to achieve an independent, self-supporting industry in this state, to encourage development of a Louisiana film, video, television and digital production and post-production infrastructure with state-of-the-art facilities, for the employment of residents of Louisiana in connection with the production of a motion picture. Without these Emergency Rules the public welfare may be harmed as the result of the loss of business investment and motion picture film, videotape, digital and television program productions, and infrastructure projects which would create economic growth in Louisiana, help drive the state's economy, and create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter A. Louisiana Motion Picture Investor Tax Credit Program

§1601. Purpose and Description of Louisiana Motion Picture Investor Tax Credit Program

A. The purpose of this program is to encourage the development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape,

digital, and television program productions, in order to achieve an independent, self-supporting industry in this state, and to encourage development of a Louisiana film, video, television and digital production and post-production infrastructure with state-of-the-art facilities.

B. Approvals and certifications required for Louisiana Motion Picture Investor Tax Credits (Investor Tax Credits) are not to be considered as entitlements for companies locating or located in Louisiana and the Louisiana Office of Entertainment Industries Development and the Louisiana Department of Economic Development have the discretion to determine whether or not each particular investor and application meet the criteria for such approvals and certifications as provided herein, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of such status.

C. Approvals of applications shall not result in a duplication of tax credits for the same assets. The tax credit granted for qualified expenditures on tangible assets shall not, in the aggregate, exceed the maximum applicable tax credit rate multiplied by the acquisition cost of the asset, as reflected in the first approved application for an investor tax credit.

D. General Description of the Louisiana Motion Picture Investment Tax Credit

1. Louisiana Motion Picture Investment Tax Credit. The Louisiana Motion Picture Investment Tax Credit is comprised of a percentage of an investor's base investment made and expended in the state in either a state-certified production or a state-certified infrastructure project.

2. Infrastructure Portion of the Investment Tax Credit. Additionally, for tax years beginning before January 1, 2008, each taxpayer whose base investment totals greater than \$300,000 will be allowed an additional credit of 15 percent of the base investment made by that taxpayer that is expended on a state-certified infrastructure project.

3. Payroll Portion of the Investment Tax Credit. Finally, each investor whose base investment includes expenditures on payroll for Louisiana residents employed in connection with a state-certified production shall be allowed an additional credit of 10 percent of such payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1602. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Allocatee—an individual or entity that received an allocation of investment tax credits.

Allocator—an individual or entity that makes an allocation of investment tax credits.

Base Investment—the actual investment made and expended by:

a. a state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person in the development of a state-certified infrastructure project. Infrastructure expenditures shall include expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, system access and equipment for distribution companies domiciled within Louisiana, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, financing costs and comprehensive workforce training, not including tuition. Infrastructure expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-certified Infrastructure Project.

Commissioner—the Commissioner of the Division of Administration.

Department—the Louisiana Department of Economic Development, or its successor.

Developer—a person in the development of a state-certification infrastructure project.

Director—the director of the Louisiana Office of Entertainment Industries Development (the Office).

Division—the Division of Administration.

Expended by a State-Certified Production in the State [for purposes of R.S. 47:6007(B)(1)]—

a. in the case of tangible property, property which is acquired from a source within the state;

b. and in the case of services, shall mean procured from within the state and performed in the state;

c. that are provided by an individual or entity duly qualified to do business in Louisiana and offering such goods or services for sale in the ordinary course of its Louisiana business.

Louisiana Resident—residency shall be established if in exchange for employment with a motion picture production company the individual agrees in writing to file a Form IT 540, as a full year Louisiana resident, or Form IT 540B, as a part year resident, for his taxable year employed by the motion picture production company and to pay the Louisiana income tax shown thereon. *Resident* or *resident of Louisiana* means a natural person and, for the purpose of determining eligibility for the tax incentives, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

Office—the Office of Entertainment Industries Development.

Payroll Expended on Louisiana Residents—the full amount of salary, wages, or other compensation and related benefits actually paid to or on behalf of any Louisiana resident that renders services to the production within the State of Louisiana including union pension and welfare contributions and retirement benefits but shall not include federal and state taxes imposed solely on the employer, for example, the employer's share of Social Security.

Secretary—the Secretary of the Department of Economic Development.

Slate of Productions—more than one state-certified production being financed, produced or distributed by or on behalf of the same motion picture production company or an affiliate grouped together in such a way that the group meets the minimum in-state spend of \$300,000. If one project in the group is over \$300,000; then that project shall be considered an individual project and NO additional projects shall be added to that so as to earn tax credits for the slate.

State-Certified Infrastructure Project—an infrastructure project that meets the definition of a State of the Art Production Facility and is approved by the Office of Entertainment Industries Development, the Department of Economic Development and the Division of Administration. The term *infrastructure project* shall not include movie theaters or other commercial exhibition facilities.

State-Certified Production—a production approved by the Office of Entertainment Industries Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

State of the Art Production Facility—a physical facility that provides all or substantially all of the goods and services necessary for completing the major activities of a production. The office has discretion to determine whether infrastructure projects are state of the art in accordance with industry needs and standards. The following list is illustrative of such facilities:

- a. Postproduction Editing Suites and Labs:
 - i. Avid Symphony Suites, Avid Xpress Deluxe Lab, Avid Media Composer Lab, Avid DS Nitris Lab;
 - ii. Final Cut Pro Labs;
- b. Recording Studios and Labs:
 - i. Postproduction Suites;
 - ii. Digidesign Pro Tools Labs;
 - iii. MIDI Lab;
 - iv. Analog Mix Lab;
 - v. Audiotronics Lab;
- c. Soundstages and Equipment:
 - i. Soundstages;
 - ii. ARRI 35mm Film Cameras, ARRI 16mm Film Cameras;
 - iii. Chapman Cranes;
 - iv. Lighting / Grip Lab;
 - v. Dubbing Stage and Greenscreen Area;
 - vi. High-Definition Cameras;
- d. Digital Media Production Labs:
 - i. Mac Audio or Animation Lab, Mac G5 Lab;
 - ii. PC Audio Lab;
 - iii. Game Development Labs;
 - iv. Animation Preproduction Lab;
 - v. 2D Animation Studio;
 - vi. Computer Animation Center;
- e. Miscellaneous: Film Processing Labs, Digital Transfer Services;
- f. music and sound studios should include mixing and recording studios featuring a stage large enough to accommodate a full orchestra for scoring;
- g. soundstages should include sound-isolated carpentry shops adjacent to stages, dressing rooms with

private bath and shower, washer-dryers, green rooms, hair and makeup, wardrobe rooms, rehearsal space, controls rooms and offices. Multiple load-in options including a large street-level freight elevator should be available to facilitate delivery and setup of materials. Screening rooms should also be included. Facilities should be capable of providing both fiber-optic and satellite connectivity for broadcasting live or pre-recorded content anywhere in the world. These technologies can also be used for conducting teleconferences or beaming "dailies" back to headquarters. High-speed broadband Internet access is also important. Soundstages, with a towering 35 to 45 foot grid height, are (ideally) column-free, sound-insulated, and offer unsurpassed loading and staging areas. They should be built to accommodate film, high-definition television (HDTV) and digital camera productions, with stages ranging from 120 feet wide, wired with a minimum of 9,000 amps of power and 300 to 200 tons of cooling.

Transferee—an individual or entity that receives a transfer of investor tax credits.

Transferor—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1603. Application for the Motion Picture Investor Tax Credit

A. An applicant for the motion picture investor tax credit shall submit an application for initial certification to the Office of Entertainment Industries Development that includes all of the information required by R.S. 47:6007 D(2)(a); and an application fee payable to the Department of Economic Development or the State of Louisiana shall be submitted with the application determined as provided in R.S. 47:6007 D(2)(b).

B. Rules of Application. The investor tax credit authorized by R.S. 47:6007 C(1) may be earned, transferred, allocated, and claimed as follows.

1. Individuals or entities (other than motion picture production companies) may earn investor tax credits pursuant to R.S. 47:6007 C(1).

2. Once investor tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee may transfer or allocate the investor tax credits in one or more of the following ways:

a. transfer: by transferring or selling all or a portion of the investor tax credits to any individual or entity; or

b. allocation: if the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating agreement or partnership agreement which terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation:

i. the allocating entity:

(a). may be treated as a "partnership" for federal or state tax purposes; or

(b). may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes.

3. A state-certified production or a state-certified infrastructure project earns tax credits when its actual expenditures are approved as qualifying expenditures pursuant to these rules. However, credits can not be applied against a tax or transferred until the expenditures are certified by the Department of Economic Development, the Office of Entertainment Industries Development and the Division of Administration (for infrastructure tax credits).

4.a. An owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the ten-year carryforward period.

b. In the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides specifically for an earlier distribution during the tax year.

5. Any individual or entity shall be allowed to claim the investor tax credit authorized by R.S. 47:6007(C)(1) against its Louisiana income tax liability:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

6. An Investor Tax Credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years. However, an Investor Tax Credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c). Penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid. The date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the Investor Tax Credits are claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1604. Certification of Investor Tax Credits

A. Preliminary Certification The office and the department shall issue preliminary certifications of productions and infrastructure projects. A preliminary certification shall be issued as follows.

1. To obtain the preliminary certification from the office and the department for a "state-certified infrastructure project" or for a "state-certified production or slate of productions" as required by R.S. 47:6007(B)(9) and (10), the applicant must submit a written request to the director and the secretary of the department requesting approval of the

production as a "state-certified production" or a state of the art production facility as a "state-certified infrastructure project" and setting forth the following information:

- a. working title of the production or infrastructure project for which approval is requested;
- b. name of the requesting production or infrastructure company;
- c. name, telephone number, e-mail address and attesting signature of the requesting production or infrastructure company's contact person;
- d. approximate beginning and ending date of production or construction in Louisiana;
- e. Louisiana office address;
- f. telephone number of requesting company's Louisiana office address;
- g. estimated total production-related costs of production or total costs associated with the infrastructure project for which approval is requested;
- h. estimated total amount of production-related costs to be expended in Louisiana in connection with the production for which approval is requested;
- i. estimated percentage of each of pre-production, production, and post-production work to be performed in Louisiana in connection with the production for which approval is requested;
- j. estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production for which approval is requested, excluding any employee to be paid in excess of \$1 million;
- k. detailed preliminary budget;
- l. for production seeking approval, a copy of script (including synopsis) and for infrastructure projects, a detailed business plan outlining the exact costs of what is proposed for the project;
- m. list of principal creative elements such as principal cast, producer, director, music producer, and music supervisor; and
- n. facts sufficient for the office and the department to determine each of the following:
 - i. that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(5);
 - ii. that the requesting production company is domiciled and headquartered in Louisiana; and
 - iii. that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production for which approval is requested.

2. Any applicant requesting certification of a production or an infrastructure project is required to reimburse the Office of Entertainment Industries Development and the Department of Economic Development for any audits required in relation to granting the credit.

3. The office and the department shall issue their written approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" after receiving a complete application, all

supporting documents necessary to make a determination and the application fee with respect to such project or production that complies with these rules. In the alternative, if the office and the department determine that a request for approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" received from a developer or production company is not in compliance with these rules, after receiving such request, the office and the department shall request in writing from the requesting developer or production company any information necessary in their determination for such request to comply with these rules. Upon receiving all of the requested additional information in writing from the developer or production company, and if the office and the department determine that the request for approval with respect to such project or production complies with these rules, the office and the department shall issue to the requesting developer or production company their written approval of the project as a "state-certified infrastructure project" or of a production as a "state-certified production."

B. Certifications

1. Prior to any certification of the expenditures of a state-certified production or state-certified infrastructure project and the issuance of any investor tax credits, the motion picture production company, with respect to state-certified productions, and the developer, with respect to state-certified infrastructure projects, shall submit to the Office of Entertainment Industries Development a cost report of production expenditures or infrastructure expenditures audited and certified by an independent certified public accountant as determined this rule. Either the Department of Economic Development or the Department of Revenue may audit the cost report submitted by the motion picture production company or developer. The following procedures set forth minimum standards for acceptability of the audit to be performed by a certified public accountant. The certified public accountant's report shall at a minimum, meet the following requirements.

a. The auditor auditing the report shall be a Certified Public Accountant licensed in the State of Louisiana and shall be an independent third party, not related to the producer or developer or any known potential investor eligible for tax credits.

b. The auditor's opinion must be addressed to the party who has engaged the auditor (e.g., directors of the production company or developer, or the producer of the production).

c. The auditor's name, address, and telephone number must be evident on the report.

d. The auditor's opinion must be dated as at the completion of the audit fieldwork.

e. The audit shall be performed in accordance with auditing standards generally accepted in the United States of America.

f. The auditor shall have demonstrated sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.

2. After receiving a written request from an investor for certification of expenses and upon certification of the expenditures by the Office of Entertainment Industries Development, the Department of Economic Development and the Division of Administration (for infrastructure tax

credits), the office shall issue one original certificate of ownership of such investor signed by the director reflecting the investor's name, the dollar amount of investor tax credits earned by the investor pursuant to R.S. 47:6007(C) through the date of such request, the calendar or fiscal year in which the investor tax credits were earned by the investor, the state-certified infrastructure project or the state-certified production with respect to which the investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project, or state-certified production.

3. If the investor tax credits evidenced by a certificate of ownership are allocated, sold or transferred or allocated as provided herein, then concurrently with the submission of the notification required by R.S. 47:6007(C)(4), the transferor shall submit to the office the original certificate of ownership evidencing the investor tax credits being transferred or allocated. After receiving the original certificate of ownership evidencing the investor tax credits being transferred or allocated, the office shall issue to each transferee or allocatee indicated in the transferor's or allocator's notification a certificate of ownership signed by the director reflecting such transferee's or allocatee's name, the dollar amount of investor tax credits transferred or allocated to the transferee or allocatee, the calendar year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project or state-certified production. If the certificate of ownership that the transferor or allocator submits with its notification of transfer or allocation evidences more investor tax credits than actually transferred or allocated by the transferor or allocator, then the office shall also issue a certificate of ownership to the transferor or allocator signed by the director reflecting the transferor's or allocator's name, the transferor's or allocator's remaining investor tax credit balance, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit. In such cases, the office will issue comports certificates of ownership to transferees or allocates designated by the transferor or allocator in writing until such time as the tax credits represented in the transferor's or allocator's original certificate have been exhausted.

4. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office pursuant to this rule evidencing the dollar amount of the investor tax credits being claimed; provided, however, if a taxpayer is claiming an amount of

investor tax credits less than that evidenced by the certificate of ownership, then, concurrently with filing its Louisiana tax return, such taxpayer shall request that the office issue to it a certificate of ownership evidencing the amount of investor tax credits to be claimed and a certificate of ownership evidencing the balance of such taxpayer's investor tax credits. After receipt of such request, the office shall issue the certificates of ownership signed by the director reflecting, in addition to the amount of investor tax credits, the taxpayer's name, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production.

5. The failure of the office to issue a timely certificate of ownership in accordance with this rule shall not:

a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;

b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47: 6007 and these rules; or

c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

6. Beginning January 1, 2006, for state-certified productions, expenditures shall be certified no more than twice during the duration of a state-certified production unless the motion picture production company submits a fee of \$250 per additional certification to the Office of Entertainment Industries Development and the Department of Economic Development for the costs of any additional certifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1605. Base Investment Calculation

A. For purposes of R.S. 47:6007(C)(1), the total base investment of a state-certified production, slate of productions or a state-certified infrastructure project shall be calculated by including all amounts expended in the state constituting base investment if each such investment constituting a base investment is made within the period beginning 12 calendar months before and ending 12 calendar months after the date as of which the state-certified production, slate of productions or state-certified infrastructure project of the company for which base investment is being calculated was approved as a state-certified production, slate of productions or a state-certified infrastructure project by the office and the department. (moved to definition of slate of productions). However, no state-certified production or state-certified infrastructure project expenditure shall be attributed to more than one production or project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1606. Infrastructure Portion of the Investor Tax Credit

A. For infrastructure projects, the department and the office may grant inventor tax credits for multiple purpose immovable and moveable assets as provided by this Section.

1. As stated in Subsection A of §1601 and with the intent of Act 456 of the 2005 Regular session as expressed in R.S 6007(D)(1), infrastructure project tax credits are granted to encourage development of a strong industry base for motion picture production. Consistent with this intent and purpose, the office and the department may grant tax credits for expenditures on assets that are not unique to the production of motion pictures. They may also grant tax credits for assets that are moveable. However, for any applicant requesting approval as a state-certified infrastructure project that includes either multiple purpose assets or moveable assets, the certification shall include and shall state terms and conditions as provided by Paragraphs 2 and 3 of this Subsection.

2. The office and department have the discretion to determine that real property or fixed assets having uses other than supporting a state of the art production facility may be a necessary component of a state-certified infrastructure project. In instances where applications include such multiple purpose real property or other fixed assets, the office and department shall require the applicant to provide assurances that such assets will exclusively support the approved film infrastructure project and that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of Louisiana. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; or a structured release of tax credits.

3. The office and department require assurances of the applicant for a state-certified infrastructure project that moveable assets shall remain in Louisiana and be used in the production of motion pictures or other visual media productions within the state of Louisiana for not less than 80 percent of the asset's useful life. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; or a structured release of tax credits.

4. Any conditions to meet the requirements to this Subsection shall be explicitly stated in the certification issued for the project.

B. Prior to the issuance of any investor tax credits related to a state-certified infrastructure project, at least \$5,000,000 or 25 percent (for project's whose approved costs are less than \$20,000,000) of the project's construction and/or associated approved costs outlined in its Infrastructure Tax Credit Application(s) must be expended on the state-certified infrastructure project or the applicant shall provide in writing adequate legal and financial assurances that if credits

are issued, they will have a viable financial source from which to recapture the face value of the credits that have been certified.

C. For infrastructure projects to receive the 15 percent credit in RS 6007(C)(1)(b)(iii), base investments must be made and expended prior to January 1, 2008. In order to provide a reasonable opportunity to complete projects started prior to this date, the department and office may consider construction work in progress as be eligible for tax credits as follows.

1. The office and department may deem work in progress as actual expenditures if all the following conditions are met.

a. There is a binding contract for the completion of the work.

b. The contract includes a completion bond.

c. The work will meet the requirements as a qualified expenditure once completed.

d. Work equal to at least 1/3 of the value of the contract is complete by January 1, 2008.

2. If a project meets the requirements of Paragraph 1 of this Subsection, then tax credits for qualifying actual expenditures may be issued. However the remaining tax credits for a project approved as construction work in progress shall not be issued until the remaining qualifying actual expenditures are incurred and the project is complete and has been accepted from the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

§1607. Payroll Portion of the Investor Tax Credit

A. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, each investor shall be allowed an additional tax credit of 10 percent of such payroll. However, if the payroll to any one person exceeds \$1 million, this additional credit shall exclude any salary for that person that exceeds \$1 million.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industries Development, LR 33:

Sherri McConnell
Director

0703#061

DECLARATION OF EMERGENCY

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

Non-Processing Transfer Station Standards
(LAC 33:VII.115, 707, and 708)(SW045E)

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 provide operating standards for non-processing transfer stations that do not fall under existing solid waste regulations.

This Emergency Rule clearly defines solid waste collection facilities and transfer stations (processing and non-processing), and establishes operating standards for these facilities. There are currently several solid waste transfer operations in Louisiana that do not fall under any existing regulations, and therefore, are not regulated. These facilities are operating without having properly notified the department of their activities and without any regulatory operational standards, posing a potential threat to human health and the environment. As a result, the department has received and investigated citizen complaints regarding these operations. This Emergency Rule clearly and specifically identifies and defines these types of operations and provides specific operational requirements. This Emergency Rule provides an enforceable set of standards for these operations to prevent harm to human health and the environment.

This Emergency Rule is effective on March 20, 2007, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning SW045E you may contact the Regulation Development Section at (225) 219-3550.

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

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

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

* * *

Collection Facility—a facility, at which one or more containers are located, that is used to accumulate solid waste generated by and delivered by more than one household or commercial establishment for pickup by a transporter, including, but not limited to, facilities typically located in rural areas where garbage collection does not occur. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling or a commercial establishment or an industrial establishment).

* * *

Non-Processing Transfer Station—a solid waste facility where solid waste is transferred from collection vehicles to other vehicles for transportation without processing.

* * *

Pickup Station—repealed.

* * *

Transfer Station—repealed.

Transfer Station (Non-Processing)—See Non-Processing Transfer Station.

Transfer Station (Processing)—a Type I-A or II-A solid waste processing facility where solid waste is transferred from collection vehicles, processed, and placed in other vehicles for transportation (e.g., a facility that separates recyclables from industrial or putrescible waste streams).

* * *

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 Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 7. Solid Waste Standards

Subchapter A. General Standards

§707. Standards Governing Collection Facilities for Solid Waste

A. Owners/operators of collection facilities shall comply with existing local zoning, siting, and comprehensive land-use regulations and ordinances. The owner/operator shall be responsible for the management of the collection facility, in accordance with this Section.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Collection facilities shall meet the standards found in LAC 33:VII.703.A. They shall also occupy sufficient land so that vehicles using the facility will not adversely affect traffic or otherwise constitute a hazard or endanger public safety.

C. All waste accumulated or stored at the facility shall remain in containers that meet the following requirements.

1. Containers shall provide sufficient capacity to contain waste and prevent litter.

2. Containers shall be designed, constructed, and operated to keep out water and prevent leakage.

3. Containers shall be constructed and maintained to minimize odors and access by rodents and insects.

4. Containers shall be emptied before accumulation becomes a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority.

D. Inspections of collection facilities shall be made by the owner/operator at a minimum of twice per week, looking for cleanliness of the site, overfill of containers, closed lids, leaking containers, and deterioration of containers. Inspections shall be documented, and the records shall be maintained and available for inspection within 24 hours of request.

E. No processing or disposal shall occur at a collection facility.

F. Removal of all remaining wastes to a permitted facility shall occur at closure of a collection facility.

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 Environmental Assessment, Environmental Planning Division, LR 26:2609 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§708. Standards Governing Non-Processing Transfer Stations for Solid Waste

A. Owners/operators of non-processing transfer stations shall:

1. provide advanced written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a non-processing transfer station or other type of facility for the offloading and/or transloading of solid waste destined for disposal;

2. notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.503;

3. comply with existing local zoning, siting, and comprehensive land-use regulations and ordinances; and

4. maintain access roads or waterways in a manner that shall 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. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

B. New facilities in which construction has commenced after June 20, 2007, shall comply with the buffer zone requirement of not less than 200 feet between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner 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 in which the adjoining landowner's property is located. The affidavit shall be maintained with the records of the facility.

C. No processing or disposal shall occur at a non-processing transfer station.

D. Facilities shall also comply with LAC 33:VII.703 and 705.

E. Owners/operators shall have the personnel necessary to achieve the operational requirements of the facility.

F. Facilities shall have control measures that prevent unauthorized ingress or egress, except by willful entry. During operating hours, each facility entry point shall be continuously monitored, manned, or locked. During non-operating hours, each facility entry point shall be locked.

G. Each tipping area shall be constructed and operated to prevent litter from leaving the tipping area. This area shall be constructed of sufficiently low permeable material (i.e., concrete or asphalt) to prevent soil and groundwater contamination.

H. Facilities shall be inspected by the owner/operator at the end of each operating day, and litter or waste shall be cleaned up and placed into the last transportation vehicle. These inspections shall be documented, and the inspection

records shall be retained in accordance with Subsection J of this Section.

I. Odors shall be controlled by the best means practicable. The non-processing transfer stations shall be cleaned daily by an appropriate method to minimize odors and nuisance conditions.

J. All facility records shall be maintained and available for inspection within 24 hours of request. These records shall be maintained for the life of the facility and shall be retained for at least three years after closure.

K. The owner/operator of a non-processing transfer station may construct a drop-off area at the non-processing transfer station site such that certain activities can be conducted. No industrial waste shall be accepted, and materials shall be managed in accordance with LAC 33:VII.703, 707, and Subsections F, G, I, K, and L of this Section. These areas are intended for the use of commercial facilities and residential solid waste. Collection and storage of the following wastes are allowed, provided it does not become a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority:

1. white goods;
2. presorted yard trash; or
3. household recyclable materials.

L. Discharges from the facility shall be controlled and shall conform to all applicable state and federal laws.

M. All waste shall be removed to a permitted facility at closure. Notification of closure shall be submitted to the Office of Environmental Services, Waste Permits Division.

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

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

Mike D. McDaniel, Ph.D.
Secretary

0703#080

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
Non-Rural Community Hospitals and
Federally Mandated Statutory Hospitals
(LAC 50:V.307, 308 and 309)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment

methodologies (*Louisiana Register*; Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*; Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*; Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*; Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*; Volume 32, Number 7 and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*; Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*; Volume 32, Number 10). The October 23, 2006 Emergency Rule was amended to revise the definition of a small rural hospital (*Louisiana Register*; Volume 33, Number 1) and to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*; Volume 33 Number 2). The department now proposes to amend the February 21, 2007 Emergency Rule to repeal the provisions governing private community hospitals and to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2006-2007 may also qualify in the federally mandated statutory hospital category. This action is being taken to promote the public health and welfare and to assure that hospitals are adequately compensated for their uncompensated care. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2006-2007.

Effective March 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the February 21, 2007 Emergency Rule governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§307. Private Community Hospitals

Repealed.

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

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

§308. Non-Rural Community Hospitals – SFY 2007

A. Definitions

Non-Rural Community Hospital—A non-state hospital that does not receive disproportionate share payments under any other qualification category except the federally mandated statutory hospital category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. - H. ...

I. Hospitals qualifying as non-rural community hospitals in state fiscal year 2006-2007 may also qualify in the federally mandated statutory hospital category.

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

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

§309. Federally Mandated Statutory Hospitals

A. Definitions

Federally Mandated Statutory Hospital—a hospital that meets the federal DSH statutory utilization requirements in §303.A.4.a-b.ii.

B. - D.2. ...

E. The federally mandated statutory hospital category may also include hospitals qualifying as non-rural community hospitals in state fiscal year 2006-2007.

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

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

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

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

0703#012

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment
Psychological and Behavioral Services
Reimbursement Rate Increase
(LAC 50:XV.7701, 7703, and 7707)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7707 in the Medical Assistance Program

as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement of psychological and behavioral services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1 (*Louisiana Register*, Volume 29, Number 2). As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule to increase the reimbursement fees for psychological and behavioral services in the EPSDT program (*Louisiana Register*, Volume 33, Number 1). This Emergency Rule is being promulgated to continue the provisions of the December 18, 2006 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT psychological and behavioral services by encouraging the continued participation of psychological and behavioral services providers in the Medicaid Program.

Effective for dates of service on or after April 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology to increase the reimbursement rates for EPSDT psychological and behavioral services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 77. Psychological and Behavioral Services

§7701. Recipient Criteria

A. In order to be eligible for services, a Medicaid recipient must be under the age of 21 and meet one of the following criteria:

1. - 4. ...

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

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

§7703. Covered Services

A. The following services are covered under EPSDT psychological and behavioral services:

1. necessary evaluations, psychiatric diagnostic interview examination or psychological testing;

2. family psychotherapy (with the patient present); and

3. individual psychotherapy.

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

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

§7707. Reimbursement Methodology

A. Effective for dates of service on or after December 18, 2006, reimbursement for EPSDT psychological and behavioral services shall be based on 80 percent of the allowable rate on the 2006 Medicare Fee Schedule for Region 99.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:9 (January 2007), LR 33:

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

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

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

0703#072

DECLARATION OF EMERGENCY

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

Nursing Facilities—Evacuation
and Temporary Sheltering Costs
(LAC 50:VII.1319)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:VII.1319 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule to establish a prospective payment system 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 8). The August 20, 2002 Rule was subsequently amended to adopt provisions governing a quarterly adjustment of individual nursing facility rates based on overall case mix and allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*, Volume 32, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions

governing emergency preparedness requirements for nursing facilities, including facility-specific reimbursement for documented and allowable evacuation and temporary sheltering costs of a Medicaid-certified nursing facility. In compliance with the directives of Act 540, the department proposes to adopt provisions governing the reimbursement methodology for nursing facilities to provide for the facility-specific reimbursement of evacuation and temporary sheltering costs of Medicaid-certified nursing facilities.

This action is being taken to prevent imminent peril to the health and well-being of nursing facility residents who may be evacuated as a result of disasters or other emergencies. It is anticipated that the implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2006-2007.

Effective March 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1319. Evacuation and Temporary Sheltering Costs

A. Nursing facilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. Nursing facilities must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. Nursing facilities must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid nursing home residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following.

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another nursing facility. Evacuation expenses include:

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

i. transportation;

ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented;

(a). the direct care expense increase must be based on a comparison to the average of the previous two

pay periods or other period comparisons determined acceptable by the department;

c. any additional allowable costs as defined in the CMS Publication 15-1 that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. Non-nursing Facility Temporary Sheltering Expenses. Non-nursing facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-nursing facility temporary shelter to the date all Medicaid residents leave the shelter. A non-nursing facility temporary shelter includes shelters that are not part of a licensed nursing facility and are not billing for the residents under the Medicaid case-mix reimbursement system or any other Medicaid reimbursement system. Non-nursing facility temporary sheltering expenses may include:

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented;

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

b. care-related expenses as defined in the nursing facility case-mix rate system and incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents; and

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as defined in the CMS Publication 15-1 that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. Host Nursing Facility Temporary Sheltering Expenses. Host nursing facility temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed nursing facility to the date all temporary sheltered Medicaid residents are discharged from the nursing facility, not to exceed a six-month period.

a. The host nursing facility shall bill for the residents under Medicaid's case-mix reimbursement system.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of non resident-specific eligible expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid

occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §1319. will be removed from allowable expense when the nursing facility's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §1319.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under CMS Publication 15-1 guidelines, then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for 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 Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

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

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

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

0703#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community Based Services Waivers New Opportunities Waiver—Emergency Opportunities (LAC 50:XXI.13707)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.13707 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:95(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 Appropriations Bill of the 2004 Regular Session of the Legislature allocated funds for the establishment of 66

emergency slots for the New Opportunities Waiver (NOW) program and mandated the development and enforcement of rules established under the Administrative Procedure Act to create an equitable and precise methodology for defining an emergency and the issuance of such slots. The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule that established the provisions governing emergency waiver opportunities. In addition, the bureau repealed the rules governing programmatic allocation of MR/DD Waiver slots and adopted those provisions to govern the programmatic allocation of waiver opportunities for NOW (*Louisiana Register*, Volume 30, Number 8). Subsequently, the bureau amended the August 20, 2004 Rule to clarify the provisions governing allocation of waiver opportunities for persons transitioning from publicly operated to private ICF-MR facilities (*Louisiana Register*, Volume 31, Number 11). The department now proposes to amend the provisions of the November 20, 2005 Rule to create an additional 100 emergency waiver opportunities.

This action is being taken to promote the health and welfare of those individuals with developmental disabilities by facilitating access to waiver services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$1,414,652 for state fiscal year 2006-2007.

Effective March 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the programmatic allocation of waiver opportunities in the New Opportunities Waiver.

Title 50

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

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13707. Programmatic Allocation of Waiver Opportunities

A. - C.6. ...

7. One hundred and sixty-six waiver opportunities shall be used for qualifying individuals with developmental disabilities who require emergency waiver services. In the event that a waiver opportunity is vacated, the opportunity will be returned to the emergency pool for support planning based on the process for prioritization. Once the 166 waiver opportunities are filled, then supports and services based on the priority determination system will be identified and addressed through other resources currently available for individuals with developmental disabilities.

C.8. - 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, Office for Citizens with Developmental Disabilities, LR 31:2900 (November 2005), amended LR 33:

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this

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

0703#013

DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective April 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts the following provisions governing the eligibility for home and community-based waiver services.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers
Subpart 1. General Provisions
Chapter 3. Eligibility
§301. Termination of Coverage for Displaced
Recipients**

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

receive waiver services under the Louisiana Medicaid Program.

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services, LR 33:

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

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P. O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services, P.O. Box 3767, Baton Rouge, LA 70821-3767. They are responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0703#073

EMERGENCY RULE

**Department of Health and Hospitals
Office of the Secretary
Office of Aging and Adult Services**

**Home and Community Based Services Waivers
Adult Day Health Care
(LAC 50:XXI.Chapters 21, 23 and 27)**

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services proposes to amend LAC 50:XXI.2101, 2103, 2107, 2109, 2313, 2317 and Chapter 27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing home and community-based waiver services for adult day health care (*Louisiana Register*, Volume 30, Number 9). The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver Request for Services Registry to: 1) clarify procedures for the allocation of ADHC waiver opportunities; 2) amend the provisions governing the medical certification process to remove preadmission screening and annual resident review requirements; and 3) eliminate the use of the Title XIX Medical-Social Information Form (Form 90-L) (*Louisiana Register*, Volume 32, Number 12). The department now proposes to amend the September 20, 2004 Rule to: 1) redefine the target population; 2) establish provisions governing placement on the request for services registry; 3) clarify the comprehensive plan of care requirements; and 4) establish provider reporting requirements and admission and discharge criteria for the ADHC Waiver.

This action is being taken to avoid federal sanctions which may result from not having provisions to clearly define the ADHC target population and admission and discharge criteria. It is anticipated that implementation of this Emergency Rule will not have a fiscal impact in the Medicaid Program for state fiscal year 2006-2007.

Effective March 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends the provisions of the September 20, 2004 Rule governing the Adult Day Health Care Waiver program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based

Services Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2101. Introduction

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Waiver Program. The program is funded as a waiver service under the provisions of Title XIX of the Social Security Act and is administered by the Department of Health and Hospitals (DHH).

B. Waiver services are provided under the provisions of the approved waiver agreement between the Centers for Medicare and Medicaid Services (CMS) and the Louisiana Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

§2103. Program Description

A. An Adult Day Health Care Waiver Program provides direct care for five or more hours in a 24-hour weekday to individuals who are physically and/or mentally impaired.

B. The target population for the ADHC Waiver Program is individuals who meet Medicaid financial eligibility

requirements, nursing facility level of care requirements and are at imminent risk of nursing facility placement.

1. These individuals must be 65 years old or older, or 22 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria.

C. This program expands the array of services available to functionally-impaired individuals and helps bridge the gap between independence and institutionalization, allowing them to remain in their own homes and communities.

D. Goals

1. Adult Day Health Care programs work to:

a. promote the individual's maximum level of independence;

b. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;

c. restore and rehabilitate the individual to the highest possible level of functioning;

d. provide support and education for families and other caregivers;

e. foster socialization and peer interaction;

f. serve as an integral part of the community services network and the long-term care continuum of services.

2. The long-range goal for all adult day health care participants is the delay or prevention of 24-hour care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

§2107. Request for Services Registry

A. The Department of Health and Hospitals is responsible for the Request for Services Registry, hereafter referred to as "the registry," for the Adult Day Health Care Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Persons who desire placement on the ADHC Waiver registry shall be screened to determine whether they meet nursing facility level of care and are at imminent risk of nursing facility placement. Only persons who meet these criteria will be added to the registry.

C. Persons currently on the ADHC Waiver registry will be screened to determine whether they meet nursing facility level of care and are at imminent risk of nursing facility placement. Only persons who meet these criteria will remain on the registry. Persons currently on the registry who do not meet these criteria will be removed.

D. The department may remove a person from the registry for failure to comply with the department's rules, policies and procedures.

E. A person who does not meet the criteria for, or who is removed from the registry may appeal the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to 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 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary,

Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 33:

§2109. Programmatic Allocation of Waiver Opportunities

A. When funding is appropriated for a new ADHC Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC Waiver opportunity assignment.

B. Adult Day Health Care Waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in nursing facilities but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those persons who have indicated that they are at imminent risk of nursing facility placement.

1. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

C. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

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

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

Chapter 23. Provider Participation

§2313. Comprehensive Plan of Care (CPOC)

A. ...

B. Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the CPOC. Comprehensive plans of care must be completed and submitted timely in accordance with DHH policy and procedures.

C. The ADHC provider shall complete a CPOC which shall contain the type and number of services, including waiver and all other services, necessary to maintain the waiver recipient safely in 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 30:2040 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

§2317. Reporting Requirements

A. ADHC facilities are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. ADHC facilities are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department with the specified requirements.

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

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

Chapter 27. Admission and Discharge Criteria

§2701. Admission Criteria

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;

2. initial and continued eligibility for a nursing facility level of care;

3. justification, as documented in the approved CPOC, that the ADHC Waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual;

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services; and

5. the individual is either in a nursing facility or is at imminent risk of nursing facility placement.

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 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

§2703. Admission Denial and Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. The individual does not meet the criteria for Medicaid financial eligibility.

2. The individual does not meet the criteria for a nursing facility level of care.

3. The individual is not at imminent risk of nursing facility placement.

4. The recipient resides in another state or has a change of residence to another state.

5. The individual is admitted to an acute care hospital, rehabilitation hospital or a nursing facility with the intent to stay or a stay that is longer than 90 consecutive days.

6. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing ADHC Waiver services during a period of 30 consecutive days.

7. The health, safety and welfare of the individual cannot be assured through the provision of ADHC Waiver services.

8. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

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

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

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

Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0703#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Home and Community Based Services Waivers
Elderly and Disabled Adult Waiver
Request for Services Registry
(LAC 50:XXI.8103)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services proposes to amend LAC 50:XXI.8103 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, Bureau of Health Services Financing adopted provisions governing home and community-based waiver services for elderly and disabled adults in LAC 50:XXI.Chapters 81-89 (*Louisiana Register*, Volume 30, Number 8). The Division of Long Term Supports and Services amended the provisions governing the Elderly and Disabled Adult (EDA) Waiver to: 1) eliminate the duplication of like services currently provided in the waiver and as a Medicaid State Plan service; 2) define the existing service package and establish new services; and 3) revise the methodology for allocation of waiver opportunities (*Louisiana Register*, Volume 32, Number 7). The department now proposes to amend the August 20, 2004 Rule to establish provisions governing placement on the request for services registry.

This action is being taken to promote the well-being of Louisiana citizens by facilitating access to home and community based services through the adoption of placement provisions for the EDA Waiver request for services registry. It is anticipated that implementation of this Emergency Rule will not have a fiscal impact in the Medicaid Program for state fiscal year 2006-2007.

Effective March 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends the provisions of the August 20, 2004 Rule governing the Elderly and Disabled Adult Waiver program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waiver

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 81. General Provisions

§8103. Request for Services Registry

A. The Department of Health and Hospitals (DHH) is responsible for the Request for Services Registry, hereafter referred to as "the registry," for the Elderly and Disabled Adult Waiver. An individual who wishes to have his or her

name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Persons who desire placement on the EDA Waiver registry shall be screened to determine whether they meet nursing facility level of care and are at imminent risk of nursing facility placement. Only persons who meet these criteria will be added to the registry.

C. Persons currently on the EDA Waiver registry will be screened to determine whether they meet nursing facility level of care and are at imminent risk of nursing facility placement. Only persons who meet these criteria will remain on the registry. Persons currently on the registry who do not meet these criteria will be removed.

D. The department may remove a person from the registry for failure to comply with the Department's rules, policies and procedures.

E. A person who does not meet the criteria for, or who is removed from the registry may appeal the decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 28:835 (April 2002), amended LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

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

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

0703#070

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Homeless Initiative (LAC 67:III.5589)

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, §5589, Homeless Initiative as a new TANF Initiative. This Emergency Rule effective March 31, 2007, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective December 1, 2006, since it will expire before the final Rule takes effect. (The final Rule will be published in the April 2007 issue.)

Pursuant to Act 17 of the 2006 Regular Session of the Louisiana Legislature, the agency is adopting the Homeless Initiative to end the cycle of homelessness in Louisiana by stabilizing homeless families and aiding these families in establishing permanent housing and becoming self-sufficient.

The authorization for emergency action in this matter is contained in Act 17 of the 2006 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

§5589. Homeless Initiative

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session

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

Ann Silverberg Williamson
Secretary

0703#0051

Rules

RULE

Department of Agriculture and Forestry State Market Commission

Acquisition of Facilities (LAC 7:V.Chapter 23)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission, adopts regulations regarding the acquisition of machinery, equipment and facilities by the Louisiana State Market Commission.

Promulgation of these and regulations enables the State Market Commission to acquire, rent or sell machinery, equipment and facilities to further enhance the economy of agricultural production and to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products throughout the state of Louisiana.

These Rules comply with and are enabled by R.S. 3:405.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing Chapter 23. Market Commission—Acquisition of Facilities

§2301. Definitions

Acquire—to gain possession or control of land, buildings, machinery, equipments, and other property by purchase, donation, rent, lease, sub-lease, or by any other lawful manner.

Commission—State Market Commission.

Commissioner—Commissioner of Agriculture and Forestry.

Department—Louisiana Department of Agriculture and Forestry.

Facility—land, buildings, or other structures and any combination thereof.

Farm Product—any agronomic, horticultural, silvicultural, or aquacultural crop; livestock; any raw product derived from any crop or livestock; and any item produced from the further processing of the crop, livestock, or raw agricultural product.

Livestock—any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, used in agriculture, aquaculture, or silviculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or

enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

Person—any association, business, corporation, firm, individual, joint venture, limited liability company, partnership, and any body of persons, whether incorporated or not.

Rent—an agreement or contract, including a lease or sub-lease, whereby a person acquires the right to use and occupy the machinery, equipment, or facility acquired by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:422 (March 2007).

§2303. Criteria for Acquiring Machinery, Equipment, and Facilities

A. The commission shall determine whether the acquisition of any machinery, equipment, or facility is necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products.

B. The commission shall also consider the following criteria in determining whether to acquire any machinery, equipment, or facility:

1. the economic needs of the areas of the state in which the machinery, equipment, or facility will be located;
2. the number of jobs created or preserved in the state;
3. the amount of farm products produced in the state that will be utilized;
4. the degree of diversification that the machinery, equipment, or facility will bring to the state's agricultural economy;
5. the economic stimulus that the use of the machinery, equipment, or facility will provide to the local economy or to the state's agricultural economy as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:422 (March 2007).

§2305. Persons Eligible to Use, Rent, or Purchase Acquired Machinery, Equipment, or Facility

A. Any person who meets the criteria in this Section is eligible to apply to rent or purchase machinery, equipment, or facilities acquired by the commission.

B. The criteria for eligibility are as follows:

1. be authorized to do business in this state;
2. maintain or agree to maintain an operating facility in this state;
3. employ at least 20 full time employees or the equivalent thereof;

4. be engaged in the assembling, processing, storing, grading, distributing, or marketing of farm products of this state;

5. have, or be able to obtain, financial resources including operating capital sufficient to show an ability to operate under normal condition for a period of at least one year;

6. be able to provide the commission with a first mortgage, primary lien, or other first or primary security for the rent or purchase of the machinery, equipment or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:422 (March 2007).

§2307. Contents of Application

A. Every applicant seeking to rent or purchase machinery, equipment or a facility from the commission shall submit the following information to the commission:

1. name and address of applicant including all principals by name and address;

2. a statement of the nature and amount of the interest held by each principal;

3. sworn statement of the relationship, if any, of any of the principals with any state official and/or with any employee of the Department of Agriculture and Forestry;

4. location and legal description of all property to be offered as security;

5. personal financial statements of every principal of the applicant unless the commission's staff finds that the applicant is a publicly traded company or other business enterprise whose financial statements are sufficient to show the solvency of the applicant;

6. an appraisal by a qualified appraiser of the property being offered as security or information sufficient to show the approximate value of the property;

7. a listing of all equipment and furnishings, both movable and immovable by destination, with the expected life of the equipment and furnishings, if equipment and furnishings will be offered as part of the security;

8. evidence of satisfactory interim and long term financing, where applicable;

9. a business plan/feasibility study for the proposed enterprise which includes a three year projected cash flow statement, together with an explanation of how the enterprise meets the criteria set out in 2303.B and 2305.B;

10. written authorization for the commission or its staff to perform any credit check(s) which the commission or staff may deem advisable;

11. a designation by the applicant, if any, of what records, writings, accounts, or other documents and information that pertain to the business of the applicant and are in their nature confidential;

12. any other documentation or information the commission or its staff deems necessary for a determination as to whether to approve or deny the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:423 (March 2007).

§2309. Approval of Application

A. The applicant must provide all required information at least 10 working days prior to the meeting at which the applications will be considered, unless partial submission is allowed by the commission's staff or by the commission.

B. The applicant or its representative must appear in person at the meeting at which the applications will be considered.

C. The commission may approve an application even if all the criteria set out in this Chapter have not been met by an applicant if the commission determines that under the circumstances the applicant's rent or purchase of the machinery, equipment, or facility is necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products of the state. The commission may refuse to approve an application even if all the criteria set out in this Chapter have been met by an applicant if the commission determines that under the circumstances the applicant's rent or purchase of the machinery, equipment, or facility is not necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products of the state.

D. If there is more than one applicant for the rent or purchase of machinery, equipment, or facilities acquired by the commission then the commission maintains the discretion to decide which, if any, applicant will be approved.

E. The commission may establish terms and provisions to be included in any written rental or purchase agreement or act of sale in addition to the terms and provisions submitted to the commission, or authorize the commissioner or the commission's staff to negotiate additional terms and conditions within the parameters established by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:423 (March 2007).

Bob Odom
Commissioner

0703#026

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII.301, 603, and 708)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111—The Louisiana School, District, and State Accountability System*.

The change concerning School Improvement results from negotiations with the U.S. Department of Education about a late 2006 accountability release. The changes to cohorts is to provide consistency throughout the accountability system.

**Title 28
EDUCATION**

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

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - E.1.a. ...

b. Schools identified as entering SI2 at the release of the 2006 pre-appeals accountability results must offer school choice immediately upon notification and continuing for the remainder of the academic year.

c. Schools identified as entering a higher level of school improvement at the release of the 2006 pre-appeals accountability results must implement the additional sanctions immediately upon notification and continuing for the remainder of the academic year.

F. - L. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007).

Chapter 6. Graduation Index

§603. Determining a Cohort for a Graduation Index

A. - C.1. ...

2. If, following the exit, the student record should appear in the Student Information System (SIS) associated with another Louisiana school (ex. transferred to another public school within Louisiana) and if the student does not appear in SIS, the student will be considered a dropout.

D. - G. ...

H. Students with disabilities whose IEPs state that they will take longer than 4 years to complete high school shall be added to the cohort with which they complete/graduate provided they are less than 22 years of age at the beginning of the academic year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007).

Chapter 7. Subgroup Component

§708. Calculating a Graduation Rate

A. As required by the *No Child Left Behind Act of 2001*, Louisiana shall calculate a graduation rate based on a cohort of students beginning in 2007.

B. The definition of a cohort for this calculation is the same as that used in §603.

C. The percentage of students in a cohort who graduate within four years with a standard diploma shall be the graduation rate used for the subgroup component.

1. Repealed.

2. Students with disabilities whose IEPs state that they will take longer than 4 years to earn a standard diploma shall be added to the panel with which they graduate provided they are less than 22 years of age at the beginning of the academic year.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007).

Weegie Peabody
Executive Director

0703#001

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Test Security Policy and LEAP Alternate Assessment (LAC 28:CXI.305 and Chapter 19)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*, which contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The document will consolidate statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate guidelines for newly developed statewide assessments used in testing, add new language to established assessment guidelines, and to reflect the renaming of the division to Division of Standards, Assessments, and Accountability.

Title 28

EDUCATION

**Part CXI. Bulletin 118—Statewide Assessment
Standards and Practices**

Chapter 3. Test Security

§305. Test Security Policy

A. - A.3.c. ...

d. at any time, copy, reproduce, record, store electronically, discuss or use in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials (e.g., writing prompts, science tasks);

e. - f.iv. ...

g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program [LEAP], *Integrated* LEAP [*i*LEAP], Graduation Exit Examination [GEE], Graduation Exit Examination ["old" GEE], LEAP Alternate Assessment, Level 1 [LAA 1], LEAP Alternate Assessment, Level 2 [LAA 2], the English Language Development Assessment [ELDA], End of Course Tests (EOCT) online assessments, or forms K, L, M, A, and B and all new forms of The Iowa Tests as a practice test or study guide;

3.h. - 5.c. ...

d. Interviews shall be conducted with students in the identified classes regarding testing procedures, layout of

the classroom, access to test materials before the test, and access to unauthorized materials during testing.

6. After completion of the investigation, the school district shall provide a report of the investigation and a written plan of action to the state superintendent within 30 calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witness to the occurrence. Officials from the LDE are authorized to conduct additional investigations.

7. All test administrators and proctors must sign the *Oath of Security* and return it to the STC to keep on file for three years. The STC and principal must sign an *Oath of Security* and return it to the DTC to be kept on file at the district for three years.

8. - 9.d. ...

e. Only personnel trained in test security and administration shall be allowed to have access to or administer any statewide assessments.

9.f. - 11. ...

12. Any individual who knowingly engages in any activity during testing that results in invalidation of scores derived from the Louisiana Educational Assessment Program (LEAP), Graduation Exit Examination (GEE), End of Course Tests (EOCT) online assessments, or Graduation Exit Examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

13. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007).

Chapter 19. LEAP Alternate Assessment, Level 1

Subchapter A. Background

§1901. Overview

A. The LEAP Alternate Assessment, Level 1 (LAA 1), is a specially designed assessment program that specifically targets students with the most significant cognitive disabilities. LAA 1 represents an assessment of alternate content and performance standards relative to the general education components of the Louisiana state assessment program (i.e., LEAP, iLEAP, and GEE). As such, it meets NCLB requirements to assess students with the most significant cognitive disabilities in the state (sometimes called "1 percent" students), with its results contributing to school, district, and state accountability decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:239 (February 2006), LR 33:425 (March 2007).

Subchapter B. General Provisions

§1903. Introduction

A. The LAA 1 is a performance-based student assessment that evaluates each student's knowledge and skills in targeted areas. The test administrator organizes activities to provide a student the opportunity to perform specific skills. The test administrator directs and observes

the student during the activity and uses a rubric to score student performance of each specific skill.

B. Definitions

Alternate Assessment—a substitute approach used in gathering information on the performance of students who do not participate in typical state assessments. [from Alternate Assessment Resource Matrix (CCSSO, SCASS-ASES, 1999)].

Target Indicators—represent the Louisiana content standards that most directly reflect the skills students with significant disabilities need as they progress through childhood and enter adulthood.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:425 (March 2007).

Subchapter C. Target Population

§1905. Participation Criteria

(Refer to *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:425 (March 2007).

Subchapter D. LAA 1 Test Design

§1907. Test Structure

A. LAA 1 is based on sixteen Louisiana content standards in four major areas: English language arts, mathematics, social studies, and science. It includes 20 target indicators from the standards—five from English language arts, five from mathematics, six from social studies, and four from science. These target indicators form the basis of LAA 1, and represent those Louisiana content standards that most directly reflect the skills students with significant disabilities need as they progress through childhood and enter adulthood. The target indicators are intentionally broad to reflect skills that are very basic and those more advanced skills that will support adults at work and in their communities. Two target indicators in each content area have state-specified skills. For the remaining target indicators, the test administrator determines the skill to be assessed; these are referred to as teacher-specified skills.

B. Each target indicator allows a LAA 1 student to score at three participation levels: Introductory, Fundamental, and Comprehensive. These participation levels reflect different levels of skill complexity at which a student may participate on a skill being measured through a given activity. Participation levels for students are determined by the test administrator and may vary across target indicators. The participation levels are:

1. Introductory (I)—skills that require basic processing of information to address real-world situations that are related to the content standards regardless of the age or grade level of the student;

2. Fundamental (F)—skills that require simple decision making to address real-world situations that are related to the content standards regardless of the age or grade level of the student;

3. Comprehensive (C)—skills that require higher-order thinking and information-processing skills that are

related to the content standards regardless of the age or grade level of the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F)(3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:425 (March 2007).

§1909. Scoring

A. The scoring rubric for the LAA 1 is based on 6 point levels.

0	No performance (at introductory level only)
1	Tolerates engagement or attempts engagement
2	Performs skill in response to a prompt
3	Performs skill independently without a prompt
4	Performs skill independently without prompts for different purposes or in multiple settings
5	Performs skill independently without prompts for different purposes and in multiple settings

B. Students receive higher points for attempting performance than they do for no performance of the example skill. A score point of three is awarded for performances that are completed independently. Students who perform a task for more than one purpose or in more than one setting receive a higher score. Those who generalize their skills or apply their skills for different purposes and in a variety of settings receive the highest scores.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007).

Subchapter E. Achievement Levels and Performance Standards

§1911. Achievement Levels

A.1. The Louisiana achievement levels are:

- a. Substantial Growth;
- b. Moderate Growth;
- c. Minimal Growth; and
- d. No Measurable Growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance LR 33:426 (March 2007).

§1913. Performance Standards

A. Performance standards for LAA 1 English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form.

LAA 1 Achievement Levels and Scaled-Score Growth Ranges		
LAA 1 Achievement Levels	Scaled Score Growth Range	Definition
Substantial Growth	> 7.50	A student has demonstrated Substantial Growth during the school year in the specific content area being measured.
Moderate Growth	2.51 to 7.50	A student has demonstrated Moderate Growth during the school year in the specific content area being measured
Minimal Growth	0.0 to 2.50	A student has demonstrated Minimal Growth during the school year in the specific content area being measured.

LAA 1 Achievement Levels and Scaled-Score Growth Ranges		
LAA 1 Achievement Levels	Scaled Score Growth Range	Definition
No Measurable Growth	≤ 0.0	A student at the No Measurable Growth level has not demonstrated measurable improvement during the school year in the specific content area being measured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007).

Subchapter F. Achievement Level Descriptors

§1915. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. The descriptors define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007).

§1917. LAA 1 Achievement Level Descriptors

A. English Language Arts Achievement Level Descriptors

Substantial Growth Level		
This student has demonstrated Substantial Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example of such growth is the student's improvement from indicating basic need with assistance to ordering items for different purposes without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> • Indicates basic need • Indicates discomfort • Reacts to nonsymbolic stimulus • Reacts to symbolic stimulus 	<ul style="list-style-type: none"> • Makes requests • Indicates need for assistance • Responds appropriately to school/community signs • Makes selections from a list/pictorial representation. 	<ul style="list-style-type: none"> • Orders items • Advocates for self and/or others • Reads words in context of activity • Uses text/symbols/pictures to locate information

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example of such growth is the student's improvement from indicating basic need with assistance to making requests without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> • Indicates basic need • Indicates discomfort • Reacts to nonsymbolic stimulus • Reacts to symbolic stimulus 	<ul style="list-style-type: none"> • Makes requests • Indicates need for assistance • Responds appropriately to school/community signs • Makes selections from a list/pictorial representation 	<ul style="list-style-type: none"> • Orders items • Advocates for self and/or others • Reads words in context of activity • Uses text/symbols/pictures to locate information

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example of such growth is the student's improvement from indicating basic need with assistance to indicating basic need without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Indicates basic need Indicates discomfort Reacts to nonsymbolic stimulus Reacts to symbolic stimulus 	<ul style="list-style-type: none"> Makes requests Indicates need for assistance Responds appropriately to school/community signs Makes selections from a list/pictorial representation 	<ul style="list-style-type: none"> Orders items Advocates for self and/or others Reads words in context of activity Uses text/symbols/pictures to locate information

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of communicating needs and responding to symbolic and/or nonsymbolic materials. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Indicates basic need Indicates discomfort Reacts to nonsymbolic stimulus Reacts to symbolic stimulus 	<ul style="list-style-type: none"> Makes requests Indicates need for assistance Responds appropriately to school/community signs Makes selections from a list/pictorial representation 	<ul style="list-style-type: none"> Orders items Advocates for self and/or others Reads words in context of activity Uses text/symbols/pictures to locate information

B. Mathematics Achievement Level Descriptors

Substantial Growth Level		
This student has demonstrated Substantial Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example of such growth is the student's improvement from following directions related to spatial concepts with assistance to discriminating between sizes for different purposes without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example of such growth is the student's improvement from following directions related to spatial concepts with assistance to distributing multiple sets of objects accurately to each member of a group without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example of such growth is the student's improvement from following directions related to spatial concepts with assistance to following directions related to spatial concepts without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of applying mathematical concepts and utilizing time measures. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Follows directions related to spatial concepts Matches shapes Transfers from activity to activity Follows a routine 	<ul style="list-style-type: none"> Distributes multiple sets of objects accurately to each member of a group Demonstrates understanding of global measurement concepts Matches schedule with time to a clock Indicates days of week/months of year on a calendar 	<ul style="list-style-type: none"> Discriminates between sizes Recognizes parts versus whole Indicates understanding of concepts of time Uses a calendar/day planner/personal recorder/picture planner

C. Science Achievement Level Descriptors

Substantial Growth Level		
This student has demonstrated Substantial Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example of such growth is the student's improvement from participating in personal hygiene with assistance to planning a nutritionally balanced meal in more than one setting without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example of such growth is the student's improvement from participating in personal hygiene with assistance to identifying healthy foods without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example of such growth is the student's improvement from participating in personal hygiene with assistance to participating in personal hygiene without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of attending to personal health and demonstrating an understanding of cause and effect. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Participates in personal hygiene Uses good health practices Interacts with environment Uses switch to activate or deactivate a device 	<ul style="list-style-type: none"> Identifies healthy foods Initiates personal hygiene-related activities at appropriate times Selects climate-appropriate clothing Sorts materials for appropriate disposal 	<ul style="list-style-type: none"> Plans a nutritionally balanced meal Handles products safely Selects appropriate apparel Demonstrates sense of responsibility for environment

D. Social Studies Achievement Level Descriptors

Substantial Growth Level		
This student has demonstrated Substantial Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example of such growth is the student's improvement from greeting familiar people with assistance to sharing experiences and ideas with others in more than one setting without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Greets familiar people Uses acceptable behavior to gain attention from others Adjusts to new situations Demonstrates respect for property of others 	<ul style="list-style-type: none"> Takes turns with peers Assists peer or adult Demonstrates respect for the rights of others Follows rules 	<ul style="list-style-type: none"> Shares experiences and ideas with others Recognizes others' needs for assistance and then assists peer and/or adult Assumes responsibility for personal belongings Performs responsibilities

Moderate Growth Level		
This student has demonstrated Moderate Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example of such growth is the student's improvement from greeting familiar people with assistance to taking turns with peers without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> Greets familiar people Uses acceptable behavior to gain attention from others Adjusts to new situations Demonstrates respect for property of others 	<ul style="list-style-type: none"> Takes turns with peers Assists peer or adult Demonstrates respect for the rights of others Follows rules 	<ul style="list-style-type: none"> Shares experiences and ideas with others Recognizes others' needs for assistance and then assists peer and/or adult Assumes responsibility for personal belongings Performs responsibilities

Minimal Growth Level		
This student has demonstrated Minimal Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example of such growth is the student's improvement from greeting familiar people with assistance to greeting familiar people without assistance. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> • Greets familiar people • Uses acceptable behavior to gain attention from others • Adjusts to new situations • Demonstrates respect for property of others 	<ul style="list-style-type: none"> • Takes turns with peers • Assists peer or adult • Demonstrates respect for the rights of others • Follows rules 	<ul style="list-style-type: none"> • Shares experiences and ideas with others • Recognizes others' needs for assistance and then assists peer and/or adult • Assumes responsibility for personal belongings • Performs responsibilities

No Measurable Growth Level		
This student has demonstrated No Measurable Growth during the school year in the areas of interacting with others and following procedures and/or rules. One example is that the student's performance remains the same from one year to the next, showing no measurable improvement. The skills assessed are selected from the list below:		
Participation Levels		
Introductory	Fundamental	Comprehensive
<ul style="list-style-type: none"> • Greets familiar people • Uses acceptable behavior to gain attention from others • Adjusts to new situations • Demonstrates respect for property of others 	<ul style="list-style-type: none"> • Takes turns with peers • Assists peer or adult • Demonstrates respect for the rights of others • Follows rules 	<ul style="list-style-type: none"> • Shares experiences and ideas with others • Recognizes others' needs for assistance and then assists peer and/or adult • Assumes responsibility for personal belongings • Performs responsibilities

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007).

Weegie Peabody
Executive Director

0703#002

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28: CXV.337, 1121, 2301,
2319, 2321, 2357, and 2363)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*: §337, Written Policies and Procedures, §1121, Immunizations, §2301, Standards and

Curriculum, §2319, Graduation Requirements, §2321, Carnegie Credit for Middle School Students, §2357, Physical Education, and §2363, Social Studies.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - B. ...

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. - 14. ...

15. the prohibition of teachers from recommending that a student be administered a psychotropic drug and from specifying or identifying any specific mental health diagnosis for a student;

16. the prohibition of teachers from using a parents refusal to consent to administration of a psychotropic drug or psychiatric evaluation, screening or evaluation as grounds for prohibiting a student from attending class or participating in school related activities or as the sole basis of accusations of child abuse or neglect against the parent or guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240; 17:436.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007).

Chapter 11. Student Services

§1121. Immunizations

A. - F. ...

G. LEAs that provide information relative to immunizations are required to provide parents and/or guardians with information relative to the risks associated with meningococcal disease. The information should include availability, effectiveness and known contraindications of immunization against such disease as well as causes and symptoms of the disease and how the disease is spread. LEAs shall also provide information on where a student may be immunized and where parents may obtain additional information. Information shall be updated annually if new information is available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170; R.S. 17:170.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 33:429 (March 2007).

Chapter 23. Curriculum and Instruction

§2301. Standards and Curriculum

A. Each LEA shall adopt and implement local curricula aligned with state content standards, benchmarks, and grade-level expectations. The state documents are:

1. - 17. ...

18. English Language Development Standards, Bulletin 112.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 24.4; R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:3070 (December 2005), LR 33:429 (March 2007).

§2319. High School Graduation Requirements

A. - D. ...

E. Minimum Course Requirements for High School Graduation

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following:	
<ul style="list-style-type: none"> Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or Integrated Mathematics I (1 unit) 	
The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.	
(Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics	
Science	3 units
Shall be the following:	
1 unit of Biology	
1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I	
1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective.	
<ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, one-half unit of Civics or AP American Government, one-half unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

b. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. The following

computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I/II	1 each

G - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070, 3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007).

§2321. Carnegie Credit for Middle School Students

A. Students in the middle grades are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, English, social studies, foreign language, keyboarding/keyboarding applications, or computer/technology literacy.

B. Middle school students intending to take a course for Carnegie credit must demonstrate mastery of the eighth grade grade-level expectations in that content area by passing an exam developed by the DOE before taking the high school course. In order to be prepared for the exam, students should successfully complete an accelerated seventh grade course in that content area that addresses both the seventh and eighth grade grade-level expectations.

C - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007).

§2357. Physical Education

A. - D. ...

E. In schools having approved Junior Reserve Officer Training Corps (JROTC) training, credits may, at the option of the local school board, be substituted for the required credits in physical education.

F. - J.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:17.1; R.S. 17:24.4; R.S. 17:276.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:430 (March 2007).

§2363. Social Studies

A. Three units of social studies shall be required for graduation. They shall be American History, one-half unit of Civics or AP American Government, one-half unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.

B. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007).

Weegie Peabody
Executive Director

0703#003

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Criminal Background Checks (LAC 28: CXV.501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*, §501, Criminal Background Checks. This change will require any local school district, prior to hiring any employee, to request from the applicant's current or previous employer any documentation regarding any sexual misconduct engaged in by the applicant involving a student. It will also require the applicant's current or previous employer to provide any such information to the local school district that has requested it. It provides immunity to any school district or school employee who, in good faith, discloses such information to school district requesting it. It requires the applicant to sign a disclosure and release statement providing for the release of such information to the school district requesting it. It prohibits any school district from hiring any applicant who does not sign a disclosure and release statement. It allows a school district to hire an applicant on a conditional basis pending the hiring board's review of any information obtained. It provides that any such information can only be used by the school district considering the applicant for employment for the purpose of evaluating the applicant's qualifications for employment. It prohibits the disclosure of any such information to anyone who is not directly involved in evaluating the applicant's qualifications for employment. It makes the unauthorized disclosure of such information a misdemeanor.

It defines sexual misconduct as: (1) any conduct that would amount to sexual harassment under Title IX of the Education Amendments of 1972, as amended; (2) any conduct that would amount to a sexual offense affecting a minor under state criminal codes; (3) any sexual relationship with a student, regardless of the student's age or with a former student under the age of 18 or with a former student regardless of age who suffers from a disability that would prevent consent in a relationship. All students enrolled in the school and in any organization in which the school employee

holds a position of trust and responsibility are included; (4) any activity directed toward establishing a sexual relationship such as sending intimate letters, engaging in sexualized dialogue in person, via the internet, in writing or by telephone, making suggestive comments or dating a student.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§501. Criminal Background Checks

A. - D.2. ...

E. Each LEA, prior to hiring any employee, shall request that the applicant for employment sign a statement providing for the disclosure of information by the applicant's current or previous employer, if such employer is an LEA, relative to all instances of sexual misconduct with students committed by the applicant, if any, and releasing the current or previous employer, if such employer is a city, parish, or other local public school board, and any school employee acting on behalf of such employer from any liability for providing such information.

1. Prior to hiring any applicant, each LEA must request, in writing, that the applicant's current or previous employer, if such employer is an LEA, provide the above-described information, if such information exists, and make available to the hiring school board copies of any documents as contained in the applicant's personnel file maintained by such employer relative to such instances of sexual misconduct, if any. Such request for information must include a copy of the aforementioned statement signed by the applicant.

2. If such information exists, it must be provided and copies of all documents as contained in the applicant's personnel file relating to all instances of sexual misconduct, if any, must be made available to the requesting school board no later than 20 business days from the receipt of the request.

3. Any LEA or any school employee who discloses such information in good faith shall be immune from civil liability for having disclosed such information.

4. An applicant who does not sign the disclosure and release statement cannot be hired. An applicant can be hired on a conditional basis pending the hiring board's review of any information obtained.

5. Any information obtained can only be used by the hiring board for the purpose of evaluating an applicant's qualifications for employment for the position for which he or she has applied. Such information is not subject to the Public Records Act and is not to be disclosed to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. Unauthorized disclosure is a misdemeanor offense with exposure to a fine of up to \$500 or imprisonment for up to six months, or both.

6. Adult sexual misconduct in schools, for the purposes of disclosing information to LEAs as required by R.S. 17:81.9, includes sexually inappropriate behavior by the adult that is directed at a student, including but not limited to sexually-related conversations, jokes, or questions directed at students. More specifically, sexual misconduct is:

a. any conduct that would amount to sexual harassment under Title IX of the (U.S.) Education Amendments of 1972, as amended;

b. any conduct that would amount to a sexual offense affecting a minor under state criminal codes;

c. any sexual relationship by a school employee with a student, regardless of the student's age; with a former student under 18; with a former student (regardless of age) who suffers from a disability that would prevent consent in a relationship. All students enrolled in the school and in any organization in which the school employee holds a position of trust and responsibility are included;

d. any activity directed toward establishing a sexual relationship such as sending intimate letters; engaging in sexualized dialogue in person, via the Internet, in writing or by phone; making suggestive comments; dating a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1 and 17:81.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007).

Weegie Peabody
Executive Director

0703#004

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
High School Graduation Requirements
(LAC 28:CXV.2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2319, High School Graduation Requirements. The changes are being requested to assure that the Career and Technical Education Diploma Endorsement components are aligned and students receiving the endorsement are trained in the skills requested by business and industry and/or are better prepared for postsecondary training aligned with the endorsement. Numerous questions regarding implementation of the diploma endorsements have arisen since inclusion of a Graduation Index in the Louisiana Accountability System. Diploma endorsements are a component of the Graduation Index. These changes will provide clarity to the policy.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2319. High School Graduation Requirements

A. - F.1.a. ...

b. To complete a career Area of Concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the Area of Concentration and two related elective credits, including one computer/technology course. Areas of Concentration are identified in the Career Options Reporting

System with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year.

* * *

G. - G.1.e. ...

H. Career/Technical Endorsement

1. - 1.a. ...

b. Student shall complete the Career and Technical Area of Concentration approved by BESE. The Career and Technical Education Areas of Concentration are identified in the CATE data system with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year.

c. ...

d. Students shall complete a minimum of 90 work hours of work-based learning experience in the student's Career and Technical Education Area of Concentration (as defined in the DOE Diploma Endorsement Guidebook) and complete one of the following requirements:

i. industry-based certification from the list of industry-based certification approved by BESE; or

ii. three college hours in the student's Career and Technical Education Area of Concentration that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours.

H.1.e. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070, 3072 (December 2005), LR 32:1414 (August 2006), LR 33:432 (March 2007).

Weegie Peabody
Executive Director

0703#005

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Minimum Requirements for Blended General/Special Education Mild-Moderate Certification Programs
(LAC 28:CXXXI.219, 221, and 223)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §219, §221, and §223. This policy specifies changing the effective date of the Blended General/Special Education Mild-Moderate certification programs from July 1, 2007, to July 1, 2009. The vast majority of Louisiana universities would not be prepared to meet the July 1, 2007 effective date. Additional time is needed for special and general education university personnel to collaborate on the development of programs that truly blend regular and special education content. Furthermore, the Blue Ribbon Commission will focus its attention and recommendations this year on strategies to provide quality special education teachers and services in Louisiana schools. It is anticipated that these

recommendations will inform the development of blended programs.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Chapter 2. Louisiana Teacher Preparation Programs
Subchapter A. Traditional Teacher Preparation
Programs**

**§219. Minimum Requirements for Approved Blended
General/Special Education Mild-Moderate
Program for Grade Levels 1-5: Adopted
September 14, 2004; Effective July 1, 2009**

A. - A.4.a. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1787 (October 2006), amended LR 33:433 (March 2007).

**§221. Minimum Requirements for Approved Blended
General/Special Education Mild-Moderate
Program for Grade Levels 4-8: Adopted
September 14, 2004; Effective July 1, 2009**

A. - A.4. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1788 (October 2006), amended LR 33:433 (March 2007).

**§223. Minimum Requirements for Approved Blended
General/Special Education Mild-Moderate
Program for Grade Levels 6-12: Adopted
September 14, 2004; Effective July 1, 2009**

A. - A.4. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1788 (October 2006), amended LR 33:433 (March 2007).

Weegie Peabody
Executive Director

0703#006

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel—Professional
Level and Out-of State Certificates
(LAC 28:CXXXI.305 and 309)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746—Louisiana Standards for*

State Certification of School Personnel: §305, Professional Level Certificates and §309, Out-of-State (OS) Certificate. This revision to the out-of-state application policy clarifies that an individual must have the completion of a teacher education program in another state and hold a teaching certificate from any other state prior to becoming certified in Louisiana. This will allow more flexibility for individuals coming from another state who did not obtain certification in the state where their education program was completed.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Chapter 3. Teaching Authorizations and
Certifications**

**Subchapter A. Standard Teaching Authorizations
§305. Professional Level Certificates**

A. - A.1.b.i.(a). ...

(b). completed a teacher preparation program in another state;

(c). hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the State Department of Education in the state of origin verifying eligibility in that state for a certificate in the certification area(s);

(d). pass all parts of Praxis exam(s) required for Louisiana certification:

(i). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (Pre-Professional Skills Tests in reading, writing, and mathematics); the Principles of Learning and Teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

(ii). if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

(e). has completed student teaching, an internship, or three years of teaching experience in the candidate's area of certification; and

(f). has not been out of teaching in the five years immediately preceding first employment or application for a Louisiana certificate.

A.1.b.ii. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007).

§309. Out-of-State (OS) Certificate

A. - B.2. ...

3. hold a standard out-of-state teaching certificate; or if no certificate was issued, a letter from the State Department of Education verifying eligibility in that state for a certificate in the certification area(s);

B.4. - C.1.c.iv.(b). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007).

Weegie Peabody
Executive Director

0703#007

RULE

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities—Participation Criteria (LAC 28:XCVII.905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*. The changes in Chapter 9, LEAP Alternate Assessments, §905, Participation Criteria, clarify guidelines for the participation of students with disabilities in alternate assessments who cannot participate in regular assessment.

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities

Chapter 9. LEAP Alternate Assessments

§905. Participation Criteria

A. - A.3.c. ...

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the *Unsatisfactory* level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or participated in the LAA 1 or LAA 2.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3102 (December 2005), amended LR 33:434 (March 2007).

Weegie Peabody
Executive Director

0703#008

RULE

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook Personnel Requirements (LAC 28:XLI.1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*: §1301. Minimum Requirements for Lead School Business Administrator/Chief

Financial Officer/Business Manager (Local School Districts and Charter Schools). Act 606 (Senate Bill 539) of the 2006 Regular Legislative Session requires that each city, parish, and other local public school board shall employ a business manager or chief financial officer who shall have the qualifications established by rules promulgated by the State Board of Elementary and Secondary Education. The State Board of Elementary and Secondary Education shall establish such qualifications not later than January 2007.

Title 28

EDUCATION

Part XLI. Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook

Chapter 13. Personnel Requirements

§1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer/Business Manager (Local School Districts and Charter Schools)

A. Statutory Authority. Act 606 of the 2006 Regular Session requires that each city, parish, and other local public school board shall employ a business manager or chief financial officer who shall have the qualifications established by rules promulgated by the State Board of Elementary and Secondary Education. The tentative citation for this law is R.S. 17:84.2. Minimum qualifications are established below.

B. Minimum qualifications, must meet one of the following:

1. a baccalaureate degree with a minimum of 24 hours of business-related courses, such as accounting, finance, or management;
2. a certified public accountant licensed in Louisiana;
3. a master's degree in public or business administration.

C. Work Experience. An applicant for a lead school business official shall have not less than three years of work experience in a field relevant to the duties and responsibilities of a lead school business administrator. Relevant areas shall include accounting, finance, or other areas of fiscal management.

D. Continuing Education. All lead school business administrators must acquire Certified Louisiana School Business Administrator (CLSBA) certification by the Louisiana Association of School Business Officials (LASBO) within seven years of the date of hire as an administrator/chief financial officer/business manager and maintain certification while employed as a lead school business administrator/chief financial officer/business manager. A Louisiana CPA license may be substituted for the CLSBA certification. The CPA license must remain in active status while employed as a lead school business administrator/chief financial officer/business manager.

E. Grandfather Clause. A lead school business administrator/chief financial officer/business manager employed prior to the final adoption of the law shall be exempt from meeting the minimum degree and work experience requirements. The lead school business administrator/chief financial officer/business manager shall be allowed seven years from the date of final adoption into law to complete the CLSBA certification or become a licensed CPA in the state of Louisiana.

F. Shared Services Provision. Statute allows city, parish, or other local public school boards to enter into an agreement to share business services, including the employment of a single business manager or chief financial officer. The shared business manager or chief financial officer must meet the minimum qualifications established by the State Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:84 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:434 (March 2007).

Weegie Peabody
Executive Director

0703#009

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws—Committee Membership
(LAC 28:V.101 and 103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its bylaws (R.S. 17:3021-3025 and 3048.1). (SG0780R)

Title 28 EDUCATION

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 1. Student Financial Assistance Commission Bylaws

§101. Definitions and Authority

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:1993 (September 2000), LR 33:435 (March 2007).

§103. Meetings

A. Regular Meetings. The commission shall hold regular meetings, which are limited in number to 12 per year. All regular meetings shall be held at meeting places designated by the commission. Proxy voting shall be allowed at all meetings for the chairman of: State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; Board of Supervisors, University of Louisiana; and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board. The superintendent of education may vote by proxy through a member of his/her executive staff. No other members shall have the right of proxy voting.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1263 (July 1998), amended LR 26:1993 (September 2000), LR 33:435 (March 2007).

George Badge Eldredge
General Counsel

0703#089

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Natural Disaster
(LAC 28:IV.703, 705, 803, and 805)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Rules to incorporate Acts 64 and 65 of the First Extraordinary Session of 2005 concerning the TOPS initial and continuing eligibility requirements as they relate to students displaced by Hurricanes Katrina and Rita in accordance with R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1, and in accordance with the authority and procedures provided R.S. 17:3048.6.B(2)(a)(i), to provide waivers of certain TOPS initial eligibility requirements for students displaced by Hurricanes Katrina and Rita who will graduate from high school or complete home study programs approved by the Board of Elementary and Secondary Education (BESE) during the 2006-2007 high school academic year.

LASFAC has determined that initial eligibility requirements for a Tuition Opportunity Program for Students (TOPS) Award applicable for the 2005-2006 school year impose program requirements or conditions that displaced students who will graduate from high school or complete home study programs approved by the BESE during the 2006-2007 high school academic year cannot comply with or meet and that the failure of these displaced students to comply with the requirements or meet the conditions, more likely than not, is due solely to a consequence of Hurricane Katrina or Rita, or both.

LASFAC has consulted with the Commissioner of Higher Education who has concurred with this proposed rulemaking.

The result of promulgating this rulemaking will be to provide a waiver of specifically cited TOPS initial eligibility requirements for displaced students graduating from eligible Louisiana high schools or completing home study programs approved by the BESE during the 2006-2007 high school academic year. (SG0777R)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - I.8. ...

J. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006 academic year (high school) must meet all of the requirements of §703.A – I.8 above, except as follows:

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has, for an opportunity award, a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 11th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a below for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b below for at least the 12 months prior to September 20, 2005.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §703.J.2.a below due to Hurricane Katrina and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2005; or

ii. in §703.J.2.b below due to Hurricane Rita and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to September 20, 2005.

e. A displaced student who during the 2005-2006 academic year (high school) successfully completes at the 12th grade level a home study program approved by the State Board of Elementary and Secondary Education shall not be required to have also completed the 11th grade level of an approved home study course.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education; or

b. a student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education.

3. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from an eligible Louisiana high school or completing a BESE approved home study program at the 12th grade level during the 2006-2007 academic year (high school) must meet all of the requirements of §703.A –I.8 above, except as follows.

a. The requirement that a student who graduates from an eligible Louisiana high school during the 2006-2007 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999); LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 33:435 (March 2007).

§705. Maintaining Eligibility

A. - D. ...

E. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A–D above, except as follows.

a. The TOPS award of a displaced student who enrolls for the first-time as a full time student in an eligible out-of-state college or university during the 2005-2006 academic year (college) and subsequently enrolls at a Louisiana eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2005-2006 academic year (college).

b. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 academic year (college) shall not be cancelled due to such out-of-state enrollment.

c. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 academic year (college) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (college).

d. The period of suspension of a TOPS award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (college).

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005:

i. was enrolled in one of the following institutions:

- (a). Delgado Community College;
- (b). Dillard University;
- (c). Louisiana State University Health Sciences Center at New Orleans;
- (e). Louisiana Technical College: Jefferson, Sidney N. Collier, Slidell, Sullivan, and West Jefferson campuses;
- (f). Loyola University;
- (g). New Orleans Baptist Theological Seminary;
- (h). Nunez Community College;
- (i). Our Lady of Holy Cross College;
- (j). St. Joseph Seminary College;
- (k). Southern University at New Orleans;
- (l). Tulane University;
- (m). University of New Orleans;
- (n). Xavier University; or

ii. had a home of record in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish; or

b. a student who on September 20, 2005:

i. was enrolled in one of the following institutions:

- (a). McNeese State University;
- (b). SOWELA Technical Community College; or

ii. had a home of record in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish.

3. For the purposes of this Subsection, *home of record* for a dependent student shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.10 ...

B. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006 academic year (high school) must meet all of the requirements of §803.A above, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 11th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.B.2.a below for at least the 12 months prior to August 26, 2005, or in a parish listed in §803.B.2.b below for at least the 12 months prior to September 20, 2005.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §803.B.2.a below due to Hurricane Katrina and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2005; or

ii. in §803.B.2.b below due to Hurricane Rita and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to September 20, 2005.

e. A displaced student who during the 2005-2006 academic year (high school) successfully completes at the 12th grade level a home study program approved by the State Board of Elementary and Secondary Education shall not be required to have also completed the 11th grade level of an approved home study course.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education; or

b. A student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education.

3. To establish eligibility for a TOPS Tech Award, a displaced student graduating from an eligible Louisiana high school or completing a BESE approved home study program at the 12th grade level during the 2006-2007 academic year (high school) must meet all of the requirements of §803.A above, except as follows:

a. The requirement that a student who graduates from an eligible Louisiana high school during the 2006-2007 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.B.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §803.B.2.b above for at least the 12 months prior to September 20, 2005.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007).

§805. Maintaining Eligibility

A. - C. ...

D. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Tech Award, a displaced student must meet all of the criteria in §805.A-C above, except as follows.

a. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 program year (non-academic program) shall not be cancelled due to such out-of-state enrollment.

b. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 program year (non-academic program) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 program year (non-academic program).

c. The period of suspension of a TOPS Tech Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or other term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 program year (non-academic program).

d. A TOPS Tech Award may be used by a displaced student during the 2005-2006 academic year (college) to enroll on a full-time basis in an academic program at a Louisiana eligible college or university to take courses that contribute to the pursuit of a skill or occupation. In such case, the award amount shall be at the same as the opportunity award for that institution.

2. For the purposes of this Subsection, *displaced student* means:

- a. a student who on August 26, 2005:
 - i. was enrolled in one of the following institutions:

- (a). Delgado Community College;
- (b). Dillard University;
- (c). Louisiana State University Health Sciences Center at New Orleans;
- (e). Louisiana Technical College: Jefferson, Sidney N. Collier, Slidell, Sullivan, and West Jefferson campuses;
- (f). Loyola University;
- (g). New Orleans Baptist Theological Seminary;
- (h). Nunez Community College;
- (i). Our Lady of Holy Cross College;
- (j). St. Joseph Seminary College;
- (k). Southern University at New Orleans;
- (l). Tulane University;
- (m). University of New Orleans;
- (n). Xavier University; or

- ii. had a home of record in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish; or

- b. a student who on September 20, 2005:
 - i. was enrolled in one of the following institutions:

- (a). McNeese State University;
- (b). Sowela Technical Community College; or
- ii. had a home of record in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish.

3. For the purposes of this Subsection, *home of record* for a dependent student shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998), amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007).

George Badge Eldredge
General Counsel

0703#088

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS
(LAC 28:IV.101, 301, 503, 1301, 2103, 2105, 2109, 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Rules (R.S.

17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG0779R)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 1. Scope

§101. Introduction

- A. ...
- B. Agency's Mission Statement. The mission of LOSFA is to administer the federal and state student aid programs that are assigned to the Louisiana Student Financial Assistance Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 27:1841 (November 2001), LR 33:439 (March 2007).

Chapter 3. Definitions

§301. Definitions

- A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Eligible Noncitizen—an individual who can provide documentation from the U. S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

Qualified Summer Session—those summer sessions (includes terms and semesters conducted during the summer) for which the student's institution certifies that:

- a. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session; or
- b. the student can complete his program's graduation requirements in the summer session; or
- c. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session; or
- d. the course(s) taken during the summer session is in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or
- e. for the summer of 2006 only, the student is a displaced student as identified in §2103.G.1 of these rules, whose TOPS award was not paid for one or more semesters during the 2005-2006 academic year.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007).

Chapter 5. Applications, Federal Grant Aid and ACT Test

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. - B.2. ...

3. Returning Students

a. Notwithstanding the deadline established by §503.B.1 above, returning students, who graduated from high school during the 2001-2002 academic year (high school) and who enroll in an eligible college or university in the spring semester of 2003, must submit the FAFSA to be received by the federal processor no later than July 1, 2004.

b. Notwithstanding the deadline established by §503.B.1 above, returning students, who enroll in an eligible college or university in the fall semester of 2003 or later, must submit the FAFSA to be received by the federal processor no later than July 1 following the first semester of enrollment.

c. Examples:

i. A student who seeks to enroll in an eligible college or university for the spring semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2004.

ii. A student who seeks to enroll in an eligible college or university for the fall semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2005.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004), LR 30:2016 (September 2004), LR 33:440 (March 2007).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - D. ...

E.1. Allocation of Funds. Annually, funds are allocated to post-secondary institutions based on school type, the school's prior year first-time, full-time enrollment and the

amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four-year schools and 40 percent for two-year schools.

2. For the 2006-2007 academic year (college), the allocations described in E.1 above shall be made to postsecondary institutions based on 2004-2005 academic year (college) formula data.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:2239 (December 2006), LR 33:440 (March 2007).

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

1. Parental Leave

E.1.a. - F. ...

G. Natural Disaster Exceptions

1. For the purposes of this Subsection, *displaced students* are TOPS recipients and students eligible for TOPS and:

a. on August 26, 2005:

i. were enrolled at one of the following eligible college or university campuses:

- (a) University of New Orleans;
- (b) Dillard University;
- (c) Delgado Community College;
- (d) Nunez Community College;
- (e) Louisiana State University Health Sciences Center at New Orleans;
- (f) Southern University at New Orleans;
- (g) Loyola University;
- (h) New Orleans Baptist Theological Seminary;
- (i) Our Lady of Holy Cross College;
- (j) Tulane University;
- (k) Xavier University;
- (l) St. Josephs Seminary College; or
- (m) Louisiana Technical College:
 - (i) Jefferson Campus;

- (ii). Sidney N. Collier Campus;
- (iii). Slidell Campus;
- (iv). Sullivan Campus;
- (v). West Jefferson Campus; or
- ii. whose home of record was one of the following Louisiana parishes:
 - (a). Jefferson;
 - (b). Lafourche;
 - (c). Orleans;
 - (d). Plaquemine;
 - (e). St. Bernard;
 - (f). St. Tammany;
 - (g). Tangipahoa; or
 - (h). Washington; or
- b. on September 23, 2005:
 - i. were enrolled at one of the following eligible college or university campuses:
 - (a). SOWELA Technical Community College;
 - (b). Louisiana Technical College:
 - (i). Gulf Area Campus;
 - (ii). Morgan Smith Campus;
 - (iii). Lamar Salter Campus;
 - (iv). Oakdale Campus; or
 - (v). Sabine Valley Campus; or
 - ii. whose home of record was one of the following Louisiana parishes:
 - (a). Acadia;
 - (b). Allen;
 - (c). Beauregard;
 - (d). Calcasieu;
 - (e). Cameron;
 - (f). Iberia;
 - (g). Jefferson Davis;
 - (h). Lafayette;
 - (i). St. Mary;
 - (j). Terrebonne; or
 - (k). Vermilion.

2. For the purposes of this Subsection, *home of record* is:

- a. the domiciliary address of a dependent student's parent or court ordered custodian; or
- b. the domiciliary address of an independent student.

3. For the purposes of this subsection, natural disaster is limited to Hurricane Katrina and/or Hurricane Rita.

4.a. For the 2005-2006 academic year (college), displaced students are not required to enroll as full time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (college).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year

(college) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (college), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full time students by the deadline or to enroll as full time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (college), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. The student should file the application for exception as soon as it is known that the student will not meet one or more of the continuing eligibility requirements to ensure the earliest reinstatement of the award. The student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

ii. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring semester or term immediately following the exception ending date.

b. Natural Disaster Exception (for other than displaced students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (college).

ii. Certification Requirements. The student/recipient must submit:

- (a). a completed exception request form; and
- (b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the continuation requirements, including the length of the impact; and
- (c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters).

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

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

2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007).

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - B.8.b. ...

9. Natural Disaster Deferments

a. For the purposes of this Subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and:

i. on August 26, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;
- (g). Tangipahoa; or
- (h). Washington; or

ii. on September 23, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Acadia;
- (b). Allen;
- (c). Beauregard;
- (d). Calcasieu;
- (e). Cameron;
- (f). Iberia;
- (g). Jefferson Davis;
- (h). Lafayette;
- (i). St. Mary;
- (j). Terrebonne; or
- (k). Vermilion.

b. For the purposes of this Subsection, *home of record* is:

i. the domiciliary address of a dependent student's parent or court ordered custodian; or

ii. the domiciliary address of an independent student.

c. For the purposes of this Subsection, natural disaster is limited to Hurricane Katrina and/or Hurricane Rita.

d. The loan payments for displaced students are deferred and accrual of interest is suspended from August 26, 2005 through August 31, 2006.

e. For the period of August 26, 2005 through August 31, 2006, recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and who are not displaced students, but who are unable to repay their loan during the academic year (college) due to the effects of a natural disaster, may submit a request for deferment of payments and suspension of accrual of interest in accordance with §2105.D, based on one of the circumstances listed in §2103.B.1 through 8 or the following circumstance.

i. The effects of a natural disaster prevented the student/recipient from making payments during the period of August 26, 2005, through August 31, 2006.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the repayment requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception. Through August 31, 2006.

C. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:442 (March 2007).

§2109. Agency Decisions Subject to Appeal

A. - C.3. ...

4. The petition of appeal must be addressed to the Louisiana Student Financial Assistance Commission, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 1885 Wooddale Boulevard, Wooddale Tower, Room 602, Baton Rouge, LA.

C.5. - D.1. ...

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written statement of LOSFA's position regarding the appeal) to the rules committee of the commission.

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the rules committee and the commission.

4. Pending a final decision by the commission, no further action will be taken in the matter by LOSFA.

5. The rules committee will review the appellate file and make one of the following recommendations to the commission:

- a. recommend that LOSFA's decision be upheld; or
- b. recommend that LOSFA's decision be reversed;

or

c. remand the appellate file to LOSFA for further specified action(s); or

d. remand the appellate file to the commission without recommendation.

6. The rules committee will forward the appellate file and its recommendation to the commission. The commission will review the recommendations of the committee and the appellate file.

D.7. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:650 (April 1998), amended LR 24:1920 (October 1998), LR 26:1261 (June 2000), repromulgated LR 27:1870 (November 2001), amended LR 28:2333 (November 2002), LR 33:442 (March 2007).

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.5. ...

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) amended LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), amended LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 33:443 (March 2007).

George Badge Eldredge
General Counsel

0703#090

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

START Savings Program
(LAC 28:VI.107, 301, 309 and 311)

The Louisiana Tuition Trust Authority has amended its START Savings Program (R.S. 17:3091 et seq.) Rules. (ST0778R)

Title 28

EDUCATION

**Part VI. Student Financial Assistance—Higher
Education Savings**

Chapter 1. General Provisions

Subchapter A. Tuition Trust Authority

§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007).

**Chapter 3. Education Savings Account
§301. Education Savings Accounts**

A. - E.2. ...

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement.

G. - G.2. ...

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. his Social Security Number;

b. the designated beneficiary's Social Security Number;

c. the beneficiary's date of birth;

d. the familial relationship between the account owner and the designated beneficiary, if any;

e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and

f. in the case of an account owner classified under §303.A.5:

i. the Social Security Number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. ...

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and, if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; and

ii. the information provided in the application is true and correct;

H.3.b. - J. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. - D.3. ...

E. Receipt of Scholarships

1. If the designated beneficiary of an education savings account is the recipient of a scholarship, waiver of tuition, or similar subvention which cannot be converted into money by the beneficiary, the account owner or beneficiary may request a refund from the education savings account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

E.2. - G. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:444 (March 2007).

§311. Termination and Refund of an Education Savings Account

A. - G. ...

H. Refund Payments. Payment of refunds for voluntary termination under §311.F or partial refunds of accounts pursuant to §311.F.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3 during the calendar year of termination will be refunded within 45 days of the date the state treasurer has announced the interest rate for the preceding year. Interest earned of \$3 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007).

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RULE

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

Bylaws—Committee Membership
(LAC 28:VII.101, 103 and 113)

The Louisiana Tuition Trust Authority has amended its bylaws (R.S. 17:3091 et seq.). (ST0781R)

Title 28

EDUCATION

Part VII. Tuition Trust Authority

Chapter 1. Bylaws

§101. Definitions and Authority

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000), LR 33:444 (March 2007).

§103. Meetings

A. - A.2. ...

3. Proxy voting shall be allowed at all meetings for the chairman of the State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; Board of Supervisors, University of Louisiana System and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board.

A.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000), LR 33:444 (March 2007).

§113. Rights, Duties and Responsibilities of Executive Staff of the Authority

A. - B.6. ...

C. Delegation of Authority

1. In the absence of the executive director, the assistant executive director, as delegated by the executive director during his/her absences, will assume the duties of the executive director.

2. In the event both the executive director and the assistant executive director are absent, the executive director will appoint the most senior division director to assume the duties of the executive director.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1656 (December 1997), amended LR 25:1092 (June 1999), LR 33:444 (March 2007).

George Badge Eldredge
General Counsel

0703#092

RULE

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

**BFI Colonial Landfill Delisting Petition
(LAC 33:V.4999)(HW091P)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW091P).

BFI Waste Systems of Louisiana LLC, Colonial Landfill, petitions to exclude from the hazardous waste regulations (delist) leachate at the facility derived from the historical management of K169 - K172 wastes. BFI is a solid waste nonhazardous landfill. The wastes were accepted as nonhazardous solid waste prior to August 6, 1998, when EPA listed the four wastes as hazardous waste generated from petroleum refining operations. The delisting program is regulated by LAC 33:V.105. Applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The exclusion, if granted, is for the specific waste at the specific facility. The department reviewed the BFI petition and found it satisfies the delisting requirements. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The delisting analytical data collected in accordance with the Delisting Sampling and Analysis Plan and the Quality Assurance Project Plan confirmed that Colonial Landfill leachate contains no hazardous characteristics of LAC 33:V.4903, nor any LAC 33:V.3105.Table 1 constituents at a concentration capable of posing a threat to human health or the environment. Based on the information in the petition and extensive testing, the department has determined that the petitioned waste can be delisted, as long as the operating conditions and results of future testing continue to support this determination. The basis and rationale for this rule are to grant the petition based on an evaluation of waste-specific information submitted by BFI Colonial Landfill.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. – Appendix D. ...

**Appendix E. Wastes Excluded under LAC 33:V.105.M
A. - B.3.b. ...**

Table 1 - Wastes Excluded
[See Prior Text in DuPont Dow Elastomers LLC, LaPlace, LA - Motiva Enterprises LLC, Norco, LA, (4)(B)]

Table 1 - Wastes Excluded
BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA
The BFI Colonial Landfill is a nonhazardous solid waste landfill permitted to receive residential, commercial, and industrial nonhazardous solid waste. Landfill leachate, at a maximum annual generation rate of 36,000 cubic yards per year (approximately 7.2 million gallons per year), is generated as liquid leachate from the landfill. Effective August 6, 1998, the United States Environmental Protection Agency (USEPA) listed four waste streams as hazardous waste. The EPA Hazardous Waste Numbers of these wastes are: K169, K170, K171, and K172. BFI Colonial received these wastes as nonhazardous solid waste prior to August 6, 1998. For the purpose of this exclusion, landfill leachate resulting from petroleum refining operations includes EPA Hazardous Waste Numbers K169, K170, K171, and K172. The constituents of concern for these wastes are listed as arsenic; benzene; benzo(a)pyrene; dibenz(a,h)anthracene; benz(a)anthracene; benzo(b)fluoranthene; benzo(k)fluoranthene; 3-methylcholanthrene; and 7,12-dimethylbenz(a)anthracene (see LAC 33:V.4901). BFI Colonial must implement a testing and management program that meets the following conditions for the exclusion to be valid.
(1). Testing Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in <i>Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, EPA Publication Number SW-846</i> , as incorporated by reference in LAC 33:V.110.
(1)(A). Inorganic Testing During the first 12 consecutive months of this exclusion, BFI Colonial must collect and analyze a monthly composite sample of the leachate. Composite samples must be composed of one grab sample from each of three different days during a representative week of operation. The monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the leachate. BFI Colonial must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, nickel, silver, thallium, tin, vanadium, and zinc, including quality control information. If the department and BFI Colonial concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then BFI Colonial may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.
(1)(B). Subsequent Inorganic Testing Following concurrence by the department, BFI Colonial may substitute the following testing conditions for those in condition (1)(A). BFI Colonial must continue to monitor operating conditions and analyze quarterly composite samples representative of normal operations. BFI Colonial must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, nickel, silver, thallium, tin, vanadium, and zinc, including quality control information. The samples must be composed of one grab sample from each of three different days during a representative week of operation, during the first month of each quarterly period. These quarterly representative composite samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the leachate. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in any quarterly sample, BFI Colonial must re-institute testing as required in condition (1)(A). BFI Colonial may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

<p>(1)(C). Organic Testing</p> <p>During the first 12 consecutive months of this exclusion, BFI Colonial must collect and analyze monthly one grab sample of the leachate. These monthly representative grab samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the leachate. BFI Colonial must report to the department the landfill operating conditions and analytical data (reported in milligrams per liter) for acenaphthene; anthracene; benzene; bis (2-ethylhexyl) phthalate; 2-butanone; m, p-cresol; o-cresol; diethyl phthalate; ethylbenzene; 2-hexanone; methyl isobutyl ketone; 2-methylnaphthalene; naphthalene; phenanthrene; phenol; toluene; and total xylenes; including quality control information. If the department and BFI Colonial concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), then BFI Colonial may replace the organic testing required in condition (1)(C) with the organic testing required in condition (1)(D). Condition (1)(C) shall remain effective until this concurrence is reached.</p>
<p>(1)(D). Subsequent Organic Testing</p> <p>Following concurrence by the department, BFI Colonial may substitute the following testing conditions for those in condition (1)(C). BFI Colonial must continue to monitor operating conditions and analyze one quarterly grab sample representative of normal operations. BFI Colonial must report to the department the landfill operating conditions and analytical data (reported in milligrams per liter) for acenaphthene; anthracene; benzene; bis (2-ethylhexyl) phthalate; 2-butanone; m, p-cresol; o-cresol; diethyl phthalate; ethylbenzene; 2-hexanone; methyl isobutyl ketone; 2-methylnaphthalene; naphthalene; phenanthrene; phenol; toluene; and total xylenes; including quality control information. This quarterly representative grab sample must be collected during the first month of each quarterly period and analyzed for the constituents listed in condition (3)(B) prior to disposal of the leachate. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, BFI Colonial must re-institute testing as required in condition (1)(C). BFI Colonial may, at its discretion, analyze grab samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.</p>
<p>(2). Waste Holding and Handling</p> <p>BFI Colonial must treat the leachate as hazardous waste until the verification testing is completed, as specified in conditions (1)(A)-(1)(D), and the leachate has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of leachate are below all of the applicable levels set forth in condition (3), then the leachate thereby becomes nonhazardous solid waste and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any monthly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the leachate must be managed and disposed of in accordance with Subtitle C of RCRA until the leachate meets the delisting levels. BFI Colonial must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.</p>
<p>(3). Delisting Levels</p> <p>Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V.4903.E. All leachable concentrations in the extract must be less than the following levels (all units are milligrams per liter).</p>
<p>(3)(A). Inorganic Constituents (all units are milligrams per liter)</p> <p>Antimony—0.082; Arsenic—0.38; Barium—22.2; Cadmium—0.06; Chromium—0.50; Cobalt—27; Copper—0.50; Lead—0.50; Nickel—5.0; Silver—0.50; Thallium—0.34; Tin—225; Vanadium—8.38; Zinc—50.0.</p>
<p>(3)(B). Organic Constituents (all units are milligrams per liter)</p> <p>Acenaphthene—3.0; Anthracene—0.20; Benzene—0.018; Bis (2-ethylhexyl) phthalate—6.74; 2-Butanone—5.0; m, p-Cresol—7.88; o-Cresol—7.88; Diethyl phthalate—18.6; Ethylbenzene—8.4; 2-Hexanone—6.3; Methyl isobutyl ketone—5.0; 2-Methylnaphthalene—5.0; Naphthalene—0.96; Phenanthrene—1.0; Phenol—50.; Toluene—1.0; Xylenes (total)—1.0.</p>
<p>(4). Changes in Operating Conditions</p> <p>If BFI Colonial significantly changes the operating conditions specified in the petition, BFI Colonial must notify the department in writing. Following receipt of written approval by the department, BFI Colonial must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. BFI Colonial must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, BFI Colonial may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). BFI Colonial must fulfill all other requirements in condition (1).</p>

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007).

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0703#017

RULE

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

**Exemption for Drums Storing Pyrophoric Catalyst
(LAC 33:III.2103)(AQ272)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2103 (Log #AQ272).

This Rule exempts drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company Baton Rouge Chemical Plant from the submerged fill pipe provisions of LAC 33:III.2103.A. Existing drums are currently operating under Permit No. 2376-VO, issued April 4, 2006, and are identified as follows: EQT583, T-3304A - Catalyst Drum (VCD-107A), 9400 gallons; EQT584, T-3304B - Catalyst Drum (VCD-107B), 9400 gallons; EQT585, T-3304C - Catalyst Drum (VCD-107C), 4700 gallons; EQT586, T-3304D - Catalyst Drum (VCD-107D), 4700 gallons. The drums in question are used to store an alkyl catalyst that is very pyrophoric in nature; the material can spontaneously ignite if exposed to even trace levels of oxygen and moisture. It has been decided that these tanks do not qualify as pressure vessels because of the frequency at which they vent to the atmosphere (every 1 to 1.5 days). As such, they would normally be subject to the submerged fill pipe provisions of LAC 33:III.2103.A, which seeks to prevent vapor or gas loss to the atmosphere during filling operations. Any overpressure in a closed storage system fed through a submerged fill pipe could lead to materials backing up into and possibly overflowing delivery equipment or other upstream facilities, causing a dangerous condition in the case of this kind of catalyst. Therefore, the manufacturer of the catalyst has recommended that the material be transferred using a free-fall method. No increase in actual emissions above current levels will be authorized by this Rule. The basis and rationale for this Rule are to provide drums storing pyrophoric catalyst with an exemption from regulations with which strict conformity would create an unreasonable risk to public health, welfare, and safety.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. - G.3. ...

4. JP-4 fuels stored in horizontal underground tanks;
5. with regard to the requirements of Paragraph C.1 of this Section, any storage tank that is used for less than two weeks in the calendar year, provided that the tank is empty and liquid-free when not in use; and
6. with regard to the submerged fill pipe provisions of Subsection A of this Section, tanks, drums, or other containers storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant.

H. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:447 (March 2007).

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RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Immovable Property Environmental Reviews/No Further
Action (LAC 33:I.Chapter 12)(OS072)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.Chapter 12 (Log #OS072).

This Rule was authorized by Act 778 of the 2006 Regular Session of the Louisiana Legislature. The Rule provides a procedure for and establishes a fee for reviews by the department of reports of environmental conditions at specified tracts of immovable property when such reports from site investigations are not required or requested by the department. Implementation of the fee will allow the department to recover costs of staff time and administrative processing of these requests. The basis and rationale for this

Rule are to implement the provisions of Act 778 of the 2006 Regular Session of the Louisiana Legislature.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures
Chapter 12. Requests for Review of Environmental Conditions

§1201. Applicability and Scope

A. This Chapter applies to reviews by the department of reports of environmental conditions at specified tracts of immovable property when such reports from site investigations are not required or requested by the administrative authority.

B. Nothing herein shall be construed to diminish the responsibility of any person (e.g., owner, operator, employee, agent, contractor, or assign) having knowledge of the presence at any site of any hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant, to notify the department pursuant to LAC 33:I.Chapter 39. If additional information becomes available to indicate that the source of the release is a current discharge or a discharge that should have been reported, enforcement action may be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 20:2001, et seq., and specifically 2011(D)(25).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007).

§1203. Procedure for Submittal of Request

A. All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial \$1500 minimum fee. All payments shall be made by check, draft, or money order payable to the Department of Environmental Quality.

B. Contents of Request. An applicant requesting a review of environmental conditions for specific immovable property shall furnish the following information:

1. the agency interest number or a completed agency interest form from the department identifying the facility/agency interest;
2. the area of investigation, if different from the facility/agency interest location;
3. the basis for the request;
4. the purpose of the use of the property and the date-range of the use;
5. a brief description of activities that occurred on the property;
6. the future intended use of the property;
7. the types and results of investigations that have occurred, including the following information:
 - a. report dates;
 - b. the media investigated;
 - c. the constituents of concern (COC);
 - d. the maximum remaining concentration of the COC; and
 - e. the limiting RECAP standards for the COC;

8. any remedial standards previously developed for the property;

9. any remedial actions taken for the property; and

10. any other information requested by the administrative authority.

C. An applicant shall submit the request for review, in accordance with the requirements of Subsection B of this Section, in triplicate, with the initial minimum fee in Subsection A of this Section, to the administrator of the Office of Environmental Assessment, Remediation Services Division.

D. The administrative authority will issue the result of the review to the owner/operator of the facility and to the person requesting the review.

E. The administrative authority shall keep an accounting of time spent by the department civil service employee processing the review request. Every hour or portion thereof that the department civil service employee works processing the request shall be multiplied by the maximum per-hour overtime salary, including associated related benefits, of the department civil service employee who performed the work. If this amount exceeds the initial minimum fee charged pursuant to R.S. 30:2011(D)(25) and Subsection A of this Section, an additional fee shall be charged for the amount exceeding the initial minimum fee.

1. An invoice for the additional fee shall be transmitted to the person requesting the review after the review is complete.

2. Failure to pay the additional fee by the due date specified on the invoice will constitute a violation of these regulations and shall subject the person requesting the review to relevant enforcement action under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 20:2001, et seq., and specifically 2011(D)(25).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007).

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0703#019

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Miscellaneous Corrections
(LAC 33:XV.322, 399, and 607)(RP043ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.322, 399.Schedule B, and 607 (Log #RP043ft).

This proposed rule is identical to federal regulations found in 10 CFR 31.5, and SSRCR, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule;

therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will update the state radiation protection regulations to more closely reflect federal language. LAC 33:XV.322 is being updated to meet a compatibility designation under the agreement state programs. A footnote in Schedule B of LAC 33:XV.399 was inadvertently left out in previous rulemaking and is being corrected in this rule. LAC 33:XV.607 is being updated to more closely reflect current instrumentation used in intraoral dental radiographic systems. The reference to an "open ended" PID (position-indicating device) is removed. The Conference of Radiation Control Program Directors (CRCPD) removed this requirement from the Suggested State Regulations in 1984. The basis and rationale for this rule are to mirror federal regulations and to correct language in the radiation regulations to reflect current practices pertaining to instrumentation used in intraoral dental radiographic systems.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

Subchapter C. General Licenses

§322. General Licenses: Radioactive Material Other Than Source Material

A. - D.3.f. ...

g. except as provided in Subparagraph D.3.h of this Section, transfer or dispose of the device containing radioactive material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and, within 30 days after transfer of a device to a specific licensee, except when the device is transferred to the specific licensee in order to obtain a replacement device, shall furnish to the Office of Environmental Compliance, Emergency and Radiological Services Division, a report containing:

i. identification of the device by the manufacturer's name, model number, and serial number, or by the initial transferor's name;

ii. the name, address, and license number of the person receiving the device; and

iii. the date of the transfer;

h. ...

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and, within 30 days of the transfer, report to the Office of Environmental Compliance, Emergency and Radiological Services Division, the manufacturer's (or the initial transferor's) name; the model number and serial number of the device transferred; the name, mailing address for the location of use, and license

number of the transferee; the date of the transfer; and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

h.ii. - n. ...

4. The general license in LAC 33:XV.322.D.1 does not authorize the manufacture or import of devices containing radioactive material.

D.5. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May 2006), LR 33:448 (March 2007).

Subchapter Z. Appendices

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

Schedule A. - Schedule B. ...

Footnotes to Schedule B

Note 1: For purposes of subdivision where a combination of radionuclides is involved, the limit for the combination shall be derived as follows: For each radionuclide, determine the amount possessed, and 1,000 times the amount given in Schedule B for that radionuclide. The sum of the ratios of these two quantities, for all the combinations involved, may not exceed 1.

Example:

$$\frac{\text{Amt. of Radionuclide A possessed}}{1000 \times \text{Schedule B quantity for Radionuclide A}} + \frac{\text{Amt. of Radionuclide B possessed}}{1000 \times \text{Schedule B quantity for Radionuclide B}} \leq 1$$

Note 2: To convert microcuries (μCi) to SI units of kilobecquerels (kBq), multiply the values given in Schedule B by 37.

Example:

$$\text{Zirconium-97 } (10 \mu\text{Ci} \times 37 = 370 \text{ kBq})$$

Appendix A. - Appendix F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007).

Chapter 6. X-Rays in the Healing Arts

§607. Intraoral Dental Radiographic Systems

A. - A.2.a. ...

b. a shielded PID (position-indicating device) shall be used. The shielding shall be equivalent to the requirements of LAC 33:XV.604.A.3; and

2.c. - 8.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:449 (March 2007).

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0703#020

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Remediation of Sites with Contaminated Media
(LAC 33:V.105, 106, 199, and 5147)(HW092)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105, 106, 199, and 5147 (Log #HW092).

This rule implements Act 778 of the 2006 Regular Session of the Louisiana Legislature and the provisions of Emergency Rule HW084E10, which was published in the *Louisiana Register* on November 20, 2006. The Rule provides an evaluation process to manage listed hazardous waste based on risk for sites that are contaminated and require remediation. Act 778 authorizes a new fee for this evaluation. One of the most significant impediments to progress in the RCRA corrective action program has been the high cost of remediation waste management. Consequently, EPA has devoted much attention to management of remediation wastes and instituted a number of changes to the corrective action program that are designed to tailor management requirements to the risks posed by the wastes. Current regulation causes contaminated environmental media to retain the description of having RCRA-listed waste "contained-in," therefore complicating and impeding the remediation of the site or possibly halting it completely due to administration and disposal issues. This Rule will remove a regulatory hurdle that deters site remediation by promulgating the guidance the Environmental Protection Agency (EPA) has recommended. The Rule will also result in simplification of the waste handling process by reducing administrative requirements and providing greater consistency with non-RCRA waste handling requirements and practices. This will provide strong motivation to initiate and accelerate voluntary remediation of contaminated sites without increasing risks to human health or the environment. The basis and rationale for this Rule are to initiate and promote voluntary remediation

of contaminated sites without increasing risks to human health or the environment.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - O.2.c.vi. ...

P. Criteria for Hazardous Waste Being Managed Within an Area of Contamination. An area of contamination (AOC) is a discrete area of generally dispersed contamination, the designation of which has been approved by the administrative authority. Under certain conditions, environmental media impacted with hazardous waste may be moved within an AOC without triggering land disposal restrictions or minimum technology requirements. This approach encourages and expedites remedial actions where hazardous waste releases have occurred.

1. Any person who proposes to manage contaminated media within an AOC must submit the definition of the project's AOC to the Office of Environmental Assessment. Approval from the administrative authority concerning the extent of the AOC must occur prior to movement of contaminated media. In general the AOC should be consistent with the area impacted by the release

2. Use of an AOC to manage hazardous waste may be appropriate where the additional flexibility of a corrective action management unit pursuant to LAC 33:V.Chapter 26 is not needed. Movement and consolidation of contaminated media, treating contaminated media *in situ*, or leaving contaminated media in place in a single area or engineered unit within an AOC will not trigger the hazardous waste land disposal restrictions or minimum technology requirements of LAC 33:V.Subpart 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR

16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007).

§106. Hazardous Waste Determination for Contaminated Media

A. Except as otherwise provided in this Section, environmental media that contain hazardous waste subject to regulation under LAC 33:V.4901 or LAC 33:V.4903, shall be managed as hazardous waste. An environmental medium (soil/sediment, surface water, or groundwater) no longer contains a hazardous waste when:

1. the concentration of the hazardous constituent that serves as the basis for the waste being listed as hazardous (as defined in LAC 33:V.109 or as determined by the department on a case-by-case basis, e.g., creosote) remaining in the medium meets the appropriate standards described in this Section; and

2. the medium no longer exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903. Land disposal treatment standards (LAC 33:V.2299) shall continue to apply to contaminated environmental media that are treated and then determined to no longer contain hazardous waste. Contaminated environmental media determined not to contain any hazardous waste prior to treatment are not subject to any RCRA Subtitle C requirement, including the standards in LAC 33:V.2299.

B. Nonhazardous Environmental Medium (NHEM) Determination

1. Upon written request, the department may make a site-specific determination that an environmental medium contaminated with a listed hazardous waste at a concentration of the hazardous constituent at or below the level described in this Section no longer contains hazardous waste. Such a determination shall be known as a NHEM determination. A site-specific NHEM determination may be granted by the department contingent upon management of the environmental medium in accordance with any institutional control or other requirement described in the letter granting the request.

2. When a NHEM determination would be useful to expedite site remediation, a written request and payment of the fee in accordance with LAC 33:V.5147 may be submitted to the Office of Environmental Assessment. The request must demonstrate application of the process described in Paragraphs B.3-4 of this Section and that land disposal treatment standards are met when applicable.

3. A NHEM determination does not authorize the placement of contaminated media in, or establish remedial standards for, a particular area. Approval for placement of the contaminated medium in a specific area must be obtained from the Office of Environmental Assessment, unless it is otherwise allowed by regulation. Remedial standards for areas of contamination shall be established in accordance with the Risk Evaluation/Corrective Action Program (RECAP) as incorporated by reference in LAC 33:I.1307.

4. The identification, development, and application of the standards for media to be determined to no longer contain hazardous waste shall comply with the following process.

a. Determine the area of investigation (AOI). The AOI is a zone contiguous to and including impacted media, defined vertically and horizontally by the presence of one or more constituents in concentrations exceeding a limiting standard.

b. Identify the area of investigation concentration (AOIC). The AOIC is to be identified by the maximum detected concentration of the constituent of concern (COC) in the AOI or the upper bound estimate (e.g. upper confidence limit) of the arithmetic mean concentration of the COC.

Note: The department recommends that the upper bound estimate of the arithmetic mean concentration be identified as the concentration recommended by the *ProUCL* program, a software program available from EPA's Technical Support Center for Monitoring and Site Characterization (www.epa.gov/nerlesdl/tsc/form.htm).

c. Determine the soil standard (Soil_{NHEM}). The soil standards are presented in Table 1 of this Section. For a constituent not included in Table 1, the applicant shall calculate a value using the appropriate equation and input values from LAC 33:V.199.Appendix A. Compare the soil standard to the AOIC. If the AOIC detected for a COC does not exceed the soil standard, then a NHEM determination may be made.

d. Identify the groundwater exposure concentration (EC). The EC shall be identified as the maximum concentration of COC detected in the groundwater AOI.

e. Determine the groundwater standard (GW_{NHEM}). The groundwater standards are presented in Table 1 of this Section. If a detected groundwater constituent cannot be found in Table 1, then the maximum contaminant level (MCL), contained in the National Primary Drinking Water regulations (40 CFR Part 141), multiplied by 100 is to be used as the groundwater standard. If an MCL is not available then a groundwater standard is to be calculated in accordance with appropriate equations and input values from LAC 33:V.199.Appendix A. Compare the groundwater EC to the groundwater standard. If quantitative values for constituents are less than the limiting standards, the groundwater may qualify for a NHEM determination.

Table 1			
Soil and Groundwater Standards			
Compound	CAS #	Soil _{NHEM} (mg/kg)	GW _{NHEM} (mg/l)
Acenaphthene	83-32-9	6.1E+05	3.7E+02
Acenaphthylene	208-96-8	5.1E+05	3.7E+02
Acetone	67-64-1	1.4E+05	6.1E+02
Aldrin	309-00-2	1.3E+00	3.9E-03
Aniline	62-53-3	1.7E+03	1.2E+01
Anthracene	120-12-7	1.0E+06	1.8E+03
Antimony	7440-36-0	8.2E+03	6.0E-01
Arsenic	7440-38-2	2.7E+01	1.0E+00
Barium	7440-39-3	1.0E+06	2.0E+02
Benzene	71-43-2	3.1E+01	5.0E-01
Benz(a)anthracene	56-55-3	2.9E+01	9.1E-02
Benzo(a)pyrene	50-32-8	2.9E+00	2.0E-02
Benzo(b)fluoranthene	205-99-2	2.9E+01	9.1E-02
Benzo(k)fluoranthene	207-08-9	2.9E+02	9.1E-01
Beryllium	7440-41-7	4.1E+04	4.0E-01
Biphenyl,1,1-	92-52-4	4.4E+05	3.0E+02
Bis(2-chloroethyl)ether	111-44-4	1.1E+01	9.6E-03
Bis(2-chloroisopropyl)ether	108-60-1	1.7E+02	2.7E-01
Bis(2-ethyl-hexyl)phthalate	117-81-7	1.7E+03	6.0E-01
Bromodichloromethane	75-27-4	4.2E+01	1.0E+01
Bromoform	75-25-2	1.8E+03	1.0E+01
Bromomethane	74-83-9	3.0E+02	8.7E+00
Butyl benzyl phthalate	85-68-7	1.0E+06	7.3E+03
Cadmium	7440-43-9	1.0E+04	5.0E-01
Carbon Disulfide	75-15-0	2.5E+04	1.0E+03
Carbon Tetrachloride	56-23-5	1.1E+01	5.0E-01
Chlordane	57-74-9	1.0E+02	2.0E-01
Chloroaniline,p-	106-47-8	1.7E+04	1.5E+02
Chlorobenzene	108-90-7	1.2E+04	1.0E+01
Chlorodibromomethane	124-48-1	5.4E+01	1.0E+01
Chloroethane (Ethylchloride)	75-00-3	8.2E+01	3.8E+00
Chloroform	67-66-3	1.2E+01	1.0E+01
Chloromethane	74-87-3	7.3E+01	1.5E+00
Chloronaphthalene,2-	91-58-7	8.3E+05	4.9E+02
Chlorophenol,2-	95-57-8	1.4E+04	3.0E+01
Chromium(III)	16065-83-1	1.0E+06	1.0E+01
Chromium(VI)	18540-29-97	6.1E+04	1.0E+01
Chrysene	218-01-9	2.9E+03	9.1E+00
Cobalt	7440-48-4	1.0E+06	2.2E+03
Copper	7440-50-8	8.2E+05	1.3E+02
Cyanide (free)	57-12-5	3.6E+05	2.0E+01
DDD	72-54-8	1.6E+02	2.8E-01
DDE	72-55-9	1.1E+02	2.0E-01
DDT	50-29-3	1.2E+02	2.0E-01
Dibenz(a,h)anthracene	53-70-3	2.9E+00	9.1E-03
Dibenzofuran	132-64-9	6.5E+04	2.4E+01
Dibromo-3-chloropropane,1,2-	96-12-8	1.8E+01	2.0E-02
Dichlorobenzene,1,2-	95-50-1	7.4E+04	6.0E+01
Dichlorobenzene,1,3-	541-73-1	1.8E+03	5.5E+00
Dichlorobenzene,1,4-	106-46-7	1.6E+02	7.5E+00
Dichlorobenzidine,3,3-	91-94-1	4.2E+01	1.5E-01
Dichloroethane,1,1-	75-34-3	4.7E+04	8.1E+02
Dichloroethane,1,2-	107-06-2	1.8E+01	5.0E-01
Dichloroethene,1,1-	75-35-4	9.1E+03	7.0E-01
Dichloroethene,cis,1,2-	156-59-2	3.4E+03	7.0E+00
Dichloroethene,trans,1,2-	156-60-5	4.8E+03	1.0E+01
Dichlorophenol,2,4-	120-83-2	2.0E+04	1.1E+02
Dichloropropane,1,2-	78-87-5	1.8E+01	5.0E-01
Dichloropropene,1,3-	542-75-6	1.0E+02	3.9E-01
Dieldrin	60-57-1	1.5E+00	4.1E-03
Diethylphthalate	84-66-2	1.0E+06	2.9E+04
Dimethylphenol,2,4-	105-67-9	1.1E+05	7.3E+02
Dimethylphthalate	131-11-3	1.0E+06	3.7E+05
Di-n-octylphthalate	117-84-0	3.5E+05	1.5E+03
Dinitrobenzene,1,3-	99-65-0	5.0E+02	3.7E+00

Table 1 Soil and Groundwater Standards			
Compound	CAS #	Soil _{NHEM} (mg/kg)	GW _{NHEM} (mg/l)
Dinitrophenol,2,4-	51-28-5	6.9E+03	7.3E+01
Dinitrotoluene,2,6-	606-20-2	4.6E+03	3.7E+01
Dinitrotoluene,2,4-	121-14-2	9.8E+03	7.3E+01
Dinoseb	88-85-7	5.4E+03	7.0E-01
Endosulfan	115-29-7	4.5E+04	2.2E+02
Endrin	72-20-8	2.5E+03	2.0E-01
Ethyl benzene	100-41-4	1.3E+05	7.0E+01
Fluoranthene	206-44-0	2.9E+05	1.5E+03
Fluorene	86-73-7	5.4E+05	2.4E+02
Heptachlor	76-44-8	3.5E-01	4.0E-02
Heptachlor epoxide	1024-57-3	2.6E+00	2.0E-02
Hexachlorobenzene	118-74-1	2.0E+01	1.0E-01
Hexachlorobutadiene	87-68-3	1.6E+02	8.5E-01
Hexachlorocyclohexane,alpha	319-84-6	4.4E+00	1.1E-02
Hexachlorocyclohexane,beta	319-85-7	1.6E+01	3.7E-02
Hexachlorocyclohexane,gamma	58-89-9	2.0E+01	2.0E-02
Hexachlorocyclopentadiene	77-47-4	9.4E+02	5.0E+00
Hexachloroethane	67-72-1	1.4E+03	7.9E-01
Indeno(1,2,3-cd)pyrene	193-39-5	2.9E+01	9.1E-02
Isobutyl alcohol	78-83-1	6.2E+05	1.1E+04
Isophorone	78-59-1	1.1E+04	7.0E+01
Lead (inorganic)	7439-92-1	3.4E+04	1.5E+00
Mercury (inorganic)	7487-94-7	6.1E+03	2.0E-01
Methoxychlor	72-43-5	4.3E+04	4.0E+00
Methylene chloride	75-09-2	4.4E+02	5.0E-01
Methyl ethyl ketone	78-93-3	4.4E+05	1.9E+03
Methyl isobutyl ketone	108-10-1	6.3E+05	2.0E+03
Methylnaphthalene,2-	91-57-6	1.7E+04	6.2E+00
MTBE (methyl tert-butyl ether)	1634-04-4	4.7E+05	2.0E+00
Naphthalene	91-20-3	4.3E+03	6.2E+00
Nickel	7440-02-0	4.1E+05	7.3E+02
Nitrate	14797-55-8	1.0E+06	1.0E+03
Nitrite	14797-65-0	1.0E+06	1.0E+02
Nitroaniline,2-	88-74-4	5.2E+01	2.1E-01
Nitroaniline,3-	99-09-2	1.4E+04	1.8E+01
Nitroaniline,4-	100-01-6	1.0E+04	1.1E+02
Nitrobenzene	98-95-3	2.5E+03	3.4E+00
Nitrophenol,4-	100-02-7	3.3E+04	2.9E+02
Nitrosodi-n-propylamine,n-	621-64-7	1.4E+00	9.5E-03
N-nitrosodiphenylamine	86-30-6	4.0E+03	1.4E+01
Pentachlorophenol	87-86-5	9.7E+01	1.0E-01
Phenanthrene	85-01-8	1.0E+06	1.8E+03
Phenol	108-95-2	1.0E+06	1.8E+03
Polychlorinated biphenyls	1336-36-3	9.0E+00	5.0E-02
Pyrene	129-00-0	5.6E+05	1.8E+02
Selenium	7782-49-2	1.0E+05	5.0E+00
Silver	7440-22-4	1.0E+05	1.8E+02
Styrene	100-42-5	4.3E+05	1.0E+01
Tetrachlorobenzene,1,2,4,5-	95-94-3	1.2E+03	1.1E+01
Tetrachloroethane,1,1,1,2-	630-20-6	5.9E+01	4.3E-01
Tetrachloroethane,1,1,2,2-	79-34-5	2.0E+01	5.5E-02
Tetrachloroethylene	127-18-4	3.5E+02	5.0E-01
Tetrachlorophenol,2,3,4,6-	58-90-2	1.7E+05	1.1E+03
Thallium	7440-28-0	1.4E+03	2.0E-01
Toluene	108-88-3	4.7E+04	1.0E+02
Toxaphene	8001-35-2	2.2E+01	3.0E-01
Trichlorobenzene,1,2,4-	120-82-1	1.2E+05	7.0E+00
Trichloroethane,1,1,1-	71-55-6	7.0E+04	2.0E+01
Trichloroethane,1,1,2-	79-00-5	4.3E+01	5.0E-01
Trichloroethene	79-01-6	2.1E+00	5.0E-01
Trichlorofluoromethane	75-69-4	2.6E+04	1.3E+03
Trichlorophenol,2,4,5-	95-95-4	6.6E+05	3.7E+03
Trichlorophenol,2,4,6-	88-06-2	1.7E+03	6.0E+00
Vanadium	7440-62-2	1.4E+05	2.6E+02
Vinyl chloride	75-01-4	7.9E+00	2.0E-01
Xylene(mixed)	1330-20-7	1.2E+04	1.0E+03
Zinc	7440-66-6	1.0E+06	1.1E+04
Aliphatics C6-C8	NA	1.0E+04	3.2E+04

Table 1 Soil and Groundwater Standards			
Compound	CAS #	Soil _{NHEM} (mg/kg)	GW _{NHEM} (mg/l)
Aliphatics >C8-C10	NA	1.0E+04	1.3E+03
Aliphatics >C10-C12	NA	1.0E+04	1.4E+03
Aliphatics >C12-C16	NA	1.0E+04	1.4E+03
Aliphatics >C16-C35	NA	1.0E+04	7.3E+04
Aromatics >C8-C10	NA	1.0E+04	3.4E+02
Aromatics >C10-C12	NA	1.0E+04	3.4E+02
Aromatics >C12-C16	NA	1.0E+04	3.4E+02
Aromatics >C16-C21	NA	1.0E+04	1.1E+03
Aromatics >C21-C35	NA	1.0E+04	1.1E+03
TPH-GRO (C6-C10)	NA	1.0E+04	3.4E+02
TPH-DRO (C10-C28)	NA	1.0E+04	3.4E+02
TPH-ORO (>C28)	NA	1.0E+04	1.1E+03

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. and, in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:450 (March 2007).

§199. Appendix A—Equations for the Development of Soil and Groundwater Standards

Soil_{NHEM}—Carcinogenic Effects—Organic Constituents (mg/kg):

(EQ1)

$$EF_i \times ED_i \times \left(\frac{TR \times BW_a \times AT_c \times 365 \text{ days / yr}}{SF_o \times 10^{-6} \frac{\text{kg}}{\text{mg}} \times IRS_i} \right) + \left(\frac{SF_i \times IRA_a \times \left(\frac{1}{VF_i} \right)}{SF_o \times SA_i \times AF_i \times ABS \times 10^{-6} \frac{\text{kg}}{\text{mg}}} \right)$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ⁻⁵
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
SF _i	Inhalation cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _c	Averaging time - carcinogens (yr)	70 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
IRA _a	Adult inhalation rate (m ³ /day)	20 ^c
VF _i	Industrial soil-to-air volatilization factor (m ³ /kg)	CS ^d
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^c

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b *Soil Screening Guidance: User's Guide*, EPA 1996.

^c *Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment)*, EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

Soil_{NHEM}—Carcinogenic Effects—Inorganic Constituents (mg/kg):

(EQ2)

$$EF_i \times ED_i \times \left[\left(SF_o \times 10^{-6} \frac{kg}{mg} \times IRS_i \right) + \left(SF_o \times SA_i \times AF_i \times ABS \times 10^{-6} \frac{kg}{mg} \right) \right]$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ⁻⁵
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^b
BW _a	Average adult body weight (kg)	70 ^b
AT _c	Averaging time - carcinogens (yr)	70 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^d

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b *Soil Screening Guidance: User's Guide*, EPA 1996.

^c *Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment)*, EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

Soil_{NHEM}—Noncarcinogenic Effects—Organic Constituents (mg/kg):

(EQ3)

$$ED_i \times EF_i \times \left[\left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{kg}{mg} \times IRS_i \right) + \left(\left(\frac{1}{RfD_i} \right) \times IRA_a \times \left(\frac{1}{VF_i} \right) \right) + \left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{kg}{mg} \times SA_i \times AF_i \times ABS \right) \right]$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
THQ	Target hazard quotient (unitless)	10
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
RfD _i	Inhalation reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{ni}	Averaging time - noncarcinogens, industrial (yr)	25 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
IRA _a	Adult inhalation rate (m ³ /day)	20 ^c
VF _i	Industrial soil-to-air volatilization factor (m ³ /kg)	CS ^d

Parameter	Definition (units)	Input Value
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^c

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b *Soil Screening Guidance: User's Guide*, EPA 1996.

^c *Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment)*, EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

Soil_{NHEM}—Noncarcinogenic Effects—Inorganic Constituents (mg/kg):

(EQ4)

$$ED_i \times EF_i \times \left[\left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{kg}{mg} \times IRS_i \right) + \left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{kg}{mg} \times SA_i \times AF_i \times ABS \right) \right]$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
THQ	Target hazard quotient (unitless)	10
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{ni}	Averaging time - noncarcinogens, industrial (yr)	70 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^d

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b *Soil Screening Guidance: User's Guide*, EPA 1996.

^c *Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment)*, EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

VF_i—Volatilization Factor—Organic Constituents (m³/kg):

(EQ5)

$$\frac{(Q/C) \times (3.14 \times D_A \times T)^{1/2} \times 10^{-4} (m^2/cm^2)}{(2 \times \rho_b \times D_A)}$$

where:

(EQ6)

$$D_A(cm^2/s) = \frac{[(\theta_a^{10/3} \times D_i \times H' + \theta_w^{10/3} \times D_w) / n^2]}{\rho_b \times K_d + \theta_w + \theta_a \times H'}$$

Parameter	Definition (units)	Input Value
VF _i	Industrial soil-to-air volatilization factor (m ³ /kg)	--
D _A	Apparent diffusivity (cm ² /s)	--
Q/C	Inverse of the mean concentration at the center of source (g/m ³ -s per kg/m ³)	79.25
T	Exposure interval – industrial (s)	7.9E+08 ^a
ρ _b	Dry soil bulk density (g/cm ³)	1.7 ^b
θ _a	Air-filled soil porosity (L _{air} /L _{soil})	n-θ _w
n	Total soil porosity (L _{pore} /L _{soil})	1 - (ρ _b /ρ _s) ^b
θ _w	Water-filled soil porosity (L _{water} /L _{soil})	0.21 ^b
ρ _s	Soil particle density (g/cm ³)	2.65 ^b
D _i	Diffusivity in air (cm ² /s)	CS ^c
H'	Henry's Law Constant (dimensionless)	CS ^{c,d}
D _w	Diffusivity in water (cm ² /s)	CS ^c
K _d	Soil-water partition coefficient (cm ³ /g) = K _{oc} × f _{oc}	CS ^c
K _{oc}	Soil organic carbon partition coefficient (cm ³ /g)	CS ^c
f _{oc}	Fractional organic carbon in soil (g/g) = percent organic matter/174 (ASTM 2974)	0.006 ^b

^a Soil Screening Guidance: User's Guide, EPA 1996.

^b LDEQ default value.

^c Chemical-specific.

^d H' = H × 41 where: H = Henry's Law Constant (atm-m³/mol); R = Universal Law Constant (0.0000821 atm-m³/mole-K); and T = Absolute temperature of soil (K) [273 + °C (25 °C)].

Constituent	ABS (unitless)
Arsenic	0.03
Cadmium	0.001
Chlordane	0.04
2,4-D	0.05
DDT	0.03
Gamma-hexachlorocyclohexane	0.04
TCDD	0.03
Pentachlorophenol	0.25
Polychlorinated biphenyls	0.14
Polycyclic aromatic hydrocarbons	0.13
Other semivolatile organic constituents	0.10
Other inorganic constituents (metals)	0
Volatile constituents	0

¹ Risk Assessment Guidance for Superfund Volume I: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), Interim Guidance. EPA 2004. EPA/540/R-99/005.

GW_{NHEM}—Carcinogenic Effects—Volatile Constituents (mg/l):

(EQ7)

$$\frac{TR \times AT_c \times 365 \text{ days / yr}}{EF_{ni} \times [(SF_i \times K_w \times IRA_{adj}) + (SF_o \times IRW_{adj})]} \times DDF$$

Parameter	Definition (units)	Input Value
GW _{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ⁻⁵
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
SF _i	Inhalation cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
AT _c	Averaging time - carcinogens (yr)	70 ^b
EF _{ni}	Industrial exposure frequency (days/yr)	350 ^b
IRW _{adj}	Age-adjusted water ingestion rate (L-yr/kg-day)	1.1 ^b
IRA _{adj}	Age-adjusted inhalation rate (m ³ -yr/kg-day)	11 ^b
K _w	Water-to-indoor air volatilization factor (L/m ³)	0.5 ^{c,d}
DF	Dilution and Attenuation Factor (unitless)	100 ^c

^a Chemical-specific: refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remedial Goals), EPA 1991.

^d The water-air concentration relationship represented by the volatilization factor (K_w) is applicable only to chemicals with a Henry's Law Constant of greater than 1E-05 atm-m³/mole and a molecular weight of less than 200 g/mole.

GW_{NHEM}—Noncarcinogenic Effects—Volatile Constituents (mg/l):

(EQ8)

$$\frac{THQ \times BW_a \times AT_{ni} \times 365 \text{ days / yr}}{EF_{ni} \times ED_{ni} \times \left[\left(\frac{1}{RfD_i} \times K_w \times IRA_a \right) + \left(\frac{1}{RfD_o} \times IRW_a \right) \right]} \times DDF$$

Parameter	Definition (units)	Input Value
GW _{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
THQ	Target hazard quotient (unitless)	10
RfD _i	Inhalation reference dose (mg/kg-day)	CS ^a
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{ni}	Averaging time - noncarcinogens, non-industrial (yr)	30 ^b
EF _{ni}	Non-industrial exposure frequency (days/yr)	350 ^b
ED _{ni}	Industrial exposure duration (yr)	30 ^b
IRW _a	Adult water ingestion rate (L/day)	20 ^b
IRA _a	Adult inhalation rate (m ³ /day)	20 ^b
K _w	Water-to-indoor air volatilization factor (L/m ³)	0.5 ^{c,d}
DF	Dilution Factor (unitless)	100

^a Chemical-specific: refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remedial Goals), EPA 1991.

^d The water-air concentration relationship represented by the volatilization factor (K_w) is applicable only to chemicals with a Henry's Law Constant of greater than $1E-05 \text{ atm}\cdot\text{m}^3/\text{mole}$ and a molecular weight of less than 200 g/mole.

GW_{NHEM} —Carcinogenic Effects—Non-Volatile Constituents (mg/l):

$$(EQ9)$$

$$\frac{TR \times AT_c \times 365 \text{ days} / \text{yr}}{EF_{ni} \times (SF_o \times IRW_{adj})} \times DF$$

Parameter	Definition (units)	Input Value
GW_{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
TR	Target excess individual lifetime cancer risk (unitless)	^{-5 a} 10
SF_o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	^b CS
AT_c	Averaging time - carcinogens (yr)	^a 70
EF_{ni}	Non-industrial exposure frequency (days/yr)	^a 350
IRW_{adj}	Age-adjusted water ingestion rate (L-yr/kg-day)	^a 1.1
DF	Dilution Factor (unitless)	100

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

GW_{NHEM} —Noncarcinogenic Effects—Non-Volatile Constituents (mg/l):

$$(EQ10)$$

$$\frac{THQ \times BW_a \times AT_{nni} \times 365 \text{ days} / \text{yr}}{EF_{ni} \times ED_{ni} \times (1 / RfD_o \times IRW_a)} \times DF$$

Parameter	Definition (units)	Input Value
GW_{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
THQ	Target hazard quotient (unitless)	10
RfD_o	Oral reference dose (mg/kg-day)	^a CS
BW_a	Average adult body weight (kg)	^b 70
AT_{nni}	Averaging time - noncarcinogens, non-industrial (yr)	^b 30
EF_{ni}	Non-industrial exposure frequency (days/yr)	^b 350
ED_{ni}	Non-industrial exposure duration (yr)	^b 30
IRW_a	Adult water ingestion rate (L/day)	^b 2
DF	Dilution Factor (unitless)	100

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. and, in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:452 (March 2007).

Chapter 51. Fee Schedules

§5147. Fee for NHEM Determination for Contaminated Environmental Media

A. A fee of \$3,000 shall be submitted at the time a request for a review of contaminated environmental media for a NHEM determination is made in accordance with LAC 33:V.106.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. and, in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:0000 (March 2007).

Herman Robinson, CPM
Executive Counsel

0703#018

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Wetlands Assimilation
(LAC 33:IX.1105, 1109, and 1113)(WQ068)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1105, 1109, and 1113 (Log #WQ068).

The rule amends the water quality standards in LAC 33:IX.Chapter 11 to protect wetland areas that may receive treated wastewater effluent. Definitions, which include classifications of wetlands types, and biological criteria for wetlands to receive treated and disinfected sanitary effluent are included in the rule. The current description of "biological and aquatic community integrity" is amended to include plants as indicative of the aquatic community in the case of wetlands. The rule cites procedures in the department's current Water Quality Management Plan that further outline the implementation process. Subsidence in wetlands in southern Louisiana has been caused by a combination of impoundment by artificial levees and flood control drainage. These features have essentially stopped the inflow of water and natural soil building materials into the wetlands that would normally be present during spring flooding events. Extensive scientific studies (including use attainability analyses) conducted over the past ten years or more on wetland sites in southern Louisiana have demonstrated that controlled discharges of treated municipal wastewater to these wetlands helps to control subsidence and increases wetland productivity. The basis and rationale for this rule are to establish protective wetlands criteria and designated uses for wetlands that may receive treated wastewater inflow.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is

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

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 1. Water Pollution Control
Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

Bottomland Hardwood Swamps—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal conditions do support, bottomland hardwood vegetation. These ecosystems are commonly found wherever streams or rivers occasionally cause flooding beyond their channel confines. They are deciduous forested wetlands, made up of different species of gum (*Nyssa* spp.), oak (*Quercus* spp.), dwarf palmetto (*Sabal minor*), and bald cypress (*Taxodium distichum*), and other species. These swamps cannot tolerate continuous flooding; typically areas are flooded two to six months per year.

Brackish Marshes—those areas inundated or saturated by surface water or groundwater of moderate salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, brackish emergent vegetation. Typical vegetation includes bulltongue (*Sagittaria* spp.), wild millet (*Echinochloa walteri*), bullwhip (*Scirpus californicus*), sawgrass (*Cladium jamaicense*), wiregrass (*Spartina patens*), three-cornered grass (*Scirpus olneyi*), and widgeongrass (*Ruppia maritima*). *Brackish marshes* are also characterized by interstitial water salinity that normally ranges between 3 and 15 parts per thousand (ppt) or practical salinity units (psu).

* * *

Cypress-Tupelo Swamps—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, cypress-tupelo vegetation. Typical vegetation includes water tupelo (*Nyssa sylvatica* var. *aquatica*), bald cypress (*Taxodium distichum*), red maple (*Acer rubrum*), buttonbush (*Cephalanthus occidentalis*), and common wax myrtle (*Myrica cerifera*). *Cypress-tupelo swamps* can tolerate continuously flooded conditions and are divided into two subtypes: continuously flooded and seasonally flooded. Continuously flooded swamps are those areas that have standing water present all year round. They range from forests with a closed canopy to open canopy conditions with understory freshwater emergent wetland vegetation. Seasonally flooded swamps are those areas that are typically flooded for more than six months per year. They typically have a closed canopy that limits understory vegetation.

* * *

Forested Wetlands—a category of wetlands that includes *bottomland hardwood swamps*, *cypress-tupelo swamps*, and *oligotrophic seasonally flooded pine forests* as defined in this Section.

* * *

Freshwater Emergent Wetlands (including *freshwater marshes*)—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, freshwater emergent vegetation. Typical vegetation includes cattail (*Typha angustifolia*), bulltongue (*Sagittaria* spp.), maiden cane (*Panicum hemitomon*), water hyacinth (*Eichornia crassipes*), pickerelweed (*Pontederia cordata*), alligatorweed (*Alternanthera philoxeroides*), and *Hydrocotyl* spp. *Freshwater emergent wetlands* also are characterized by interstitial water salinity that is normally less than 2 ppt or psu. There are two subtypes of *freshwater emergent wetlands*: floating and attached. Floating wetlands are those areas where the wetland surface substrate is detached and is floating above the underlying deltaic plain (also called "buoyant" and "flotant"). Attached wetlands are those areas where the vegetation is attached to the wetland surface and is contiguous with the underlying wetland substrate and can be submerged or emergent.

Freshwater Swamps and Marshes—Repealed.

Intermediate Marshes—Repealed.

* * *

Non-Forested Wetlands—a category of wetlands that includes *freshwater emergent wetlands*, *brackish marshes*, and *salt (saline) marshes* as defined in this Section.

* * *

Oligotrophic Seasonally Flooded Pine Forests—palustrine, seasonally saturated pine communities on hydric soils that may become quite dry for part of the year and generally occur in flat or nearly flat areas not associated with a river or stream system. They are usually dominated by loblolly pine (*Pinus taeda*). These pine forests are seasonally flooded and receive very low nutrient inputs. Because of their oligotrophic nature, these forests are characterized by unique understory vegetation communities that may include insectivorous plants.

* * *

Saline Marshes—Repealed.

Salt (Saline) Marshes—those areas that are inundated or saturated by surface water or groundwater of salinity characteristic of nearshore Gulf of Mexico ambient water at a frequency and duration sufficient to support, and that under normal circumstances do support, saline emergent vegetation. Typical vegetation includes oystergrass (*Spartina alterniflora*), glasswort (*Salicornia* spp.), black rush (*Juncus roemerianus*), saltwort (*Batis maritima*), black mangrove (*Avicennia germinans*), and salt grass (*Distichlis spicata*). *Salt marshes* are also characterized by interstitial water salinity that normally exceeds 16 ppt or psu.

* * *

Wetlands—those areas that have one or more of the following attributes: support hydrophytic (water tolerant) vegetation during most of the year; contain predominately undrained hydric (water saturated) soils; and/or are periodically inundated or saturated by surface water or groundwater.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007).

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

A. - B.3.f. ...

C. Water Body Exception Categories. Some water bodies, because of natural water quality or physical limitations, may qualify for an excepted use classification. This classification will be made on a case-by-case basis. Whenever data indicate that an excepted classification is warranted, the department will recommend the exception to the administrative authority for approval. In all cases where exceptions are proposed, the concurrence of the regional administrator of the EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. In most cases, the proposed exception will be considered during the public participation process along with a permit application or management plan update. Exceptions are allowed for the following three categories of water bodies: certain intermittent streams, man-made water bodies, and naturally dystrophic waters. Requests for excepted water use classifications may be considered for certain water bodies that satisfy one of the following descriptions.

C.1. - I.4. ...

J. Wetlands

1. *Wetlands*, as defined in LAC 33:IX.1105, are a valuable resource to the state of Louisiana. Because of the state's natural low elevations, extensive riverine and riparian environments, and the presence of the Mississippi River delta, Louisiana has a large and diverse amount of wetland habitat. Specific values of Louisiana wetlands include commercial, recreational, and cultural uses. In addition, Louisiana wetlands provide important biological and physiochemical functions that include, but are not limited to, buffering against hurricanes and storms, holding excess floodwaters during high rainfall or high tides, recharging groundwater aquifers used for drinking water and irrigation, and improving water quality by filtering pollutants and taking up nutrients.

2. There are two basic types of Louisiana wetlands: forested wetlands and non-forested, or marsh, wetlands. Forested wetlands include bottomland hardwood swamps, continuously flooded cypress-tupelo swamps, seasonally flooded cypress-tupelo swamps, and oligotrophic seasonally flooded pine forests. Non-forested or marsh wetlands include floating freshwater emergent wetlands, attached freshwater emergent wetlands, brackish marshes, and salt (saline) marshes. Each of these wetland types are defined in LAC 33:IX.1105.

3. Wetlands approved by the administrative authority for wastewater assimilation projects pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards, are assigned the following designated uses: secondary contact recreation and fish and wildlife propagation.

4. Applicable Criteria. Wetlands provide several values and functions that necessitate water quality criteria protective primarily of vegetative productivity. Additionally, wetlands can periodically become anoxic or anaerobic, or lack water altogether. Therefore, the following criteria are applicable to wetlands approved by the administrative authority for wastewater assimilation projects pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

a. A numerical dissolved oxygen criterion is not necessary to protect the beneficial use of fish and wildlife propagation.

b. The general criteria found in LAC 33:IX.1113.B, except for LAC 33:IX.1113.B.3 and 9, apply.

c. Numerical criteria found in LAC 33:IX.1113.C.4, 5.b, and 6 apply.

d. The biological criteria found in LAC 33:IX.1113.B.12.b apply.

e. Additional or site-specific criteria may be necessary to protect other existing or beneficial uses identified by the administrative authority.

5. A wastewater discharge may be proposed for a wetland of any defined type only if the discharge will not cause impairment of the wetland or exceedance of applicable general or site-specific criteria.

6. Discharges to wetlands approved by the administrative authority for wastewater assimilation projects will only be permitted following procedures pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:966 (October 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2546 (November 2000), LR 29:557 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007).

§1113. Criteria

A. - B.11. ...

12. Biological and Aquatic Community Integrity

a. The biological and community structure and function in state waters shall be maintained, protected, and restored except where not attainable and feasible as defined in LAC 33:IX.1109. This is the ideal condition of the aquatic community inhabiting the unimpaired water bodies of a specified habitat and region as measured by community structure and function. The biological integrity will be guided by the fish and wildlife propagation use designated for that particular water body. Fish and wildlife propagation uses are defined in LAC 33:IX.1111.C. The condition of these aquatic communities shall be determined from the

measures of physical, chemical, and biological characteristics of each surface water body type, according to its designated use (LAC 33:IX.1123). Reference site conditions will represent naturally attainable conditions. These sites should be the least impacted and most representative of water body types. Such reference sites or segments of water bodies shall be those observed to support the greatest variety and abundance of aquatic life in the region as is expected to be or has been recorded during past surveys in natural settings essentially undisturbed by human impacts, development, or discharges. This condition shall be determined by consistent sampling and reliable measures of selected, indicative communities of animals (i.e., fish, invertebrates, etc.) and/or plants as established by the department and may be used in conjunction with acceptable chemical, physical, and microbial water quality measurements and records as deemed appropriate for this purpose.

b. Assessment of Biological Integrity for Wetlands Approved for Wastewater Assimilation Projects Pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards. Wetland biological integrity will be guided by above-ground wetland vegetative productivity with consideration given to floral diversity. Due to effluent addition, the discharge area of a wetland shall have no more than a 20 percent reduction in the rate of total above-ground wetland productivity over a five-year period as compared to a reference area. The *discharge area* is the area of a wetland directly affected by effluent addition. For each location, the discharge area will be defined by the volume of discharge. The *reference area* is the wetland area that is nearby and similar to the discharge area but that is not affected by effluent addition. Above-ground productivity is a key measurement of overall ecosystem health in the wetlands of south Louisiana. Primary productivity is dependent on a number of factors, and the methods for measurement of above-ground productivity and floral diversity are found in the current Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

13. Other Substances and Characteristics. General criteria on other substances and characteristics not specified in this Subsection will be developed as needed.

C. Numerical Criteria. Numerical criteria identified in LAC 33:IX.1123, Table 3, apply to the specified water bodies, and to their tributaries, distributaries, and interconnected streams and water bodies contained in the water management subsegment if they are not specifically named therein, unless unique chemical, physical, and/or biological conditions preclude the attainment of the criteria. In those cases, natural background levels of these conditions may be used to establish site-specific water quality criteria. Those water bodies officially approved and designated by the state and EPA as intermittent streams, man-made water bodies, or naturally dystrophic waters may be excluded from some or all numerical criteria as stated in LAC 33:IX.1109.

Although naturally occurring variations in water quality may exceed criteria, water quality conditions attributed to human activities must not exceed criteria when flows are greater than or at critical conditions (as defined in LAC 33:IX.1115.C).

C.1. - Table 1A.Footnote d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007).

Herman Robinson, CPM
Executive Counsel

0703#021

RULE

Department of Health and Hospitals Board of Examiners of Psychologists

Certificate of Prescriptive Authority
(LAC 46:LXIII.403)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.403.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 4. Certificate of Prescriptive Authority

§403. Application for Certificate of Prescriptive Authority

A. - B.3. ...

4. If the license of a psychologist who has applied for a certificate of prescriptive authority is under disciplinary restriction or under investigation due to a complaint having been filed with this board, granting of the certificate of prescriptive authority may be withheld until such time as the restriction or the investigation has come to conclusion and the license is in good standing status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), amended LR 32:1228 (July 2006), LR 33:458 (March 2007).

Jaime T. Monic
Executive Director

0703#015

RULE

Department of Health and Hospitals Board of Examiners of Psychologists

Temporary Licensure
(LAC 46:LXIII.Chapter 10)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Examiners of Psychologists has adopted Chapter 10 to facilitate the temporary registration of out-of-state psychologists in accordance with the Louisiana Licensing Law for Psychologist, R.S. 37:2365.D. as well as temporary emergency registration of out-of-state psychologists in compliance with R.S. 29:769(E).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 10. Temporary Licensure

§1001. Registration of Out-of-State Psychologist

A. Pursuant to R.S. 37:2365.D any nonresident duly licensed or certified for independent practice as a psychologist in the state of his/her residence and which state will permit residents of this state a like and similar privilege as provided herein may, if associated with a psychologist who is a resident of the state of Louisiana and licensed under Title 37, Chapter 28 of the Louisiana Revised Statutes, practice as a psychologist for a period not to exceed 30 days in any calendar year to the same extent and manner as if licensed in this state.

B. A psychologist not licensed in Louisiana, whose license is current and unrestricted in the jurisdiction of his/her residence, must properly register with the board prior to providing psychological services in Louisiana as follows:

1. completed registration form signed by the Out-of-State Psychologist as well as the associating Licensed Louisiana Psychologist, shall be submitted along with a copy of the respective current and unrestricted licenses, picture identification, and any other information pertaining to identification or fitness to practice as requested by the board;

2. documentation that the psychologist is engaged in a legitimate professional setting, and provides satisfactory documentation to the board of the location site(s) that he/she will be providing psychological services and dates of service;

3. a statement attesting to any prior disciplinary actions, felonies or convictions, participation in an Impaired Psychologist Program, or any pending litigations or actions the licensee may be facing; and

4. documentation that the state in which the Out-of-State Psychologist resides provides a like and similar privilege to licensed Louisiana psychologists.

C. Upon acceptance, the psychologist shall comply with the Louisiana Licensing Law for Psychologists, R.S. Title 37, Chapter 28, the *Louisiana Administrative Code*, Title 46, Part LXIII and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability.

D. Should a qualified psychologist registered with the board thereafter fail to comply with any requirement or

condition established by this rule, the board may immediately terminate his/her registration. In addition, any known jurisdiction in which the psychologist holds a license will be notified of any complaint, investigation and/or disciplinary proceedings by this board.

E. In the event a psychologist fails to register with the board, but practices psychology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of psychology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2365.D.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007).

§1002. Emergency Temporary Registration for Psychologists

A. Pursuant to R.S.29:769(E), licensed Psychologists from other jurisdictions of the United States may respond to a declared public health emergency and be granted a temporary registration to engage in the practice of Psychology as defined in R.S. 37:2352(5).

B. Prior to providing professional services in Louisiana a psychologist licensed in another jurisdiction of the United States, shall apply for an Emergency Temporary Registration (ETR). The application for ETR shall be made available via the board website or mailed upon request.

C. Applications for Emergency Temporary Registration shall be processed as priority during a declared emergency.

D. Accordingly, additional requirements for an ETR may be imposed pursuant to the emergency declaration issued which more properly address the needs of the particular declared emergency.

E. A psychologist not licensed in Louisiana, whose license is current and unrestricted in the jurisdiction of his/her residence in the United States, and properly registers with the board may gratuitously provide psychological services if:

1. the psychologist is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he/she will be providing psychological services;

2. the psychologist shall comply with the Louisiana Licensing Law for Psychologists R.S. Title 37, Chapter 28, the *Louisiana Administrative Code*, Title 46, Part LXIII and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability; and

3. the psychologist renders psychological services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of psychological services with the state of Louisiana.

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

G. All interested psychologists shall submit to the board, a copy of their respective current and unrestricted licenses, picture identification, and any other information pertaining to identification or fitness to practice as requested by the board.

H. Should a qualified psychologist registered with the board thereafter fail to comply with any requirement or condition established by this rule, the board may immediately terminate his/her registration. In addition, any known jurisdiction in which the psychologist holds a license will be notified of any complaint, investigation and/or disciplinary proceedings by this board.

I. In the event a psychologist fails to register with the board, but practices psychology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of psychology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007).

Jaime T. Monic
Executive Director

0703#014

RULE

Department of Health and Hospitals Board of Nursing

Disaster Relief Permits (LAC 46:XLVII.3328)

The Louisiana State Board of Nursing adopts LAC 46:XLVII.3328 in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The adoption of Rule LAC 46:XLVII.3328 Disaster Relief Permits will allow the Louisiana State Board of Nursing to issue disaster relief permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in Louisiana during a public health emergency, and for such periods thereafter as approved by the board. In addition, the Rule allows the Disaster Relief Permit to be valid for 60 days from the date of issuance and may be extended for additional 60 day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse

Licensure

§3328. Disaster Relief Permits

A. The board may issue disaster relief permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in this state during a public health emergency, and for such periods thereafter as approved by the board, provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice as a registered nurse or as an advanced practice registered nurse;

2. presents or causes to be presented to the board:

- a. picture identification;
- b. proof of current licensure in another state; and
- c. a completed disaster permit affidavit.

B. A Disaster Relief Permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

C. The Disaster Relief Permit will be valid for 60 days from the date of issuance and may be extended for additional 60 day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

D. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the Disaster Relief Permit shall be recalled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 919 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 33:460 (March 2007).

Barbara L. Morvant
Executive Director

0703#038

RULE

Department of Health and Hospitals Board of Nursing

Temporary Permits to Practice as Registered Nurse (LAC 46:XLVII.3329)

The Louisiana State Board of Nursing amends LAC 46:XLVII.3329 in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

This Rule provides for issuance of temporary permits to practice as a registered nurse.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse

Licensure

§3329. Temporary Permits

A. In accordance with R.S. 37:920, the Board of Nursing may issue the following temporary permits to practice as a registered nurse.

1. A working permit may be issued to graduates of approved schools pending the results of the first licensing examination, provided:

a. the examination is taken within three months after graduation from the approved nursing education program;

b. the person resides in Louisiana and plans to work in Louisiana;

c. there is no evidence of violation of this Part or of LAC 46:XLVII.3331; and

d. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3403 and 3405.

2. The terminology R.N. applicant identifies those individuals who have been issued a temporary working permit. R.N. applicant may be abbreviated as R.N. App. after signatures on records. The full spelling is required on identification pins.

3. The temporary work permit is limited as follows.

a. The R.N. applicant shall practice only in nursing situations where direct R.N. supervision is available.

b. The R.N. applicant shall serve in a staff nurse position.

c. The R.N. applicant shall assume only those responsibilities and functions commonly included in the staff nurse position.

4. The working permit issued to the R.N. applicant expires upon the R.N. applicant's receipt of the results of the first examination after graduation, or at the end of three months if the examination has not been taken.

B. A 90-day permit to practice as a registered nurse may be issued to any nurse currently registered in another state, territory, or country, pending receipt of endorsement credentials providing that said nurse has filed a complete application for licensure by endorsement and provided that:

1. the person provides verification of current licensure in the state of last employment;

2. the person resides in Louisiana and plans to work in Louisiana; and

3. there is no evidence of violation of this Part or of §3331; and

4. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and §§3403 and 3405.

C. Graduates of foreign nursing schools, except for certain Canadian schools, are not eligible for work permits.

D. A temporary permit to practice as a registered nurse or an advanced practice registered nurse for a maximum period of six months may be issued to an individual enrolled in the clinical practice component of a board approved refresher course for the purpose of RN or APRN licensure reinstatement or licensure endorsement provided:

1. the individual provides satisfactory evidence that he or she previously held an unencumbered license in Louisiana or another jurisdiction recognized in Louisiana;

2. the individual completes the application form provided by the board;

3. the individual provides satisfactory documentation of enrollment in a refresher course approved by the board in accordance with §3335.D.2.a;

4. the individual pays the licensure fee required by §3341.A.f or 3327.A.8;

5. there is no evidence of violation of this Part or of §3331; and

6. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and §§3403 and 3405.

E. Any individual who receives a temporary permit issued pursuant to Subsection D above shall:

1. practice under the supervision of a licensed registered nurse or advanced practice registered nurse if seeking licensure as an RN or under the supervision of a licensed advanced practice registered nurse if seeking licensure as an APRN; and

2. be entitled to use the designation RN applicant if applying for licensure as a registered nurse or APRN applicant if applying for licensure as an advanced practice registered nurse.

F. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the temporary permit issued pursuant to this Section above shall be recalled and licensure denied or delayed in accordance with LAC 46:XLVII.3331 or until such time as the person completes the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), LR 24:1293 (July 1998), LR 28:2513 (December 2002), LR 33:460 (March 2007).

Barbara L. Morvant
Executive Director

0703#037

RULE

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

Intermediate Care Facilities for the Mentally Retarded
Reimbursement of Medical Supplies
(LAC 50:VII.32901 and 32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 50:VII.32901 and 32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement Methodology Subchapter A. Reimbursement Components §32901. Cost Reports

A. - C.1. ...

2. For providers receiving pervasive plus supplements and other client specific adjustments to the rate

in accordance with §32903.I, the facility wide direct care floor is established at 94 percent of the per diem direct care payment, the pervasive plus supplement, and other client specific adjustments to the rate. The direct care floor will be applied to the cost reporting year in which the facility receives a pervasive plus supplement and/or a client specific rate adjustment. In no case, however, shall a facility receiving a pervasive plus supplement and/or client specific rate adjustment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

C.3. - 4. ...

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 31:2252 (September 2005), amended LR 33:461 (March 2007).

§32903. Rate Determination

A. - H.2. ...

I. Other Client Specific Adjustments to the Rate. A facility may request a client specific rate supplement for reimbursement of the costs for enteral nutrition, ostomy or tracheotomy medical supplies or a vagus nerve stimulator.

1. The provider must submit sufficient medical supportive documentation to the DHH ICAP Review Committee to establish medical need for enteral nutrition, ostomy or tracheotomy medical supplies.

a. The amount of reimbursement determined by the ICAP Review Committee shall be based on the average daily cost for the provision of the medical supplies.

b. The provider must submit annual documentation to support the need for the adjustment to the rate.

2. Prior authorization for implementation for the Vagus Nerve Stimulator shall be requested after the evaluation has been completed but prior to stimulator implantation. The request to initiate implantation shall come from the multi-disciplinary team as a packet with the team's written decision regarding the recipient's candidacy for the implant and the results of all pre-operative testing. The PA-01 form for the device and surgeon shall be included in the packet forwarded to Unisys.

a. The amount of reimbursement shall be the established fee on the Medicaid Fee Schedule for medical equipment and supplies.

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 33:462 (March 2007).

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

0703#076

RULE

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

Medical Transportation Program
Non-Emergency Medical Transportation Services
Reimbursement Rate Increase (LAC 50:XXVII.571)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXVII.571 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation (NEMT)

Subchapter D. Reimbursement

§571. Reimbursement Methodology

A. For dates of service on or after September 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

B. For dates of service on or after December 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by an additional 9 percent of the rates in effect on November 30, 2006.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007).

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

0703#077

RULE

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

Professional Services Program
Physician Services—Concurrent Care
(LAC 50:IX.305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the

Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 3. Concurrent Care

§305. Inpatient Concurrent Care

A. For hospitalized recipients receiving concurrent care services, the Medicaid Program shall reimburse up to three medically necessary inpatient evaluation and management services by providers of different specialties per recipient, per day, for recipients age 21 and over.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:463 (March 2007).

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

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

0703#078

RULE

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

Third Party Liability
Provider Billing and Trauma Recovery
(LAC 50:I.8341-8349)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:I.8341-8349 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 83. Third Party Liability

Subchapter D. Provider Billing and Trauma Recovery

§8341. Definitions

Difference—payment to a provider for health care services rendered to a Medicaid recipient in excess of the Medicaid paid amount.

Initial Lien—the first letter or other notice sent by the Medicaid Third Party Recovery Unit via certified mail to the recipient or his representative providing notification of the lien amount.

Updated Lien—the most recent letter or other notice sent by the Medicaid Third Party Recovery Unit via certified mail to the recipient or his representative, subsequent to the initial lien, providing notification of an updated lien amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:463 (March 2007).

§8343. Introduction

A. Congress intended the Medicaid Program be the payor of last resort, requiring other available resources be used before Medicaid pays for any health care services rendered to an individual enrolled in the Medicaid Program.

B. The Department of Health and Hospitals shall not prevent a provider from pursuing a liable or potentially liable third party for payment in excess of the Medicaid paid amount to a provider for rendered health care services, hereinafter referred to as the "difference."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:463 (March 2007).

§8345. Provider Responsibilities

A. A provider, who has filed and accepted Medicaid payment and who wishes to pursue the difference, shall submit written notification containing information relating to the existence or possible existence of a liable third party to the Medicaid Third Party Recovery Unit within 365 days of the accident or incident for which the third party is or may be liable.

1. The notice shall contain the:

- a. Medicaid recipient's name;
- b. Medicaid recipient's Social Security number or Medicaid identification number, or both; and
- c. date of the accident or incident.

B. A provider who has filed and accepted a Medicaid payment may accept or collect the difference from a third party. Within ten working days of receipt of the difference, the provider or his agent shall notify the Medicaid Third Party Recovery Unit to determine whether it has received full reimbursement for all payments made to all providers for health care services rendered to a Medicaid recipient as a result of an accident or incident. A provider shall not disburse the difference until receipt of notification from the Medicaid Third Party Recovery Unit that it has been made "whole." Medicaid shall be made whole.

1. In the event Medicaid agrees to and accepts less than full reimbursement for all payments made on behalf of a Medicaid recipient, excluding any partial payment, Medicaid shall be deemed to have been made whole. Medicaid shall have ten working days from receipt of notice to notify the provider whether it has been made whole.

C. In the event a provider has knowledge that an individual is a Medicaid recipient and is receiving or has received health care services which may be covered by Medicaid as a result of the accident or incident, the provider is prohibited from:

1. demanding any payment from the Medicaid recipient or his representative; or
2. pursuing collection of any type against the Medicaid recipient or his representative.

D. Nothing in this Subchapter shall prevent a provider from demanding payment from, or pursuing any type of collection efforts for the difference against any liable or

potentially liable third party, directly or through the Medicaid recipient or his representative who is demanding payment from any liable or potentially liable third party.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:463 (March 2007).

§8347. Recipient Responsibilities

A. The claims included in the initial lien calculated by the Medicaid Third Party Liability Recovery Unit shall be deemed as an accurate reflection of the total amount paid by Medicaid, unless challenged in writing by the recipient or his representative within 90 days of the date of the initial lien notification to the Medicaid recipient or his representative.

B. Any additional Medicaid payments included as the result of an updated lien shall be deemed as an accurate reflection of the total amount of the claims paid by Medicaid, unless challenged in writing by the recipient or his representative, within 30 days of the date of the updated lien notification to the Medicaid recipient or his representative.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:464 (March 2007).

§8349. Noncompliance and Violations

A. A provider who has filed and accepted Medicaid payment and who fails to comply with the notification requirement stated in §8345 of this Subchapter shall be limited to the Medicaid payment received as payment in full for the health care services rendered to the Medicaid recipient.

B. A provider who has filed and accepted Medicaid payment may be referred for investigation and prosecution for any possible violation of either federal or state laws. A provider may be excluded from participation in the Medicaid Program in the event he:

1. pursues the difference prior to providing written notification to the Medicaid Third Party Recovery Unit;

2. accepts payment from a third party and fails to comply with the provisions of §8345.B.; or

3. receives payment in excess of billed charges or a duplicate payment for the same health care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:464 (March 2007).

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

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

0703#079

RULE

Department of Insurance Office of the Commissioner

Regulation 91—The Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities (LAC 37:XIII.Chapter 119)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby promulgates its Regulation 91 which recognizes, presents and permits the use of mortality tables by life insurance companies that reflect the differences in mortality between preferred and standard lives in the determination of their minimum statutory reserve liabilities.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 119. Regulation Number 91—The Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities

§11901. Authority

A. This regulation is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, §22:1 et seq., particularly the Standard Valuation Law, see Title 22, §163.B.(1)(a) and Subsections 10909.A and B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:464 (March 2007).

§11903. Purpose

A. The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with Title 22, §163.B.(1)(a) and Subsections 10909.A and B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:464 (March 2007).

§11905. Definitions

A. For purposes of this regulation:

2001 CSO Mortality Table—that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC* (2nd

Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection B. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following.

2001 CSO Mortality Table (F)—that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2001 CSO Mortality Table (M)—that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

Composite Mortality Tables—mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

Smoker and Nonsmoker Mortality Tables—mortality tables with separate rates of mortality for smokers and nonsmokers.

B. *2001 CSO Preferred Class Structure Mortality Table*—mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September 2006 national meeting and published in the *NAIC Proceedings* (Third Quarter 2006). Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

C. *Statistical Agent*—an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:464 (March 2007).

§11907. 2001 CSO Preferred Class Structure Table

A. At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates at least 20 percent of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality

Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of the NAIC model regulation, "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation."

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:465 (March 2007).

§11909. Conditions

A. For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that:

1. the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class;

2. the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

B. For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that:

1. the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class;

2. the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

C. Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the

administration of the provisions of this regulation. The form of the reports shall be established by the commissioner or the commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:465 (March 2007).

§11911. Separability

A. If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:466 (March 2007).

§11913. Effective Date

A. This regulation shall become effective on the date of its final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:466 (March 2007).

James J. Donelon
Commissioner

0703#087

RULE

Department of Justice Office of the Attorney General

Database Security Breach Notification Reporting Requirements (LAC 16:III.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 51:3077, the Department of Justice, Office of the Attorney General hereby adopts §701, Reporting Requirements. The purpose of the promulgation is to establish the Attorney General's policies and procedures for receiving notice of breaches to secure databases.

Title 16

COMMUNITY AFFAIRS

Part III. Consumer Protection

Chapter 7. Database Security Breach Notification

§701. Reporting Requirements

A. When notice to Louisiana citizens is required pursuant to R.S. 51:3074, the person or agency shall provide written notice detailing the breach of the security of the system to the Consumer Protection Section of the Attorney General's Office. Notice shall include the names of all Louisiana citizens affected by the breach.

B. Failure to provide timely notice may be punishable by a fine not to exceed \$5,000 per violation. Notice to the Attorney General shall be timely if received within 10 days of distribution of notice to Louisiana citizens. Each day notice is not received by the Attorney General shall be deemed a separate violation.

C. Written notification shall be mailed to:

Louisiana Department of Justice
Office of the Attorney General
Consumer Protection Section
1885 N. Third Street
Baton Rouge, LA 70802

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3071 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 33:466 (March 2007).

Isabel B. Wingerter
Director

0703#010

RULE

Department of Natural Resources Office of Conservation

Hazardous Liquids Pipeline Safety (LAC 33:V.Chapters 301-313)

The Louisiana Office of Conservation amends LAC 33:V.301 et seq., in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. This Rule amends the minimum pipeline safety requirements for hazardous liquids pipelines.

There will be negligible cost to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons living and working near hazardous liquids pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline [49 CFR Part 195]

Subchapter A. General [Subpart A]

§30103. Applicability [49 CFR 195.1]

A. - B.4. ...

5. transportation of a hazardous liquid or carbon dioxide in offshore pipelines in state waters which are located upstream from the outlet flange of each facility where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first

separated, dehydrated, or otherwise processed, whichever facility is farther downstream [49 CFR 195.1(b)(5)];

6. ...

7. transportation of a hazardous liquid or carbon dioxide through onshore production (including flowlines), refining or manufacturing facilities or storage or in-plant piping systems associated with such facilities [49 CFR 195.1(b)(7)];

8. transportation of a hazardous liquid or carbon dioxide through onshore production (including flowlines), refining or manufacturing facilities or storage or in-plant piping systems associated with such facilities [49 CFR 195.1(b)(8)];

9. transportation of a hazardous liquid or carbon dioxide [49 CFR 195.1(b)(9)]:

a. by vessel, aircraft, tank truck, tank car, or other nonpipeline mode of transportation [49 CFR 195.1(b)(9)(i)]; or

b. through facilities located on the grounds of a materials transportation terminal that are used exclusively to transfer hazardous liquid or carbon dioxide between nonpipeline modes of transportation or between a nonpipeline mode and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline under §30406.B [49 CFR 195.1(b)(9)(ii)]; and

10. transportation of carbon dioxide downstream from the following point, as applicable [49 CFR 195.1(b)(10)]:

a. the inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream [49 CFR 195.1(b)(10)(i)]; or

b. the connection of the first branch pipeline in the production field that transports carbon dioxide to injection wells or to headers or manifolds from which pipelines branch to injection wells [49 CFR 195.1(b)(10)(ii)].

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 29:2804 (December 2003), LR 33:466 (March 2007).

§30105. Definitions [49 CFR 195.2]

A. ...

Administrator—the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

Maximum Operating Pressure (MOP)—the maximum pressure at which a pipeline or segment of a pipeline may be normally operated under this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:1523 (September 2001), LR 28:83 (January 2002), LR 29:2805 (December 2003), LR 31:675 (March 2005), LR 33:467 (March 2007).

§30107. Matter Incorporated by Reference in Whole or in Part [49 CFR 195.3]

A. ...

B. All incorporated materials are available for inspection in the Pipeline and Hazardous Materials Safety Administration, 400 Seventh Street, SW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows [49 CFR 195.3(b)].

1. Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, Houston, TX 77098 [49 CFR 195.3(b)(1)]

2. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005 [49 CFR 195.3(b)(2)]

3. ASME International (ASME), Three Park Avenue, New York, NY 10016-5990 [49 CFR 195.3(b)(3)]

4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180 [49 CFR 195.3(b)(4)]

5. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428 [49 CFR 195.3(b)(5)]

6. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101 [49 CFR 195.3(b)(6)]

7. NACE International, 1440 South Creek Drive, Houston, TX 77084 [49 CFR 195.3(b)(7)]

C. The full titles of publications incorporated by reference wholly or partially in this Subpart are as follows. Numbers in parentheses indicate applicable editions [49 CFR 195.3(c)].

Source and Name of Referenced Material	Title 33 Reference
A. Pipeline Research Council International, Inc. (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§30452.H.4.a.ii.
B. American Petroleum Institute (API):	
(1) API Specification 5L "Specification for Line Pipe" (43rd edition and errata, 2004)	§§30161.B.1; 30161.E.
(2) API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (22nd edition, January 2002)	§30173.A.4.
(3) API Specification 12F "Specification for Shop Welded Tanks for Storage of Production Liquids" (11th edition, November 1994)	§§30189.B.1; 30205.B.2; 30264.B.1; 30264.E.1; 30307.A; 30565; 30579.D.
(4) API 510 "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration" (8th edition, June 1997, and Addenda 1 through 4)	§§30205.B.3; 30432.C.

Source and Name of Referenced Material	Title 33 Reference
(5) API Standard 620 "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (10th edition, 2002 including Addendum 1)	§§30189.B.2; 30205.B.2; 30264.B.1; 30264.E.3; 30307.B.
(6) API 650 "Welded Steel Tanks for Oil Storage" (10th edition, 1998 including Addenda 1-3)	§§30189.B.3; 30205.B.1; 30264.B.1; 30264.E.2; 30307.C; 30307.D; 30565; 30579.D.
(7) API Recommended Practice 651 "Cathodic Protection of Aboveground Petroleum Storage Tanks" (2nd edition, December 1997)	§§30565; 30579.D.
(8) API Recommended Practice 652 "Lining of Aboveground Petroleum Storage Tank Bottoms" (2nd edition, December 1997)	§30579.D.
(9) API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" (3rd edition, 2001, including Addendum 1, 2003)	§§30205.B.1; 30432.B.
(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999 including October 31, 2001 errata)	§§30222; 30228.B.
(11) API 1130 "Computational Pipeline Monitoring" (2nd edition, 2002)	§§30191; 30444.
(12) API Standard 2000 "Venting Atmospheric and Low Pressure Storage Tanks" (5th edition, April 1998)	§§30264.E.2; 30264.E.3.
(13) API Recommended Practice 2003 "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents" (6th edition, 1998).	§30405.A.
(14) API Publication 2026 "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (2nd edition, 1998)	§30405.B.
(15) API Recommended Practice 2350 "Overfill Protection for Storage Tanks In Petroleum Facilities" (2nd edition, 1996)	§30428.C.
(16) API Standard 2510 "Design and Construction of LPG Installations" (8th edition, 2001)	§§30189.B.3; 30205.B.3; 30264.B.2; 30264.E.4; 30307.E; 30428.C; 30432.C.
(17) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003)	§§30440.A; 30440.B; 30440.C.
C. ASME International (ASME): (1) ASME B16.9 "Factory-Made Wrought Steel Butt Welding Fittings"	§30175.A.
(2) ASME B31.4 -2002 (October 2002) "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids"	§30452.H.4.a.
(3) ASME B31G "Manual for Determining the Remaining Strength of Corroded Pipelines"	§§30452.H.4.a.ii; 30452.H.4.c.iv.
(4) ASME B31.8 "Gas Transmission and Distribution Piping Systems"	§§30111.A.1.a; 30406.A.1.a.
(5) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005)	§§30181; 30307.E.
(6) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules for Construction for Pressure Vessels" (2004 edition, including addenda through July 1, 2005)	§30307.E.
(7) ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications," (2004 edition, including addenda through July 1, 2005)	§30222.

Source and Name of Referenced Material	Title 33 Reference
D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS): (1) MSS SP-75-2004 "Specification for High Test Wrought Butt Welding Fittings" 2) [Reserved]	§30175.A.
E. American Society for Testing and Materials (ASTM): (1) ASTM Designation: A53/A53M-04a (2004) "Standard . Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (3) ASTM Designation: A 333/A 333M-05 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (4) ASTM Designation: A 381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (5) ASTM Designation: A 671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (6) ASTM Designation: A 672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (7) ASTM Designation: A 691 -98 (Reapproved 2002) "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures"	§30161.E.
F. National Fire Protection Association (NFPA): (1) NFPA 30 (2003) "Flammable and Combustible Liquids Code" (2) [Reserved]	§30264.B.1.
G. NACE International (NACE): (1) NACE Standard RP 0169-2002: "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (2) Reserved	§30571.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (1998), LR 27:1523 (September 2001), LR 29:2806 (December 2003), LR 33:467 (March 2007).

Subchapter B. Reporting Accidents and Safety-Related Conditions [Subpart B]

§30139. Filing Offshore Pipeline Condition Reports [49 CFR 195.57]

A. - A.6. ...

B. The report shall be mailed to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 and concurrently to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 [49 CFR 195.57(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:468 (March 2007).

§30140. Address for Written Reports [49 CFR 195.58]

A. Each written report required by this Subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590 and concurrently to Office of Conservation, Pipeline Safety, P.O. Box 94275, Baton Rouge, LA 70804-9275. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency [49 CFR 195.58].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:469 (March 2007).

§30141. Abandoned Underwater Facilities Report [49 CFR 195.59]

A. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS *Standards for Pipeline and Liquefied Natural Gas Operator Submissions*. To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at (703) 317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax, or e-mail to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 195.59(a)].

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax, email to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@dot.gov. The

information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 195.59(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), amended LR 33:469 (March 2007).

Subchapter C. Design Requirements [Subpart C]

§30173. Valves [49 CFR 195.116]

A. - A.3. ...

4. Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in Section 10 of API Standard 6D (incorporated by reference, see §30107 [49 CFR 195.116(d)]).

5. - 6.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 29:2816 (December 2003), LR 33:469 (March 2007).

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction [49 CFR Part 195 Subpart D]

§30214. Welding Procedures [49 CFR 195.214]

A. Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 or Section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, see §30107). The quality of the test welds used to qualify the welding procedure shall be determined by destructive testing [49 CFR 195.214(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:469 (March 2007).

§30222. Welders—Qualification of Welders [49 CFR 195.222]

A. Each welder must be qualified in accordance with Section 6 of API 1104 (incorporated by reference, see §30107) or Section IX of the ASME Boiler and Pressure Vessel Code, (incorporated by reference, see §30107) except that a welder qualified under an earlier edition than listed in §30107 may weld but may not requalify under that earlier edition [49 CFR 195.222(a)].

B. - B.1. ...

2. had one weld tested and found acceptable under Section 9 of API 1104 (incorporated by reference, see §30107) [49 CFR 195.222(b)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:469 (March 2007).

§30248. Cover over Buried Pipeline [49 CFR 195.248]

A. Unless specifically exempted in this Chapter, all pipe must be buried so that it is below the level of cultivation. Except as provided in §30248.B of this Section, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or underwater natural bottom (as determined by recognized and generally accepted practices), as applicable, complies with the following table [49 CFR 195.248(a)].

Location	Cover (Inches)(Millimeters)	
	For Normal Excavation	For Rock Excavation ¹
Industrial, commercial and residential area	36 (914)	30 (762)
Crossings of inland bodies of water with a width of at least 100 ft. (30 meters) from high water mark to high water mark	48 (1219)	18 (457)
Drainage ditches at public roads and railroads	36 (914)	36 (914)
Deepwater port safety zone	48 (1219)	24 (610)
Gulf of Mexico and its inlets in waters less than 15 feet (4.6 meters) deep as measured from mean low water	36 (914)	18 (457)
Other offshore areas under water less than 12 ft (3.7 meters) deep as measured from mean low water	36 (914)	18 (457)
Any other area	30 (762)	18 (457)

¹Rock excavation is any excavation that requires blasting or removal by equivalent means.

B. Except for the Gulf of Mexico and its inlets in waters less than 15 feet (4.6 meters) deep, less cover than the minimum required by Subsection A of this Section and § 30210 may be used if [49 CFR 195.248(b)]:

1. -2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2820 (December 2003), amended LR 31:678 (March 2005), LR 33:470 (March 2007).

§30264. Impoundment, Protection against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks [49 CFR 195.264]

A. - B.1. ...

a. impoundment around a breakout tank must be installed in accordance with Section 4.3.2.3.2. [49 CFR 195.264(b)(1)(i)]; and

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 4.3.2.3.1. [49 CFR 195.264(b)(1)(ii)].

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 5 or 11 of API Standard 2510(incorporated by reference, see §30107) [49 CFR 195.264(b)(2)].

C. - E.2. ...

3. Pressure-relieving and emergency vacuum relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with section 9 of API Standard 620 (incorporated by reference, see §30107) and its

references to the normal and emergency venting requirements in API Standard 2000 (incorporated by reference, see §30107) [49 CFR 195.264(e)(3)].

4. Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 7 or 11 of API Standard 2510 (incorporated by reference, see §30107) [49 CFR 195.264(e)(4)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2821 (December 2003), amended LR 33:470 (March 2007).

Chapter 303. Transportation of Hazardous Liquids by Pipeline—Pressure Testing [49 CFR Part 195 Subpart E]

§30307. Pressure Testing Aboveground Breakout Tanks [49 CFR 195.307]

A. ...

B. For aboveground breakout tanks built to API Standard 620 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with Section 7.18 of API Standard 620 (incorporated by reference, see §30107) [49 CFR 195.307(b)].

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2823 (December 2003), amended LR 33:470 (March 2007).

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]

§30440. Public Awareness [49 CFR 195.440]

A. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §30107) [49 CFR 195.440(a)].

B. The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities [49 CFR 195.440(b)].

C. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety [49 CFR 195.440(c)].

D. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on [49 CFR 195.440(d)]:

1. use of a one-call notification system prior to excavation and other damage prevention activities [49 CFR 195.440(d)(1)];

2. possible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline facility [49 CFR 195.440(d)(2)];

3. physical indications that such a release may have occurred [49 CFR 195.440(d)(3)];

4. steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release [49 CFR 195.440(d)(4)];and

5. procedures to report such an event [49 CFR 195.440(d)(5)].

E. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations [49 CFR 195.440(e)].

F. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports hazardous liquid or carbon dioxide [49 CFR 195.440(f)].

G. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area [49 CFR 195.440(g)].

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency [49 CFR 195.440(h)].

I. The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies [49 CFR 195.440(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), amended LR 33:470 (March 2007).

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. - C.1.a.ii. ...

iii. external corrosion direct assessment in accordance with §30588 [49 CFR 195.452(c)(1)(i)(C)]; or

iv. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the assessment, by sending a notice to the addresses or facsimile numbers specified in Subsection M of this Section [49 CFR 195.452(c)(1)(i)(D)].

C.1.b. - J.5.a. ...

b. pressure test conducted in accordance with Chapter 303 of this Subpart [49 CFR 195.452(j)(5)(ii)];

c. external corrosion direct assessment in accordance with §30588 [49 CFR 195.588(j)(5)(iii)]; or

d. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify OPS 90 days before conducting the assessment, by sending a notice to the addresses or facsimile numbers specified in Subsection M of this Section [49 CFR 195.452(j)(5)(iv)].

K. - L.2. ...

M. Where does an operator send a notification? An operator must send any notification required by §30452 to the Commissioner of Conservation, Pipeline Safety Section, P.O. Box 94275, Baton Rouge, LA 70804-9275 or to the facsimile number (225) 342-5529 and to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh

Street SW, Washington, D.C. 20590, or to the facsimile number (202) 366-7128 [49 CFR 195.452(m)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:471 (March 2007).

Chapter 305. Transportation of Hazardous Liquids by Pipeline—Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G] and Corrosion Control [49 CFR Part 195 Subpart H]

Subchapter A. Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G]

§30505. Qualification Program [49 CFR 195.505]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks [49 CFR 195.505(f)];

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed [49 CFR 195.505(g)];

8. after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities [49 CFR 195.505(h)]; and

9. after December 16, 2004, notify the administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section [49 CFR 195.505(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2835 (December 2003), amended LR 33:471 (March 2007).

§30509. General [49 CFR 195.509]

A. Operators must have a written qualification program by April 27, 2001. The program must be available for review by the administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency [49 CFR 195.509(a)].

B. - D. ...

E. After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation [49 CFR 195.509(e)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2836 (December 2003), amended LR 33:471 (March 2007).

Subchapter B. Corrosion Control [49 CFR Part 195 Subpart H]

§30553. What special definitions apply to this Subchapter? [49 CFR 195.553]

A. ...

Direct Assessment—an integrity assessment method that utilizes a process to evaluate certain threats (i.e., external corrosion, internal corrosion and stress corrosion cracking) to a pipeline segment's integrity. The process includes the gathering and integration of risk factor data, indirect

examination or analysis to identify areas of suspected corrosion, direct examination of the pipeline in these areas, and post assessment evaluation.

External Corrosion Direct Assessment (ECDA)—a four-step process that combines pre-assessment, indirect inspection, direct examination, and post-assessment to evaluate the threat of external corrosion to the integrity of a pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2836 (December 2003), amended LR 33:471 (March 2007).

§30571. What criteria must I use to determine the adequacy of cathodic protection?

[49 CFR 195.571]

A. Cathodic protection required by this Subchapter must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in Paragraphs 6.2 and 6.3 of NACE Standard RP0169 (incorporated by reference, see §30107) [49 CFR 195.571].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2838 (December 2003), amended LR 33:472 (March 2007).

§30573. What must I do to monitor external corrosion control? [49 CFR 195.573]

A. - A.1. ...

2. Identify or not more than two years after cathodic protection is installed, whichever comes later, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard RP0169 (incorporated by reference, see §30107) [49 CFR 195.573(a)(2)].

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2838 (December 2003), amended LR 33:472 (March 2007).

§30588. What standards apply to direct assessment? [49 CFR 195.588]

A. If you use direct assessment on an onshore pipeline to evaluate the effects of external corrosion, you must follow the requirements of this section for performing external corrosion direct assessment. This section does not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process [49 CFR 195.588(a)].

B. The requirements for performing external corrosion direct assessment are as follows [49 CFR 195.588(b)]:

1. General. You must follow the requirements of NACE Standard RP0502-2002 (incorporated by reference, see §30107). Also, you must develop and implement an ECDA plan that includes procedures addressing pre-assessment, indirect examination, direct examination, and post-assessment [49 CFR 195.588(b)(1)].

2. Pre-assessment. In addition to the requirements in Section 3 of NACE Standard RP0502-2002, the ECDA plan procedures for pre-assessment must include [49 CFR 195.588(b)(2)]:

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment [49 CFR 195.588(b)(2)(i)];

b. the basis on which you select at least two different, but complementary, indirect assessment tools to assess each ECDA region [49 CFR 195.588(b)(2)(ii)]; and

c. if you utilize an indirect inspection method not described in Appendix A of NACE Standard RP0502-2002, you must demonstrate the applicability, validation basis, equipment used, application procedure, and utilization of data for the inspection method [49 CFR 195.588(b)(2)(iii)].

3. Indirect examination. In addition to the requirements in Section 4 of NACE Standard RP0502-2002, the procedures for indirect examination of the ECDA regions must include [49 CFR 195.588(b)(3)]:

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment [49 CFR 195.588(b)(3)(i)];

b. criteria for identifying and documenting those indications that must be considered for excavation and direct examination, including at least the following [49 CFR 195.588(b)(3)(ii)]:

i. the known sensitivities of assessment tools [49 CFR 195.588(b)(3)(ii)(A)];

ii. the procedures for using each tool [49 CFR 195.588(b)(3)(ii)(B)]; and

iii. the approach to be used for decreasing the physical spacing of indirect assessment tool readings when the presence of a defect is suspected [49 CFR 195.588(b)(3)(ii)(C)];

c. for each indication identified during the indirect examination, criteria for [49 CFR 195.588(b)(3)(iii)]:

i. defining the urgency of excavation and direct examination of the indication [49 CFR 195.588(b)(3)(iii)(A)]; and

ii. defining the excavation urgency as immediate, scheduled, or monitored [49 CFR 195.588(b)(3)(iii)(B)]; and

d. criteria for scheduling excavations of indications in each urgency level [49 CFR 195.588(b)(3)(iv)].

4. direct examination. In addition to the requirements in Section 5 of NACE Standard RP0502-2002, the procedures for direct examination of indications from the indirect examination must include [49 CFR 195.588(b)(4)]:

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment [49 CFR 195.588(b)(4)(i)];

b. criteria for deciding what action should be taken if either [49 CFR 195.588(b)(4)(ii)]:

i. corrosion defects are discovered that exceed allowable limits (Section 5.5.2.2 of NACE Standard RP0502-2002 provides guidance for criteria) [49 CFR 195.588(b)(4)(ii)(A)]; or

ii. root cause analysis reveals conditions for which ECDA is not suitable (Section 5.6.2 of NACE Standard RP0502-2002 provides guidance for criteria) [49 CFR 195.588(b)(4)(ii)(B)];

c. criteria and notification procedures for any changes in the ECDA plan, including changes that affect the

severity classification, the priority of direct examination, and the time frame for direct examination of indications [49 CFR 195.588(b)(4)(iii)]; and

d. criteria that describe how and on what basis you will reclassify and re-prioritize any of the provisions specified in Section 5.9 of NACE Standard RP0502-2002 [49 CFR 195.588(b)(4)(iv)].

5. post assessment and continuing evaluation. In addition to the requirements in Section 6 of NACE Standard UP 0502-2002, the procedures for post assessment of the effectiveness of the ECDA process must include [49 CFR 195.588(b)(5)]:

a. measures for evaluating the long-term effectiveness of ECDA in addressing external corrosion in pipeline segments [49 CFR 195.588(b)(5)(i)]; and

b. criteria for evaluating whether conditions discovered by direct examination of indications in each ECDA region indicate a need for reassessment of the pipeline segment at an interval less than that specified in Sections 6.2 and 6.3 of NACE Standard RP0502-2002 (see Appendix D of NACE Standard RP0502-2002) [49 CFR 195.588(b)(5)(ii)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 33:472 (March 2007).

James H. Welsh
Commissioner

0703#048

RULE

Department of Natural Resources Office of Conservation

Natural Gas Pipeline Safety
(LAC 43:XIII.Chapters 3-5, 9-15, 21, 27-33, 51, and 61-63)

The Louisiana Office of Conservation amends LAC 43:XIII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. This Rule amends the minimum pipeline safety requirements for natural gas pipelines.

There will be negligible cost to directly affected persons or natural gas pipeline operators. Benefits will be realized by persons living and working near natural gas pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Natural Gas Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 43

Department of Natural Resources

Part XIII. Office of Conservation—Pipeline Safety

Subpart 2. Transportation of Natural and Other Gas by Pipeline [49 CFR Part 191]

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

§301. Scope [49 CFR 191.1]

A. - B.1. ...

2. pipelines on the Outer Continental Shelf (OCS) that are producer operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9 [49 CFR 191.1(b)(2)].

3. - 4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 18:854 (August 1992), LR 27:1536 (September 2001), LR 30:1220 (June 2004), LR 33:473 (March 2007).

§303. Definitions [49 CFR 191.3]

A. As used in Part XIII and in the PHMSA Forms referenced in this Part [49 CFR 191.3]:

Administrator □ the administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:473 (March 2007).

§307. Addressee for Written Reports [49 CFR 191.7]

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII must be submitted to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590. Safety-related condition reports required by §323 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary

with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency. [49 CFR 191.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:473 (March 2007).

§327. Filing Offshore Pipeline Condition Reports [49 CFR 191.27]

A. - A.6. ...

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 and concurrently to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590 [49 CFR 191.27(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:854 (August 1992), amended LR 20:443 (April 1994), LR 30:1224 (June 2004), LR 33:474 (March 2007).

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192] Chapter 5. General [Subpart A]

§501. What is the Scope of this Subpart? [49 CFR 192.1]

A. - B.1. ...

2. pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9 [49 CFR 192.1 (b)(2)];

3. ...

4. onshore gathering of gas [49 CFR 192.1(b)(4)]:

a. through a pipeline that operates at less than 0 psig (0 kPa) [49 CFR 192.1(b)(4)(i)];

b. through a pipeline that is not a regulated onshore gathering line (as determined in §508) [49 CFR 192.1(b)(4)(ii)]; and

c. within inlets of the Gulf of Mexico, except for the requirements in §2712 [CFR 49 192.1(b)(4)(iii)].

5. any pipeline system that transports only petroleum gas or petroleum gas/air mixtures to [49 CFR 192.1(b)(5)]:

a. fewer than 10 customers, if no portion of the system is located in a public place [49 CFR 192.1(b)(5)(i)]; or

b. a single customer, if the system is located entirely on the customer's premises (no matter if a portion of the system is located in a public place) [49 CFR 192.1(b)(5)(ii)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 33:474 (March 2007).

§503. Definitions [49 CFR 192.3]

A. ...

Administrator □ the administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:474 (March 2007).

§507. What documents are incorporated by reference partly or wholly in this Part? [49 CFR 192.7]

A. ...

B. All incorporated materials are available for inspection in the *Pipeline and Hazardous Materials Safety Administration*, 400 Seventh Street, SW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/IBR_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. In addition, the incorporated materials are available from the respective organizations listed in Paragraph C.1 of this Section [49 CFR 192.7(b)].

C. ...

1. Incorporated by Reference (IBR) □ List of Organizations and Addresses [49 CFR 192.7(c)(1)]

a. Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, Houston, TX 77098.

b. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

c. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

d. ASME International (ASME), Three Park Avenue, New York, NY 10016-5990.

e. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180.

f. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

g. Plastics Pipe Institute, Inc. (PPI), 1825 Connecticut Avenue, NW., Suite 680, Washington, DC 20009.

h. NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084.

i. Gas Technology Institute (GTI), 1700 South Mount Prospect Road, Des Plaines, IL 60018.

2. Documents incorporated by reference (numbers in parentheses indicate applicable editions) [49 CFR 192.7(c)(2)].

Source and Name of Referenced Material	Title 43 Reference
A. Pipeline Research Council International (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe"(December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§§3333.A; 2137.C.
B. American Petroleum Institute (API):	
(1) API Specification 5L "Specification for Line Pipe" (43rd edition and errata, 2004).	§§705.E; 913; 5103 Item I.
(2) API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (6th edition, 2002).	§715.A.1.
(3) API Specification 6D "Pipeline Valves" (22nd edition, January 2002).	§1105.A.
(4) API Recommended Practice 80 (API RP 80) "Guidelines for the Definition of Onshore Gas Gathering Lines" (1st edition, April 2000)	§508
(5) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999, including Errata October 31, 2001).	§§1307.A; 1309.C.1; 1321.C; 5103 Item II.
(6) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003)	§2716
C. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A 53/A53M-04a (2004) "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc Coated, Welded and Seamless".	§§913; 5103 Item I.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service".	§§913; 5103 Item I.
(3) ASTM Designation: A333/A333M-05 (2005) "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service".	§§913; 5103 Item I.
(4) ASTM Designation: A372/A372M-03 (2003) "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels".	§1137.B.1.
(5) ASTM Designation: A381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems".	§§913; 5103 Item I.
(6) ASTM Designation: A671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures".	§§913; 5103 Item I.
(7) ASTM Designation: A672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures".	§§913; 5103 Item I.
(8) ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High- Pressure Service at High Temperatures".	§§913; 5103 Item I.
(9) ASTM Designation: D638-03 "Standard Test Method for Tensile Properties of Plastics".	§§1513.A.3; 1513.B.1.
(10) ASTM Designation: D2513-87 "Standard Specification for	§713.A.1.

Source and Name of Referenced Material	Title 43 Reference
Thermoplastic Gas Pressure Pipe, Tubing, and Fittings".	
(11) ASTM Designation: D2513-99 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings.	§§1151.B; 1511.B.2; 1513.A.1.a; 5103 Item I.
(12) ASTM Designation: D 2517-00 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings".	§§1151.A; 1511.D.1; 1513.A.1.b; 5103 Item I.
(13) ASTM Designation: F1055-1998 "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing".	§1513.A.1.c.
D. ASME International (ASME):	
(1) ASME B16.1-1998 "Cast Iron Pipe Flanges and Flanged Fittings".	§1107.C.
(2) ASME B16.5-2003 (October 2004) "Pipe Flanges and Flanged Fittings".	§§1107.A; 1509.
(3) ASME B31G-1991 (Reaffirmed 2004)"Manual for Determining the Remaining Strength of Corroded Pipelines".	§§2137.C; 3333.A.
(4) ASME B31.8-2003 (February 2004) "Gas Transmission and Distribution Piping Systems".	§2719.A.1.a.
(5) ASME B31.8S-2004 "Supplement to B31.8 on Managing System Integrity of Gas Pipelines".	§§3303.C; 3307.B; 3311.A; 3311.A.9; 3311.A.11; 3311.A.12; 3311.A.13; 3313.A; 3313.B.1; 3317.A; 3317.B; 3317.C; 3317.E.1; 3317.E.4; 3321.A.1; 3323.B.2; 3323.B.3; 3325.B; 3325.B.1; 3325.B.2; 3325.B.3; 3325.B.4; 3327.B; 3327.C.1.a; 3329.B.1; 3329.B.2; 3333.A; 3333.D.1; 3333.D.1.a; 3335.A; 3335.B.1.d; 3337.C.1; 3339.A.1.a.i; 3339.A.1.a.ii; 3339.A.3.1.c; 3345.A.
(6) ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers (2004 edition including addenda through July 1, 2005).	§1113.A.
(7) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005).	§§1113.A; 1113.B; 1113.D; 1125.B.3.
(8) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2, "Rules for Construction of Pressure Vessels-Alternative Rules," (2004 edition, including addenda through July 1, 2005).	§§1113.B; 1125.B.3.
(9) ASME Boiler and Pressure Vessel Code, Section IX, "Welding and Brazing Qualifications" (2004 edition, including addenda through July 1, 2005).	§§1307.A; 5103 Item II.
E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP44-1996(Reaffirmed; 2001) "Steel Pipe Line Flanges".	§1107.A.
(2) [Reserved]	
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code".	§2935.B.

Source and Name of Referenced Material	Title 43 Reference
(2) NFPA 58 (2004) "Liquefied Petroleum Gas Code (LP-Gas Code)".	§§511.A; 511.B; 511.C.
(3) NFPA 59 (2004) "Utility LP-Gas Plant Code".	§§511.A; 511.B; 511.C
(4) NFPA 70 (2005) "National Electrical Code".	§§1123.E; 1149.C.
G. Plastics Pipe Institute, Inc. (PPI):	
(1) PPI TR-3/2004 (2004) "Policies and Procedures for Developing Hydrostatic Design Bases (HDB), Pressure Design Bases (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe.	§921.
H. NACE International (NACE):	
(1) NACE Standard RP-0502-2002 "Pipeline External Corrosion Direct Assessment Methodology".	§§3323.B.1; 3325.B; 3325.B.1; 3325.B.1.b; 3325.B.2; 3325.B.3; 3325.B.3.b; 3325.B.3.d; 3325.B.4; 3325.B.4.b; 3331.D; 3335.B.1.d; 3339.A.2.
I. Gas Technology Institute (GTI). (Formerly Gas Research Institute):	
(1) GRI 02/0057 (2002) "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology".	§§3327.C.2; 307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:681 (March 2005), LR 33:474 (March 2007).

§508. How are onshore gathering lines and regulated onshore gathering lines determined? [49 CFR 192.8]

A. An operator must use API RP 80 (incorporated by reference, see §507), to determine if an onshore pipeline (or part of a connected series of pipelines) is an onshore gathering line. The determination is subject to the limitations listed below. After making this determination, an operator must determine if the onshore gathering line is a regulated

onshore gathering line under Subsection B of this Section [49 CFR 192.8(a)].

1. The beginning of gathering, under Section 2.2(a)(1) of API RP 80, may not extend beyond the furthestmost downstream point in a production operation as defined in Section 2.3 of API RP 80. This furthestmost downstream point does not include equipment that can be used in either production or transportation, such as separators or dehydrators, unless that equipment is involved in the processes of "production and preparation for transportation or delivery of hydrocarbon gas" within the meaning of "production operation" [49 CFR 192.8(a)(1)].

2. The endpoint of gathering, under Section 2.2(a)(1)(A) of API RP 80, may not extend beyond the first downstream natural gas processing plant, unless the operator can demonstrate, using sound engineering principles, that gathering extends to a further downstream plant [49 CFR 192.8(a)(2)].

3. If the endpoint of gathering, under Section 2.2(a)(1)(C) of API RP 80, is determined by the commingling of gas from separate production fields, the fields may not be more than 50 miles from each other, unless the administrator/commissioner finds a longer separation distance is justified in a particular case (see 49 CFR §190.9) [49 CFR 192.8(a)(3)].

4. The endpoint of gathering, under Section 2.2(a)(1)(D) of API RP 80, may not extend beyond the furthestmost downstream compressor used to increase gathering line pressure for delivery to another pipeline [49 CFR 192.8(a)(4)].

B. For purposes of §509, "regulated onshore gathering line" means [49 CFR 192.8(b)]:

1. each onshore gathering line (or segment of onshore gathering line) with a feature described in the second column that lies in an area described in the third column [49 CFR 192.8(b)(1)]; and

2. as applicable, additional lengths of line described in the fourth column to provide a safety buffer [49 CFR 192.8(b)(2)].

Type	Feature	Area	Safety Buffer
A	—Metallic and the MAOP produces a hoop stress of 20 percent or more of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is more than 125 psig (862 kPa).	Class 2, 3, or 4 location (see § 505).	None.
B	—Metallic and the MAOP produces a hoop stress of less than 20 percent of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is 125 psig (862 kPa) or less.	Area 1. Class 3 or 4 location. Area 2. An area within a Class 2 location the operator determines by using any of the following three methods: (a) A Class 2 location. (b) An area extending 150 feet (45.7 m) on each side of the centerline of any continuous 1 mile (1.6 km) of pipeline and including more than 10 but fewer than 46 dwellings. (c) An area extending 150 feet (45.7 m) on each side of the centerline of any continuous 1000 feet (305 m) of pipeline and including 5 or more dwellings.	If the gathering line is in Area 2(b) or 2(c), the additional lengths of line extend upstream and downstream from the area to a point where the line is at least 150 feet (45.7 m) from the nearest dwelling in the area. However, if a cluster of dwellings in Area 2 (b) or 2(c) qualifies a line as Type B, the Type B classification ends 150 feet (45.7 m) from the nearest dwelling in the cluster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:681 (March 2005), LR 33:476 (March 2007).

§509. What requirements apply to gathering lines?
[49 CFR 192.9]

A. Requirements. An operator of a gathering line must follow the safety requirements of this Part as prescribed by this Section [49 CFR 192.9(a)].

B. Offshore lines. An operator of an offshore gathering line must comply with requirements of this Part applicable to transmission lines, except the requirements in §1100 and in Chapter 33 of this Subpart [49 CFR 192.9(b)].

C. Type A Lines. An operator of a Type A regulated onshore gathering line must comply with the requirements of this Part applicable to transmission lines, except the requirements in §1110 and in Chapter 33 of this Subpart. However, an operator of a Type A regulated onshore gathering line in a Class 2 location may demonstrate compliance with Chapter 31 by describing the processes it uses to determine the qualification of persons performing operations and maintenance tasks [49 CFR 192.9(c)].

D. Type B Lines. An operator of a Type B regulated onshore gathering line must comply with the following requirements [49 CFR 192.9(d)]:

1. if a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial testing must be in accordance with requirements of this Part applicable to transmission lines [49 CFR 192.9(d)(1)];

2. if the pipeline is metallic, control corrosion according to requirements of Chapter 21 of this Subpart applicable to transmission lines [49 CFR 192.9(d)(2)];

3. carry out a damage prevention program under §2714 [49 CFR 192.9(d)(3)];

4. establish a public education program under §2716 [49 CFR 192.9(d)(4)];

5. establish the MAOP of the line under §2719 [49 CFR 192.9(d)(5)]; and

6. install and maintain line markers according to the requirements for transmission lines in §2907 [49 CFR 192.9(d)(6)].

E. Compliance deadlines. An operator of a regulated onshore gathering line must comply with the following deadlines, as applicable [49 CFR 192.9(e)].

1. An operator of a new, replaced, relocated, or otherwise changed line must be in compliance with the applicable requirements of this Section by the date the line goes into service, unless an exception in §513 applies [49 CFR 192.9(e)(1)].

2. If a regulated onshore gathering line existing on April 14, 2006 was not previously subject to this Part, an operator has until the date stated in the second column to comply with the applicable requirement for the line listed in the first column, unless the administrator finds a later deadline is justified in a particular case [49 CFR 192.9(e)(2)].

Requirement	Compliance Deadline
Control corrosion according to Chapter 21 requirements for transmission lines.	April 15, 2009
Carry out a damage prevention program under §2714.	October 15, 2007
Establish MAOP under §2719	October 15, 2007
Install and maintain line markers under §2907.	April 15, 2008
Establish a public education program under §2716.	April 15, 2008
Other provisions of this Part as required by Subsection C of this Section for Type A lines.	April 15, 2009

3. If, after April 14, 2006, a change in class location or increase in dwelling density causes an onshore gathering line to be a regulated onshore gathering line, the operator has 1 year for Type B lines and 2 years for Type A lines after the line becomes a regulated onshore gathering line to comply with this Section [49 CFR 192.9(e)(3)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998), LR 30:1227 (June 2004), LR 31:681 (March 2005), LR 33:477 (March 2007)

§510. Outer Continental Shelf Pipelines
[49 CFR 192.10]

A. Operators of transportation pipelines on the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act 43 U.S.C. 1331) must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic located near the transfer point. If a transfer point is located subsea, then the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to PHMSA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the regional director and the MMS regional supervisor will make a joint determination of the transfer point [49 CFR 192.10].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1537 (September 2001), amended LR 30:1227 (June 2004), LR 33:477 (March 2007).

§513. What general requirements apply to pipelines regulated under this Subpart? [49 CFR 192.13]

A. No person may operate a segment of pipeline listed in the first column that is readied for service after the date in the second column, unless [49 CFR 192.13(a)]:

1. ...

2. the pipeline qualifies for use under this Subpart according to the requirements in §514 [49 CFR 192.13(a)(2)].

Pipeline	Date
Offshore gathering line.	July 31, 1977
Regulated onshore gathering line to which this Subpart did not apply until April 14, 2006	March 15 2007
All other pipelines.	March 12, 1971

B. No person may operate a segment of pipeline listed in the first column that is replaced, relocated, or otherwise changed after the date in the second column, unless the replacement, relocation, or change has been made according to the requirements in this Subpart [49 CFR 192.13(b)].

Pipeline	Date
Offshore gathering line.	July 31, 1977
Regulated onshore gathering line to which this Subpart did not apply until April 14, 2006.	March 15 2007
All other pipelines.	November 12, 1970

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 30:1227 (June 2004), LR 33:477 (March 2007).

§515. Rules of Regulatory Construction [49 CFR 192.15]

A. As used in this regulation: [49 CFR 192.15(a)]
Includes—including but not limited to.

* * *

May Not—"is not permitted to" or "is not authorized to."

* * *

B - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:509 (July 1984), LR 30:1228 (June 2004), LR 33:478 (March 2007).

Chapter 9. Pipe Design [Subpart C]

§921. Design of Plastic Pipe [49 CFR 192.121]

A. Subject to the limitations of §923, the design pressure for plastic pipe is determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{(D-t)} 0.32$$

$$P = \frac{2S}{(SDR-1)} 0.32$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB determined in accordance with the listed specification at a temperature equal to 73 F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2004, HDB/PDB/SBD/MRS Policies",

(incorporated by reference see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa).

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR= Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10 [49 CFR 192.121].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007).

§923. Design Limitations for Plastic Pipe [49 CFR 192.123]

A. Except as provided in Subsection E of this Section, the design pressure may not exceed a gauge pressure of 125 psig (862 kPa) for plastic pipe used in [49 CFR 192.123(a)]:

A.1. - D. ...

E. The design pressure for thermoplastic pipe produced after July 14, 2004 may exceed a gauge pressure of 100 psig (689 kPa) provided that [49 CFR 192.123(e)]:

1. ...

2. the material is a PE2406 or a PE3408 as specified within ASTM D2513 (incorporated by reference, see §507) [49 CFR 192.123(e)(2)];

3. the pipe size is nominal pipe size (IPS) 12 or less and [49 CFR 192.123(e)(3)];

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007).

Chapter 11. Design of Pipeline Components [Subpart D]

§1104. Qualifying Metallic Components [49 CFR 192.144]

A. Notwithstanding any requirement of this Chapter which incorporates by reference an edition of a document listed in §507 or §5103 of this Subpart, a metallic component manufactured in accordance with any other edition of that document is qualified for use under this Subpart if [49 CFR 192.144]:

1. ...

2. the edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in §507 or §5103 of this Subpart [49 CFR 192.144(b)]:

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, amended LR 10:515

(July 1984), LR 30:1232 (June 2004), LR31:682 (March 2005), LR 33:478 (March 2007).

§1105. Valves [49 CFR 192.145]

A. Except for cast iron and plastic valves, each valve must meet the minimum requirements of API 6D (incorporated by reference, see §507), or to a national or international standard that provides an equivalent performance level. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements [49 CFR 192.145(a)].

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 27:1539 (September 2001), LR 30:1232 (June 2004), LR 31:682 (March 2005), LR 33:479 (March 2007).

§1110. Passage of Internal Inspection Devices [49 CFR 192.150]

A. Except as provided in Subsections B and C of this Section, each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line must be designed and constructed to accommodate the passage of instrumented internal inspection devices [49 CFR 192.150(a)].

B. - B.6. ...

7. offshore transmission lines, except transmission lines 10 3/4 inches (273 millimeters) or more in outside diameter on which construction begins after December 28, 2005, that run from platform to platform or platform to shore unless [49 CFR 192.150(b)(7)]:

B.7.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:821 (August 1995), amended LR 27:1539 (September 2001), LR 30:1233 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007).

Chapter 13. Welding of Steel in Pipelines [Subpart E]

§1305. Welding Procedures [49 CFR 192.225]

A. Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 (incorporated by reference, see §507) or Section IX of the ASME Boiler and Pressure Vessel Code "Welding and Brazing Qualifications" (incorporated by reference, see §507) to produce welds meeting the requirements of this Chapter. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s) [49 CFR 192.225(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:228 (April 1983), amended LR 10:521 (July 1984), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007).

§1307. Qualification of Welders [49 CFR 192.227]

A. Except as provided in Subsection B of this Section, each welder must be qualified in accordance with Section 6 of API 1104 (incorporated by reference, see §507) or Section IX of the ASME Boiler and Pressure Vessel Code

(incorporated by reference, see §507). However, a welder qualified under an earlier edition than listed in §507 may weld but may not requalify under that earlier edition [49 CFR 192.227(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007).

§1309. Limitations on Welders [49 CFR 192.229]

A. - C. ...

1. may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under the Sections 6 or 9 of API Standard 1104 (incorporated by reference, see §507). Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding 7 1/2 months. A welder qualified under an earlier edition of a standard listed in §507 of this Subpart may weld but may not requalify under that earlier edition [49 CFR 192.229(c)(1)]; and

C.2. - D.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007).

§1321. Inspection and Test of Welds [49 CFR 192.241]

A. Visual inspection of welding must be conducted by an individual qualified by appropriate training and experience to ensure that [49 CFR 192.241(a)]:

A.1. - B.2. ...

C. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 9 of API Standard 1104 (incorporated by reference, see §507). However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 applies to the weld, the acceptability of the weld may be further determined under that appendix [49 CFR 192.241(c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:522 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1242 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007).

Chapter 15. Joining of Materials Other Than by Welding [Subpart F]

§1513. Plastic Pipe: Qualifying Joining Procedures [49 CFR 192.283]

A. - A.1. ...

a. in the case of thermoplastic pipe, Paragraph 6.6 (sustained pressure test) or Paragraph 6.7 (Minimum Hydrostatic Burst Test) or Paragraph 8.9 (Sustained Static

pressure Test) of ASTM D2513 (incorporated by reference, see §507) [49 CFR 192.283(a)(1)(i)];

b. in the case of thermosetting plastic pipe, Paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or Paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517(incorporated by reference, see §507) or [49 CFR 192.283(a)(1)(ii)];

c. in the case of electrofusion fittings for polyethylene pipe and tubing, Paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), Paragraph 9.2 (Sustained Pressure Test), Paragraph 9.3 (Tensile Strength Test), or Paragraph 9.4 (Joint Integrity Tests) of ASTM Designation F1055(incorporated by reference, see §507) [49 CFR 192.283(a)(1)(iii)].

2. ...

3. for procedures intended for non-lateral pipe connections, follow the tensile test requirements of ASTM D638 (incorporated by reference, see §507), except that the test may be conducted at ambient temperature and humidity. If the specimen elongates no less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use [49 CFR 192.283(a)(3)].

B. ...

1. use an apparatus for the test as specified in ASTM D 638 (except for conditioning), (incorporated by reference, see §507) [49 CFR 192.283(b)(1)].

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:1541 (September 2001), LR 30:1244 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007).

§1515. Plastic Pipe: Qualifying Persons to Make Joints **[49 CFR 192.285]**

A - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:480 (March 2007).

§1517. Plastic Pipe: Inspection of Joints **[49 CFR 192.287]**

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 30:1245 (June 2004), LR 33:480 (March 2007).

Chapter 21. Requirements for Corrosion Control **[Subpart I]**

§2103. How does this Chapter apply to converted pipelines and regulated onshore gathering lines? **[49 CFR 192.452]**

A. Converted pipelines. Notwithstanding the date the pipeline was installed or any earlier deadlines for compliance, each pipeline which qualifies for use under this Subpart in accordance with §514 must meet the requirements of this Chapter specifically applicable to pipelines installed before August 1, 1971, and all other applicable requirements within one year after the pipeline is

readied for service. However, the requirements of this Chapter specifically applicable to pipelines installed after July 31, 1971, apply if the pipeline substantially meets those requirements before it is readied for service or it is a segment which is replaced, relocated, or substantially altered [49 CFR 192.452(a)].

B. Regulated onshore gathering lines. For any regulated onshore gathering line under §509 existing on April 14, 2006, that was not previously subject to this Subpart, and for any onshore gathering line that becomes a regulated onshore gathering line under §509 after April 14, 2006, because of a change in class location or increase in dwelling density [49 CFR 192.452(b)]:

1. the requirements of this Chapter specifically applicable to pipelines installed before August 1, 1971, apply to the gathering line regardless of the date the pipeline was actually installed [49 CFR 192.452(b)(1)]; and

2. the requirements of this Chapter specifically applicable to pipelines installed after July 31, 1971, apply only if the pipeline substantially meets those requirements [49 CFR 192.452(b)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1252 (June 2004), LR 33:480 (March 2007).

§2142. Direct Assessment [49 CFR 192.490]

A. Each operator that uses direct assessment as defined in §3303 on an onshore transmission line made primarily of steel or iron to evaluate the effects of a threat in the first column must carry out the direct assessment according to the standard listed in the second column. These standards do not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process [49 CFR 192.490].

Threat	Standard ¹
External corrosion	§33252
Internal corrosion in pipelines that transport dry gas.	§3327
Stress corrosion cracking	§3329

¹For lines not subject to Chapter 33 of this Subpart, the terms "covered segment" and "covered pipeline segment" in §3325, 3327, and 3329 refer to the pipeline segment on which direct assessment is performed.

²In §3325B, the provision regarding detection of coating damage applies only to pipelines subject to Chapter 33 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:480 (March 2007).

Chapter 27. Operations [Subpart L]

§2716. Public Awareness [49 CFR 192.616]

A. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (IBR, see §307) [49 CFR 192.616(a)].

B. The operator's program must follow the general program recommendations of API RP 1162 and assess the

unique attributes and characteristics of the operator's pipeline and facilities [49 CFR 192.616(b)].

C. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety [49 CFR 192.616(c)].

D. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on [49 CFR 192.616(d)]:

1. use of a one-call notification system prior to excavation and other damage prevention activities [49 CFR 192.616(d)(1)];

2. possible hazards associated with unintended releases from a gas pipeline facility [49 CFR 192.616(d)(2)];

3. physical indications that such a release may have occurred [49 CFR 192.616(d)(3)];

4. steps that should be taken for public safety in the event of a gas pipeline release [49 CFR 192.616(d)(4)]; and

5. procedures for reporting such an event [49 CFR 192.616(d)(5)].

E. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations [49 CFR 192.616(e)].

F. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas [49 CFR 192.616(f)].

G. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area [49 CFR 192.616(g)].

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. As an exception, operators of small propane distribution systems having less than 25 customers and master meter operators having less than 25 customers must have completed development and documentation of their programs no later than June 20, 2007. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency [49 CFR 192.616(h)].

I. The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies [49 CFR 192.616(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:823 (August 1995), amended LR 30:1264 (June 2004), LR 33:480 (March 2007).

§2719. What is the maximum allowable operating pressure for steel or plastic pipelines? [49 CFR 192.619]

A. - A.1. ...

a. 80 percent of the first test pressure that produces yield under Section N5 of Appendix N of ASME B31.8 (incorporated by reference, see §507), reduced by the appropriate factor in Subparagraph A.2.b of this Section [49 CFR 192.619(a)(1)(i)]; or

1.b. - 2.b. ...

3. the highest actual operating pressure to which the segment was subjected during the five years preceding the applicable date in the second column. This pressure restriction applies unless the segment was tested according to the requirements in Paragraph A.2 of this Section after the applicable date in the third column or the segment was updated according to the requirements in Chapter 25 of this Subpart [49 CFR 192.619(a)(3)].

Pipeline Segment	Pressure Date	Test Date
—Onshore gathering line that first became subject to this Subpart (other than §2712) after April 13, 2006. —Onshore transmission line that was a gathering line not subject to this Subpart before March 15, 2006.	March 15, 2006, or date line becomes subject to this Subpart, whichever is later.	5 years preceding applicable date in second column.
Offshore gathering lines.	July 1, 1976	July 1, 1971
All other pipelines.	July 1, 1970	July 1, 1965

A.4. - B. ...

C. The requirements on pressure restrictions in this Section do not apply in the following instance. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column of the table in Paragraph A.3 of this Section. An operator must still comply with §2711 [49 CFR 192.619(c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007).

**Chapter 29. Maintenance [Subpart M]
§2923. Distribution Systems: Leakage Surveys [49 CFR 192.723]**

A. - B.1. ...

2. A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months. However, for cathodically unprotected distribution lines subject to § 2117.E on which electrical surveys for corrosion are impractical, a leakage survey must be conducted at least once every 3 calendar years at intervals not exceeding 39 months [49 CFR 192.723(b)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 21:823 (August 1995), LR 24:1313 (July 1998), LR 30:1269 (June 2004), LR 31:685 (March 2005), LR 33:481 (March 2007).

§2927. Abandonment or Deactivation of Facilities [49 CFR 192.727]

A. - G. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the

NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Information Officer, *Pipeline and Hazardous Materials Safety Administration*, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 192.727(g)(1)].

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed by before April 10, 2001. Operators may submit reports by mail, fax or e-mail to the Information Officer, *Pipeline and Hazardous Materials Safety Administration*, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 192.727(g)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:538 (July 1984), LR 21:824 (August 1995), LR 27:1549 (September 2001), LR 30:1269 (June 2004), LR 33:481 (March 2007).

§2939. Pressure Limiting and Regulating Stations: Inspection and Testing [49 CFR 192.739]

A. Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is [49 CFR 192.739(a)]:

1. in good mechanical condition [49 CFR 192.739(a)(1)];

2. adequate from the standpoint of capacity and reliability of operation for the service in which it is employed [49 CFR 192.739(a)(2)];

3. except as provided in Subsection B of this Section, set to control or relieve at the correct pressure consistent

with the pressure limits of §1161.A and [49 CFR 192.739(a)(3)];

4. properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation [49 CFR 192.739(a)(4)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1270 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007).

§2943. Pressure Limiting and Regulating Stations: Capacity of Relief Devices [49 CFR 192.743]

A. Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §2939.B, the capacity must be consistent with the pressure limits of §1161.A. This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations [49 CFR 192.743(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1271 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007).

Chapter 31. Operator Qualification [Subpart N] §3105. Qualification Program [49 CFR 192.805]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks [49 CFR 192.805(f)]; and

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed [49 CFR 192.805(g)];

8. after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities [49 CFR 192.805(h)]; and

9. after December 16, 2004, notify the administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section [49 CFR 192.805(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007).

§3109. General [49 CFR 192.809]

A. Operators must have a written qualification program by April 27, 2001. The program must be available for review by the Administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency [49 CFR 192.809(a)].

B. - D. ...

E. After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation [49 CFR 192.809(e)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1273 (June 2004), LR 33:482 (March 2007).

Chapter 33. Pipeline Integrity Management [Subpart O]

§3303. What definitions apply to this Chapter? [49 CFR 192.903]

A. ...

High Consequence Area—an area established by one of the methods described in Subparagraphs a or b as follows:

a. An *area* defined as:

- i. a Class 3 location under §505; or
- ii. a Class 4 location under §505; or

iii. any area in a Class 1 or Class 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or

iv. any area in a Class 1 or Class 2 location where the potential impact circle contains an identified site.

b. The area within a potential impact circle containing:

i. 20 or more buildings intended for human occupancy, unless the exception in Subparagraph d applies; or

ii. an identified site.

c. Where a potential impact circle is calculated under either method a. or b. to establish a high consequence area, the length of the high consequence area extends axially along the length of the pipeline from the outermost edge of the first potential impact circle that contains either an identified site or 20 or more buildings intended for human occupancy to the outermost edge of the last contiguous potential impact circle that contains either an identified site or 20 or more buildings intended for human occupancy (see Figure E.I.A. in §5109 Appendix E).

d. If in identifying a high consequence area under Clause a.iii of this definition or Clause b.i of this definition, the radius of the potential impact circle is greater than 660 feet (200 meters), the operator may identify a high consequence area based on a prorated number of buildings intended for human occupancy within a distance 660 feet (200 meters) from the centerline of the pipeline until December 17, 2006. If an operator chooses this approach, the operator must prorate the number of buildings intended for human occupancy based on the ratio of an area with a radius of 660 feet (200 meters) to the area of the potential impact circle (i.e., the prorated number of buildings intended for human occupancy is equal to $[20 \times (660 \text{ feet} \text{ [or } 200 \text{ meters] } / \text{potential impact radius in feet [or meters]})^2]$).

Potential Impact Radius (PIR)—the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. PIR is determined by the formula $r = 0.69 * [\text{square root of } (p*d^2)]$, where 'r' is the radius of a circular area in feet surrounding the point of failure, 'p' is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and 'd' is the nominal diameter of the pipeline in inches.

NOTE: 0.69 is the factor for natural gas. This number will vary for other gases depending upon their heat of combustion. An operator transporting gas other than natural gas must use Section 3.2 of ASME/ANSI B31.8S-2001 (Supplement to ASME B31.8; incorporated by reference, see §507) to calculate the impact radius formula.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1273 (June 2004), LR 31:685 (March 2005), LR 33:483 (March 2007).

§3307. What must an operator do to implement this Chapter? [49 CFR 192.907]

A. ...

B. Implementation Standards. In carrying out this Chapter, an operator must follow the requirements of this Chapter and of ASME/ANSI B31.8S (incorporated by reference, see §507) and its appendices, where specified. An operator may follow an equivalent standard or practice only when the operator demonstrates the alternative standard or practice provides an equivalent level of safety to the public and property. In the event of a conflict between this Chapter and ASME/ANSI B31.8S, the requirements in this Chapter control [49 CFR 192.907(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004), LR 33:483 (March 2007).

§3313. When may an operator deviate its program from certain requirements of this Chapter? [49 CFR 192.913]

A. - B.1.f. ...

g. semi-annual performance measures beyond those required in §3345 that are part of the operator's performance plan [see §3311.9]. An operator must submit these measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351 [49 CFR 192.913(b)(1)(vii)]; and

B.1.h. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1275 (June 2004), amended LR 31:686 (March 2005), LR 33:483 (March 2007).

§3317. How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program? [49 CFR 192.917]

A. Threat Identification. An operator must identify and evaluate all potential threats to each covered pipeline segment. Potential threats that an operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 2, which are grouped under the following four categories [49 CFR 192.917(a)]:

1. - 4. ...

B. Data Gathering and Integration. To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and

information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, Section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline [49 CFR 192.917(b)].

C. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1276 (June 2004), amended LR 31:686 (March 2005), LR 33:483 (March 2007).

§3321. How is the baseline assessment to be conducted? **[49 CFR 192.921]**

A. ...

1. internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered segment is susceptible. An operator must follow ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.2 in selecting the appropriate internal inspection tools for the covered segment [49 CFR 192.921(a)(1)];

2. pressure test conducted in accordance with Chapter 23 of this Subpart. An operator must use the test pressures specified in Table 3 of Section 5 of ASME/ANSI B31.8S, to justify an extended reassessment interval in accordance with §3339 [49 CFR 192.921(a)(2)].

A.3. - F. ...

G. Newly Installed Pipe. An operator must complete the baseline assessment of a newly-installed segment of pipe covered by this Subpart within 10 years from the date the pipe is installed. An operator may conduct a pressure test in accordance with Paragraph A.2 of this Section, to satisfy the requirement for a baseline assessment [49 CFR 192.921(g)].

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1277 (June 2004), amended LR 31:686 (March 2005), LR 33:484 (March 2007).

§3325. What are the requirements for using External Corrosion Direct Assessment (ECDA)? **[49 CFR 192.925]**

A. ...

B. General Requirements. An operator that uses direct assessment to assess the threat of external corrosion must follow the requirements in this Section, in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.4, and in NACE RP 0502-2002 (incorporated by reference, see §507). An operator must develop and implement a direct assessment plan that has procedures addressing preassessment, indirect examination, direct examination, and post-assessment. If the ECDA detects pipeline coating damage, the operator must also integrate the data from the ECDA with other information from the data integration (§3317.B) to evaluate the covered segment for the threat of

third party damage, and to address the threat as required by §3317.E.1 [49 CFR 192.925(b)].

1. - 4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1278 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007).

§3327. What are the requirements for using Internal Corrosion Direct Assessment (ICDA)? **[49 CFR 192.927]**

A. ...

B. General Requirements. An operator using direct assessment as an assessment method to address internal corrosion in a covered pipeline segment must follow the requirements in this Section and in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.4 and Appendix B2. The ICDA process described in this Section applies only for a segment of pipe transporting nominally dry natural gas, and not for a segment with electrolyte nominally present in the gas stream. If an operator uses ICDA to assess a covered segment operating with electrolyte present in the gas stream, the operator must develop a plan that demonstrates how it will conduct ICDA in the segment to effectively address internal corrosion, and must provide notification in accordance with §3321.A.4 or §3337.C.4 [49 CFR 192.927(b)].

C. - C.1.d. ...

2. ICDA Region Identification. An operator's plan must identify where all ICDA Regions are located in the transmission system, in which covered segments are located. An ICDA Region extends from the location where liquid may first enter the pipeline and encompasses the entire area along the pipeline where internal corrosion may occur and where further evaluation is needed. An ICDA Region may encompass one or more covered segments. In the identification process, an operator must use the model in GRI 02-0057, "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology," (incorporated by reference, see §507). An operator may use another model if the operator demonstrates it is equivalent to the one shown in GRI 02-0057. A model must consider changes in pipe diameter, locations where gas enters a line (potential to introduce liquid) and locations down stream of gas draw-offs (where gas velocity is reduced) to define the critical pipe angle of inclination above which water film cannot be transported by the gas [49 CFR 192.927(c)(2)].

3. - 5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1279 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007).

§3329. What are the requirements for using Direct Assessment for Stress Corrosion Cracking (SCCDA)? **[49 CFR 192.929]**

A. - B. ...

1. Data Gathering and Integration. An operator's plan must provide for a systematic process to collect and evaluate data for all covered segments to identify whether the

conditions for SCC are present and to prioritize the covered segments for assessment. This process must include gathering and evaluating data related to SCC at all sites an operator excavates during the conduct of its pipeline operations where the criteria in ASME/ANSI B31.8S (incorporated by reference, see §507), Appendix A3.3 indicate the potential for SCC. This data includes at minimum, the data specified in ASME/ANSI B31.8S, Appendix A3 [49 CFR 192.929(b)(1)];

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1280 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007).

§3333. What actions must be taken to address integrity issues? [49 CFR 192.933]

A. General Requirements. An operator must take prompt action to address all anomalous conditions that the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. If pressure is reduced, an operator must determine the temporary reduction in operating pressure using ASME/ANSI B31G (incorporated by reference, see §507) or AGA Pipeline Research Committee Project PR-3-805 [(RSTRENG); incorporated by reference, see §507] or reduce the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. (See §507 for information on availability of incorporation by reference information). A reduction in operating pressure cannot exceed 365 days without an operator providing a technical justification that the continued pressure restriction will not jeopardize the integrity of the pipeline [49 CFR 192.933(a)].

B. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline. A condition that presents a potential threat includes, but is not limited to, those conditions that require remediation or monitoring listed under Paragraphs D.1 through D.3 of this Section. An operator must promptly, but no later than 180 days after conducting an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator demonstrates that the 180-day period is impracticable [49 CFR 192.933(b)].

C. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule that prioritizes the conditions for evaluation and remediation. Unless a special requirement for

remediating certain conditions applies, as provided in Subsection D of this Section, an operator must follow the schedule in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must justify the reasons why it cannot meet the schedule and that the changed schedule will not jeopardize public safety. An operator must notify OPS in accordance with §3349 if it cannot meet the schedule and cannot provide safety through a temporary reduction in operating pressure or other action. An operator must also notify a state or local pipeline safety authority when either a covered segment is located in a state where OPS has an interstate agent agreement, or an intrastate covered segment is regulated by that state [49 CFR 192.933(c)].

D. - D.1. ...

a. a calculation of the remaining strength of the pipe shows a predicted failure pressure less than or equal to 1.1 times the maximum allowable operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, ASME/ANSI B31G; RSTRENG; or an alternative equivalent method of remaining strength calculation. These documents are incorporated by reference and available at the addresses listed in (see §507) [49 CFR 192.933(d)(1)(i)];

1.b. - 3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007).

§3335. What additional preventive and mitigative measures must an operator take? [49 CFR 192.935]

A. General Requirements. An operator must take additional measures beyond those already required by this Subpart to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment (see §3317). An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing automatic shut-off valves or remote control valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs [49 CFR 192.935(a)].

B. ...

1. Third Party Damage. An operator must enhance its damage prevention program, as required under §2714 of this Subpart, with respect to a covered segment to prevent and minimize the consequences of a release due to third party damage. Enhanced measures to an existing damage

prevention program include, at a minimum [49 CFR 192.935(b)(1)]:

a. - c. ...

d. monitoring of excavations conducted on covered pipeline segments by pipeline personnel. If an operator finds physical evidence of encroachment involving excavation that the operator did not monitor near a covered segment, an operator must either excavate the area near the encroachment or conduct an above ground survey using methods defined in NACE RP-0502-2002 (incorporated by reference, see §507). An operator must excavate, and remediate, in accordance with ANSI/ASME B31.8S and §3333 any indication of coating holidays or discontinuity warranting direct examination [49 CFR 192.935(b)(1)(iv)].

B.2. - C. ...

D. Pipelines Operating below 30 percent SMYS. An operator of a transmission pipeline operating below 30 percent SMYS located in a high consequence area must follow the requirements in Paragraphs D.1 and D.2 of this Section. An operator of a transmission pipeline operating below 30 percent SMYS located in a Class 3 or Class 4 area but not in a high consequence area must follow the requirements in Paragraphs D.1, D.2 and D.3 of this Section [49 CFR 192.935(d)].

D.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1282 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007).

§3337. What is a continual process of evaluation and assessment to maintain a pipeline's integrity? [49 CFR 192.937]

A. ...

B. Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in §3317. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in §3317.D. For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§3317), and decisions about remediation (§3333) and additional preventive and mitigative actions (§3335). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats [49 CFR 192.937(b)].

C. Assessment Methods. In conducting the integrity reassessment, an operator must assess the integrity of the line pipe in the covered segment by any of the following methods as appropriate for the threats to which the covered segment is susceptible (see §3317), or by confirmatory direct assessment under the conditions specified in §3331 [49 CFR 192.937(c)]:

1. internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered

segment is susceptible. An operator must follow ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.2 in selecting the appropriate internal inspection tools for the covered segment [49 CFR 192.937(c)(1)];

2. pressure test conducted in accordance with Chapter 23 of this Subpart. An operator must use the test pressures specified in Table 3 of Section 5 of ASME/ANSI B31.8S, to justify an extended reassessment interval in accordance with §3339 [49 CFR 192.937(c)(2)];

3. direct assessment to address threats of external corrosion, internal corrosion, or stress corrosion cracking. An operator must conduct the direct assessment in accordance with the requirements listed in §3323 and with as applicable, the requirements specified in §§3325, 3327 or 3329 [49 CFR 192.937(c)(3)];

4. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 180 days before conducting the assessment, in accordance with §3349. An operator must also notify a state or local pipeline safety authority when either a covered segment is located in a state where OPS has an interstate agent agreement, or an intrastate covered segment is regulated by that state [49 CFR 192.937(c)(4)];

5. confirmatory direct assessment when used on a covered segment that is scheduled for reassessment at a period longer than seven years. An operator using this reassessment method must comply with §3331 [49 CFR 192.937(c)(5)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 2005), LR 33:486 (March 2007).

§3339. What are the required reassessment intervals? [49 CFR 192.939]

A. - A.1.a.ii. ...

b. External Corrosion Direct Assessment. An operator that uses ECDA that meets the requirements of this Chapter must determine the reassessment interval according to the requirements in Paragraphs 6.2 and 6.3 of NACE RP0502-2002 (incorporated by reference, see §507) [49 CFR 192.939(a)(2)].

1.c. - 2.d. ...

e. reassessment by the low stress assessment method at 7-year intervals in accordance with §3341 with reassessment by one of the methods listed in Paragraphs B.1 through B.3 of this Section by year 20 of the interval [49 CFR 192.939(b)(5)].

f. the following table sets forth the maximum reassessment intervals. Also refer to §5109, Appendix E.II for guidance on Assessment Methods and Assessment Schedule for Transmission Pipelines Operating Below 30 percent SMYS. In case of conflict between the rule and the guidance in the Appendix, the requirements of the rule control. An operator must comply with the following requirements in establishing a reassessment interval for a covered segment [49 CFR 192.939(b)(6)].

Maximum Reassessment Interval			
Assessment Method	Pipeline operating at or above 50% SMYS	Pipeline operating at or above 30% SMYS, up to 50% SMYS	Pipeline operating below 30% SMYS
Internal Inspection Tool, Pressure Test or Direct Assessment	10 years (*)	15 years (*)	20 years (**)
Confirmatory Direct Assessment	7 years	7 years	7 years
Low stress reassessment	not applicable	not applicable	7 years + ongoing actions specified in §3341.

(*)A confirmatory direct assessment as described in §3331 must be conducted by year 7 in a 10-year interval and years 7 and 14 of a 15-year interval.

(**)A low stress reassessment or confirmatory direct assessment must be conducted by years 7 and 14 of the interval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 2005), LR 33:486 (March 2007).

§3345. What methods must an operator use to measure program effectiveness? [49 CFR 192.945]

A. General. An operator must include in its integrity management program methods to measure, on a semi-annual basis, whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8S, Appendix A. An operator must submit the four overall performance measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351. An operator must submit its first report on overall performance measures by August 31, 2004. Thereafter, the performance measures must be complete through June 30 and December 31 of each year and must be submitted within 2 months after those dates [49 CFR 192.945(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1285 (June 2004), amended LR 31:689 (March 2005), LR 33:487 (March 2007).

§3349. How does an operator notify OPS and the Louisiana Commissioner of Conservation? [49 CFR 192.949]

A. ...

1. sending the notification to the Information Resources Manager, Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington DC 20590 [49 CFR 192.949(a)(1)];

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007).

§3351. Where does an operator file a report? [49 CFR 192.951]

A. ...

1. by mail to the Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590 [49 CFR 192.951(1)];

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007).

Chapter 51. Appendices

§5103. Appendix B—Qualification of Pipe

I. Listed Pipe Specifications

API 5L—Steel pipe, "API Specification for Line Pipe" (incorporated by reference, see §507)

ASTM A 53/A53M—Steel pipe, "Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, welded and Seamless"(IBR, see §507)

ASTM A 106—Steel pipe, "Standard Specification for Seamless Carbon Steel Pipe for High temperature Service" (incorporated by reference, see §507)

ASTM A 333/A 333M—Steel pipe, "Standard Specification for Seamless and Welded steel Pipe for Low Temperature Service" (incorporated by reference, see §507)

ASTM A 381—Steel pipe, "Standard specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (incorporated by reference, see §507)

ASTM A 671—Steel pipe, "Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures" (incorporated by reference, see §507)

ASTM A 672—Steel pipe, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (incorporated by reference, see §507)

ASTM A 691—Steel pipe, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures" (incorporated by reference, see §507)

ASTM D 2513□"Thermoplastic pipe and tubing, "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (incorporated by reference, see §507)

ASTM D 2517—Thermosetting plastic pipe and tubing, "Standard Specification Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (incorporated by reference, see §507)

II. Steel Pipe of Unknown or Unlisted Specification

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Chapter 13 of this Subpart. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104 (incorporated by reference, see §507). If the requirements of API Standard 1104 cannot be met, weldability may be

established by making chemical tests for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessel Code (IBR, see §507). The same number of chemical tests must be made as are required for testing a girth weld.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 MPa) or less, or the tensile properties may be established by performing tensile test as set forth in API Specification 5L (incorporated by reference, see §507).

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in §705.C5(c).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:487 (March 2007).

Chapter 61. General [Part 199] Subpart A]

§6102. Applicability [49 CFR 199.2]

A. ...

B. This Subpart does not apply to any person for whom compliance with LAC 43:XIII or LAC 33:V.Subpart 3 (49 CFR Part 192 and 195) would violate the domestic laws or policies of another country [49 CFR 199.2(b)].

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 27:1554 (September 2001), LR 30:1292 (June 2004), LR 33:488 (March 2007).

§6103. Definitions [49 CFR 199.3]

A. ...

Administrator—the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826, 829 (August 1995), LR 24:1306 (July 1998), LR 27:1554 (September 2001), LR 30:1292 (June 2004), LR 33:488 (March 2007).

§6107. Stand-Down Waivers [49 CFR 199.7]

A. Each operator who seeks a waiver under 49 CFR §40.21 from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, Department of Transportation, Washington, DC 20590 [49 CFR 199.7(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1293 (June 2004), amended LR 33:488 (March 2007).

Chapter 63. Drug Testing [Subpart B]

§6319. Reporting of Anti-Drug Testing Results

[49 CFR 199.119]

A. Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR Part 40 (at 40.25 and Appendix H to Part 40), not later than March 15 of each year for the prior calendar year (January 1-December 31). The administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to PHMSA [49 CFR 199.119(a)].

B. Each report required under this Section shall be submitted to the Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington, DC 20590. The operator may submit a paper report or data electronically using the version of the MIS form provided by DOT. This electronic version of the form can be accessed via the Internet at the following Office of Pipeline Safety web address: <http://ops.dot.gov/drug.htm> [49 CFR 199.119(b)].

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1296 (June 2004), LR 33:488 (March 2007).

James H. Welsh
Commissioner

0703#049

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

**Minimum Standards for Electronic Gaming Devices
(LAC 42:VII.4203)**

The Louisiana Gaming Control Board hereby amends LAC 42:VII.4203 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

**Part VII. Pari-Mutuel Live Racing Facility Slot Machine
Gaming**

Chapter 42. RaceTracks: Electronic Gaming Devices

**§4203. Minimum Standards for Electronic Gaming
Devices**

A. All EGD's submitted for approval:

1. - 25. ...

26. shall not offer a game which resembles a game the play of which requires, or typically includes, the participation of another natural person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:775 (April 2000), amended LR 33:488 (March 2007).

H. Charles Gaudin
Chairman

0603#063

RULE

Department of Revenue Tax Commission

Ad Valorem Taxation

(LAC 61:V.101, 307, 309, 703, 705, 901, 907, 1103, 1307, 1503, 2501, 2503, 2907, 3101, 3103, 3105, 3106, 3107, 3501, 3503, 3509, 3511, 3513, 3515, 3517, 3519, 3521, 3523, 3701, 3702)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2007 (2008 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2007. Cost indexes required to finalize these assessment tables are not available to this office until late October 2006.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - E. ...

F. Special Assessment Level

1. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, as reported in the federal tax return for the year prior to the application for the special assessment, exceeds \$60,498 for tax year 2007 (2008 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March

1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007).

Chapter 3. Real and Personal Property

§307. Personal Property Report Forms

A. - A.3. ...

4. LAT Form 7, Cellular Industry Form, should be furnished to all cellular industry companies doing business in the parish or taxing district.

5. LAT Form 8, Cable TV Industry Form, should be furnished to all cable television industry companies doing business in the parish or taxing district.

6. LAT Form 11, Watercraft Form, should be sent to owners of watercraft domiciled in the parish and to all owners operating watercraft out of the parish on the assessment date. This form should be used as a supplement to LAT Form 5 for companies that own such property but are not interstate towing or barge line companies, whose watercraft are assessed by the Tax Commission as public service properties.

7.a. LAT Form 11A, Watercraft-Outer Continental Shelf Waters Form, shall be furnished to all corporations, partnerships, sole proprietorships, joint ventures, partners in commendam, limited liability partnerships, limited liability corporations or individuals engaged in outer continental shelf waters operations, who shall submit said report form as follows:

i. local parish assessor;

ii. Department of Revenue and Taxation, Secretary (pursuant to Act 59 of 1994); and

iii. local tax collector.

b. All forms shall bear original signatures by the applicable taxpayer for certification purposes.

8. LAT Form 12, Oil and Gas Property Form, should be sent to any company, business or individual having such property in the parish or taxing district. Refer to the oil and gas properties section (§903) for specific instructions on completion of this form.

9. LAT Form 13, Drilling Rig and Related Equipment Form, should be sent, in addition to LAT Form 5, to any company, business or individual having such property in the parish or taxing district. Refer to the drilling rigs and related equipment Section (§1101) for specific instructions on completion of this form.

10. LAT Form 14, Pipelines Form, should be furnished to all companies owning and/or operating pipelines other than pipelines which are assessed as public service properties by the Tax Commission. This form is considered to be a supplement to LAT Form 5 and LAT Form 12. Refer to the pipelines Section (§1301) for specific instructions on completion of this form.

11. LAT Form 15, Aircraft Form, should be furnished to all individuals, partnerships, corporations, associations, etc., owning and/or operating an aircraft in Louisiana as of the assessment date. This form is considered to be a supplement to LAT Form 5. Refer to the aircraft Section (§1501) for specific instructions on completion of this form.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 2:358 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February

1982), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 21:186 (February 1995), LR 33:489 (March 2007).

§309. Tax Commission Miscellaneous Forms

A. - G. ...

H. TC Form TC-TU01-A, Tulane Non-Exempt Property Report.

I. TC Form TC-TU01-B, Tulane Non-Exempt Property Report of the Pre-Exemption Property Values.

J. TC Form TC-TU02, Tulane University Exemption Allocation Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1712, R.S. 47:1835, R.S. 47:1837, R.S. 47:1966, R.S. 47:1990, R.S. 47:1991 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:517 (March 2002), LR 30:487 (March 2004), LR 32:430 (March 2006), LR 33:490 (March 2007).

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2006	0.979	1	94	.92
2005	1.024	2	87	.89
2004	1.102	3	80	.88
2003	1.140	4	73	.83
2002	1.159	5	66	.76
2001	1.166	6	58	.68
2000	1.176	7	50	.59
1999	1.197	8	43	.51
1998	1.201	9	36	.43
1997	1.211	10	29	.35
1996	1.231	11	24	.30
1995	1.249	12	22	.27
1994	1.294	13	20	.26

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2006	0.979	1	97	.95
2005	1.024	2	93	.95
2004	1.102	3	90	.99
2003	1.140	4	86	.98
2002	1.159	5	82	.95
2001	1.166	6	78	.91
2000	1.176	7	74	.87
1999	1.197	8	70	.84
1998	1.201	9	65	.78
1997	1.211	10	60	.73
1996	1.231	11	55	.68
1995	1.249	12	50	.62
1994	1.294	13	45	.58
1993	1.331	14	40	.53
1992	1.356	15	35	.47
1991	1.373	16	31	.43
1990	1.401	17	27	.38
1989	1.438	18	24	.35
1988	1.515	19	22	.33
1987	1.580	20	21	.33
1986	1.603	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007).

§705. Tables—Watercraft

A. Table 705.A—140' - 159'

Table 705.A 140' - 159'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$4,500	\$1,400,000	1.14	1373	1149	926	703	479
Offshore Towing	\$3,300	\$1,400,000	0.97	1167	978	788	598	408

B. Table 705.B—160' - 179'

Table 705.B 160' - 179'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$5,000	\$2,400,000	1.21	2497	2091	1684	1278	871
Offshore Towing	\$5,000	\$2,400,000	1.21	2497	2091	1684	1278	871

C. Table 705.C—180' - 199'

Table 705.C 180' - 199'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Supply Vessel (OSV)	\$6,500	\$3,200,000	1.43	3935	3295	2654	2013	1373
Offshore Towing	\$6,250	\$3,200,000	1.39	3825	3203	2580	1957	1334

D. Table 705.D—180' - 199'

Table 705.D 180' - 199'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
AHT Tug/Supp	\$6,500	\$3,750,000	1.43	4611	3861	3110	2360	1609

E. Table 705.E—200' - 219'

Table 705.E 200' - 219'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Supply Vessel (OSV)	\$8,500	\$5,400,000	1.71	7941	6649	5356	4063	2770
AHT Tug/Supp	\$8,000	\$5,400,000	1.64	7616	6376	5137	3897	2657
Offshore Towing	\$8,750	\$5,400,000	1.75	8127	6804	5481	4158	2835

F. Table 705.F—220' - 230'

Table 705.F 220' - 230'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Supply Vessel (OSV)	\$10000	\$6,400,000	1.93	10623	8893	7164	5435	3706
AHT Tug/Supp	\$14000	\$6,400,000	2.50	13760	11520	9280	7040	4800
Offshore Towing	\$9,000	\$6,400,000	1.78	9797	8202	6607	5012	3418

G. Table 705.G—231' and Longer

Table 705.G 231' and Longer								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Supply Vessel (OSV)	\$11250	\$8,140,000	2.11	14770	12365	9961	7558	5153
AHT Tug/Supp	\$16300	\$8,140,000	2.83	19810	16584	13360	10137	6911

H. Table 705.H—60' - 70'

Table 705.H 60' - 70'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Offshore Crew	\$600	\$312,000	1.10	295	248	199	151	103

I. Table 705.I—85' - 99'

Table 705.I 85' - 99'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
Offshore Crew	\$1,000	\$416,000	1.13	.86	.72	.58	.44	.30
				405	339	272	207	141

J. Table 705.J—100' - 119'

Table 705.J 100' - 119'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
Offshore Crew	\$2,500	\$884,000	1.33	.86	.72	.58	.44	.30
Utility Vessel	\$2,300	\$884,000	1.27	1011	847	682	517	353
				965	809	652	494	337

K. Table 705.K—120' - 140'

Table 705.K 120' - 140'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
Offshore Crew	\$2,900	\$1,248,000	1.23	.86	.72	.58	.44	.30
Utility Vessel	\$2,500	\$1,248,000	1.13	1320	1106	891	675	460
				1213	1016	818	620	423

L. Table 705.L—141' - 165'

Table 705.L 141' - 165'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
Offshore Crew	\$4,000	\$2,392,000	1.17	.86	.72	.58	.44	.30
Utility Vessel	\$4,000	\$2,392,000	1.17	2407	2015	1624	1232	840
				2407	2015	1624	1232	840

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:490 (March 2007).

Chapter 9. Oil and Gas Properties

§901. Guidelines for Ascertaining the Fair Market

Value of Oil and Gas Properties

A. - B.3. ...

C. Explanations

* * *

Production Depth—the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least 50 feet, *production depth* shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

* * *

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007).

§907. Tables—Oil and Gas

A. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A-1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	15.42	46.62	2.31	6.99
1,250-2,499 ft.	14.39	27.32	2.16	4.10
2,500-3,749 ft.	18.27	24.62	2.74	3.69

Table 907.A-1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
3,750-4,999 ft.	28.38	29.21	4.26	4.38
5,000-7,499 ft.	27.83	29.61	4.17	4.44
7,500-9,999 ft.	60.89	43.34	9.13	6.50
10,000-12,499 ft.	53.17	53.65	7.98	8.05
12,500-14,999 ft.	N/A	108.67	N/A	16.30
15,000-Deeper ft.	N/A	138.59	N/A	20.79

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A-2 Oil, Gas and Associated Wells Region 2 - South Louisiana				
Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	186.98	121.55	28.05	18.23
1,250-2,499 ft.	97.70	226.09	14.66	33.91
2,500-3,749 ft.	96.47	154.15	14.47	23.12
3,750-4,999 ft.	70.77	120.96	10.62	18.14
5,000-7,499 ft.	86.53	101.74	12.98	15.26
7,500-9,999 ft.	102.81	99.35	15.42	14.90
10,000-12,499 ft.	119.99	105.29	18.00	15.79
12,500-14,999 ft.	131.60	132.79	19.74	19.92
15,000-17,499 ft.	215.81	173.56	32.37	26.03
17,500-19,999 ft.	215.66	226.64	32.35	34.00
20,000-Deeper ft.	184.09	355.33	27.61	53.30

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A-3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters				
Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	N/A	N/A	N/A	N/A
1,250-2,499 ft.	516.47	544.41	77.47	81.66
2,500-3,749 ft.	299.82	410.71	44.97	61.61
3,750-4,999 ft.	299.77	422.88	44.97	63.43
5,000-7,499 ft.	283.82	332.95	42.57	49.94
7,500-9,999 ft.	277.72	298.87	41.66	44.83
10,000-12,499 ft.	368.39	302.23	55.26	45.33
12,500-14,999 ft.	392.48	280.02	58.87	42.00
15,000-17,499 ft.	222.45	343.97	33.37	51.60
17,500-Deeper ft.	N/A	318.87	N/A	47.83

a. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources. The listing of each well and their onshore/offshore status will also be posted on the Louisiana Tax Commission website on or before January 15 of each respective tax year.

B. - B.1. Table ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2006	232639	Higher	96
2005	230643	232638	92
2004	229010	230642	88
2003	227742	229009	84
2002	226717	227741	80
2001	225352	226716	76
2000	223899	225351	72
1999	222882	223898	68
1998	221596	222881	64
1997	220034	221595	60
1996	218653	220033	56
1995	217588	218652	52
1994	216475	217587	48
1993	215326	216474	44
1992	214190	215325	40
1991	212881	214189	36
1990	211174	212880	32
1989	209484	211173	28
1988	207633	209483	24
1987	Lower	207632	20*
VAR.	900000	Higher	50

B.3. -C.6. Tables ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007).

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	627,800	94,200
4,000	729,500	109,400
5,000	908,000	136,200
6,000	1,219,000	182,900
7,000	1,554,500	233,200
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	1,914,400	287,200
9,000	2,298,800	344,800
10,000	2,707,700	406,200

Table 1103.A Land Rigs		
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,141,100	471,200
12,000	3,598,900	539,800
13,000	4,081,200	612,200
14,000	4,587,900	688,200
15,000	5,119,200	767,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,674,900	851,200
17,000	6,255,000	938,300
18,000	6,859,700	1,029,000
19,000	7,488,800	1,123,300
20,000	8,142,400	1,221,400
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,820,400	1,323,100
25,000 +	9,584,100	1,437,600

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment

IC	200-299 FT.	40,000,000	6,000,000
	300-Up FT.	55,000,000	8,250,000

C. - Table[Note] ...

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	217,875	32,680
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	295,750	44,400
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	346,500	51,980
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	409,500	61,430
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	393,750	59,100

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	490,000	73,500
VII	117' X 215M#	(2) 8V92 (2) 12V71	551,250	82,700

E. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007).

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 129,140	\$ 19,370
4	152,490	22,870
6	180,070	27,010
8	212,620	31,890
10	251,070	37,660
12	296,460	44,470
14	350,070	52,510
16	413,360	62,000
18	488,100	73,220
20	576,360	86,450
22	680,570	102,090
24	803,620	120,540
26	948,920	142,340
28	1,120,500	168,080
30	1,323,090	198,460
32	1,562,320	234,350
34	1,844,800	276,720
36	2,178,360	326,750
38	2,572,230	385,830
40	3,037,310	455,600
42	3,586,480	537,970
44	4,234,950	635,240
46	5,000,670	750,100
48	5,904,840	885,730

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$ 1,053,120	\$ 157,970
8	1,069,160	160,370
10	1,085,440	162,820

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
12	1,101,970	165,300
14	1,119,180	167,880
16	1,148,070	172,210
18	1,188,650	178,300
20	1,240,910	186,140
22	1,304,860	195,730
24	1,380,490	207,070
26	1,467,810	220,170
28	1,566,810	235,020
30	1,677,500	251,630
32	1,799,880	269,980
34	1,933,940	290,090
36	2,079,680	311,950
38	2,237,110	335,570
40	2,406,230	360,930
42	2,587,030	388,050
44	2,779,520	416,930
46	2,983,690	447,550
48	3,199,550	479,930

C. - Table[Note] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Age	Percent Good	Composite Multiplier
2006	0.979	1	97	.95
2005	1.024	2	93	.95
2004	1.102	3	90	.99
2003	1.140	4	86	.98
2002	1.159	5	82	.95
2001	1.166	6	78	.91
2000	1.176	7	74	.87
1999	1.197	8	70	.84
1998	1.201	9	65	.78
1997	1.211	10	60	.73
1996	1.231	11	55	.68
1995	1.249	12	50	.62
1994	1.294	13	45	.58
1993	1.331	14	40	.53
1992	1.356	15	35	.47
1991	1.373	16	31	.43
1990	1.401	17	27	.38
1989	1.438	18	24	.35
1988	1.515	19	22	.33
1987	1.580	20	21	.33
1986	1.603	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007).

Chapter 25. General Business Assets

§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment and Other Assets Used In General Business Activity

A. - B. ...

1. total acquisition costs of equipment including freight, installation, taxes and fees, as well as, date of purchase;

B.2. - F.1.d. ...

e. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

F.2. - G.1.e. ...

f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

G.2. - H.2.e. ...

f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:495 (March 2007).

§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. ...

Table 2503.A Suggested Guidelines for Ascertain Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery and Equipment	***
Feed Mill Equipment (Production Line)	20
Air Conditioning & Heat Repair	10
Air Conditioning Single Room Unit	8
Aircraft Parts Mfg. M&E	12

Amusement Devices (Music, Pinball Mach., etc.)	***
VCR and DVD Players	5

Amusement and Theme Parks	12
Antenna (ex. Mounted on Towers)for Telephone Cellular and CATV, etc.	8

Auto Parts Retail	10
Auto Quick Service	10
Auto Repair M & E	8
Diagnostic Equipment (Electronic)	5

Small Tools	5

Banks	
Alarm Systems	5

Vault Doors	25
Video Equipment	5

C.A.T.V. Equipment	

Headend Active (Equipment & Tower)	8
House Drops & Converters	3
P & E (Distribution)	10
Test Equipment and Tools	5
Tower	20
Cabinet Shop M & E	8

Cash Registers & Scanners (Also See Supermarkets)	5
Cellular Telephone Handset	3

Chiropractic Equipment	10

Cold Storage Warehouse Equipment	12
Compressors (General Business Assets Only)	12
Computers	
Desktops	3
Handhelds	3
Laptops	3
Main Frame	5
Midrange	5
Peripherals	3
Personal Computers	3
Servers	5

Construction M & E	

Mobile Telescopic	8

Converters (Residential Type)	3

Coolers	
Water (Installed/Water Fountain)	10

Table 2503.A Suggested Guidelines for Ascertain Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
Water (Portable)	5
Water Bottles (5 gallon)	3
Copy Machines	3

Cotton Gins	12

Credit Card Machine (In Store Swipe-Type)	5
Credit Card Machines (See Supermarket POS)	

Day Care (Exclude Office, Kitchen and Computer Assets)	5

Digital Cameras & Recorders	5

Electronic Equipment	5

Fitness Equipment	
Manual	8
Electronic	5
Florist Retail (Except Computers and Other Office Equipment)	8

Gaming Equipment	

Lotto Machines	3

Garage M&E	8
General Contractor M&E	8

GPS Receivers (Hand Held)	3

Hospital and Nursing Home Equipment	***
High Tech (Computer Integrated) Equipment	3

Machine Shop M & E (Maintenance)	8
Machine Shop M & E (Production)	8

Medical Equipment	***
Computer Driven	5

Metal Sheet Fabrication	8

Movie (Film Making)	8

Music Studio Recording Equipment	5
Music Systems (Background)	5

Newspaper M&E	
Press	***
Photographic	***
Other M&E	***
Nursing Home Equipment	
Mattresses	3
Nursing & Greenhouse M&E	***
Office Copy Machines, Faxes & Printers	3
Office Electronic Machines	5
Office F&F	12
Office Mailing Machines	***

Photography Equipment	8

Plumbing Shop Equipment	8

Portalets	5

Table 2503.A Suggested Guidelines for Ascertaining Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
Radio & Television	
Broadcasting Equipment	8

Digital Radio Equipment	5

Rental Equipment	
Public U-Rent (except heavy equipment)	5

Video Tape, DVD & Game Rental	3

Sheet Metal Fabrication	8

Supermarkets	

PA Systems (Public Address)	5
POS Computer Systems	3

Surveying Equipment (Also See Professional Equipment)	8

Theater	
Projection Equipment	8

VCR & DVD Equipment (If Rental Units, See Rental)	5

Woodworking Shop M&E	8

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2006 = 100*
2006	1	1302.3	0.979
2005	2	1244.5	1.024
2004	3	1157.3	1.102
2003	4	1118.6	1.140
2002	5	1100.0	1.159
2001	6	1093.4	1.166
2000	7	1084.3	1.176
1999	8	1065.0	1.197
1998	9	1061.8	1.201
1997	10	1052.7	1.211
1996	11	1036.0	1.231
1995	12	1020.4	1.249
1994	13	985.0	1.294
1993	14	958.0	1.331
1992	15	939.8	1.356
1991	16	928.5	1.373
1990	17	910.2	1.401
1989	18	886.5	1.438
1988	19	841.4	1.515
1987	20	806.9	1.580
1986	21	795.4	1.603
1985	22	787.9	1.618
1984	23	776.4	1.642
1983	24	755.8	1.687
1982	25	742.4	1.717
1981	26	709.2	1.798

*Reappraisal Date: January 1, 2006 – 1274.8 (Base Year)

C. ...

D. Composite Multipliers 2007 (2008 Orleans Parish)

Table 2503.D Composite Multipliers 2007 (2008 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.83	.88	.90	.92	.93	.95	.96
2	.50	.71	.81	.86	.89	.92	.95	.97
3	.37	.57	.74	.84	.88	.94	.99	1.02
4	.18	.39	.62	.76	.83	.90	.98	1.03
5		.27	.50	.67	.76	.85	.95	1.01
6		.21	.38	.57	.68	.79	.91	.98
7			.31	.46	.59	.73	.87	.95
8			.26	.36	.51	.66	.84	.93
9			.24	.29	.43	.59	.78	.90
10				.25	.35	.52	.73	.86
11				.25	.30	.46	.68	.84
12					.27	.39	.62	.80
13					.26	.34	.58	.78
14						.31	.53	.75
15						.28	.47	.71
16						.27	.43	.66
17							.38	.62
18							.35	.56
19							.33	.52
20							.33	.47
21							.32	.45
22								.42
23								.39
24								.34
25								.34
26								.36

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007).

Chapter 29. Public Service Properties
§2907. Exceptions to Valuation or Allocation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1853 and R.S. 47:1855.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:30 (February 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 19:212 (February 1993), repealed by the Department of Revenue, Tax Commission, LR 33:498 (March 2007).

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. ...

B. Each assessor shall publish the dates, time and place of the public exposure of the assessment lists of both real and personal property in a newspaper of general circulation in their respective parishes. Notice shall be published at least twice within a period of not sooner than 21 days nor later than seven days prior to the beginning of the 15 calendar day period of exposure.

C. - E. ...

F. The Parish Police Jury or Parish Council shall sit as the Board of Review. The Board of Review shall convene hearings within 10 days of its receipt of the certified rolls. The Board of Review shall conduct hearings for all persons or their representatives desiring to be heard on the assessments of immovable and movable property. On the fifteenth day after the Board of Review begins the public hearings, the assessment lists, together with any changes in connection therewith, shall be certified and sent to the Tax Commission within three days. R.S. 47:1992.

G. - K. ...

Form 3101
Exhibit A
Appeal to Board of Review by Taxpayer
for Real and Personal Property

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Ward: _____ Assessment/Tax Bill Number: _____
Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal

property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BOR's written determination. For further information, call LTC at (225) 925-7830.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)
Address: _____
Telephone No. _____

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007).

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form, and accompanied by a \$50 filing fee. All filings shall be in the form of an original and seven copies.

D. - N. ...

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. - X. ...

Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Real and Personal Property

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Board of Review
Ward: _____ Assessment Tax Bill No.: _____ Appeal No.: _____
(Attach copy of complete appeal submitted to the Board of Review)

La. Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:
Land \$ _____ Improvement \$ _____ Total \$ _____

If you are appealing personal property*:
The original Fair Market Value by the assessor was:
\$ _____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):
Land \$ _____ Improvement \$ _____ Total \$ _____

The revised Fair Market Value by the Board of Review was:
Land \$ _____ Improvement \$ _____ Total \$ _____

The Fair Market Value by the Board of Review was:
Personal Property: \$ _____

* If you are not appealing personal property leave this section blank.
I understand that property is assessed at a percentage of fair market value, which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller, under usual and ordinary circumstances, the highest price the property would bring on the open market, if exposed for sale for a reasonable time.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone No.: _____

Date of Appeal _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007).

§3105. Practice and Procedure for Public Service Properties Hearings

- A. ...
- B. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form, and accompanied by a \$50 filing fee. All filings shall be in the form of an original and seven copies.
- C. - N. ...
- O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.
- P. - T. ...

LTC Docket No. _____

**Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Public Service Property**

La. Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property.

The Fair Market Value of the Louisiana Tax Commission is:
Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

I am requesting that the Fair Market Value be fixed at:
Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

* If you are not appealing personal property, leave this section blank.
I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone No.: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007).

§3106. Practice and Procedure for the Appeal of Bank Assessments

- A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days of the dated Certificate of Value to the taxpayer. In order to institute a proceeding before the commission, the taxpayer shall file Form 3106.A and, if applicable Form 3103.B.
- B. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form, and accompanied by a \$50 filing fee. All filings shall be in the form of an original and seven copies.
- C. At the close of the time period for filing protests, the commission shall assign each case to the docket and notify the parties of the time and place of the hearing.
- D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is

filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. Every taxpayer, witness, attorney or other representative shall conduct themselves in all proceedings with proper dignity, courtesy and respect for the hearing officer or the commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer, witness, attorney or other representative may be excluded by the hearing officer or the commission of any hearing for such a period and upon such conditions as are just for violation of this rule.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, prior to the hearings and/or prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible, of the number of witnesses;
3. possible consolidation of like protests;
4. the time required for presentations;
5. stipulations as to admissibility of exhibits;
6. submission of proposed findings of fact;
7. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the taxpayer and filed with the commission seven days prior to the hearing. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is a disagreement, together with a brief summary of the nature of the disagreement.

H. A motion for consolidation of two or more protests, if made prior to hearing, shall be in writing, signed by the mover, his attorney or representative, and filed with the commission prior to the date set for the hearing. No two or more protests shall be consolidated or heard jointly without the consent of the taxpayer and by consent of the commission, unless the commission shall find that the two or more protest involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expenses, delays or substantial injustice.

I. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

J. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses and rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

K. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission. The proposed order shall be served upon the protesting taxpayer by mailing of the notice of final decision by the commission.

L. The commission or hearing officer shall direct the taxpayer to enter their appearance on the record. In all proceedings, the protesting taxpayer shall open with a statement and/or argument. After the protesting taxpayer has presented all its evidence, the commission or hearing officer may call upon any witness or the staff of the commission for further material or relevant evidence upon any issue.

M. The commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and shall provide for such copies of the transcript as may be requested by any party or as may be required for the purposes of the commission upon payment of the cost of transcribing the hearing.

N. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

Q. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

S. The taxpayer/taxpayer agent and the assessor shall be notified in writing by certified mail of the final decision of the commission. The taxpayer or assessor shall have 30 days

from receipt of the order to appeal to a court of competent jurisdiction.

T. The word "commission" as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

LTC Docket No. _____

**Form 3106.A
Appeal to Louisiana Tax Commission
by Taxpayer
for Bank Stock Assessments**

LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____

Taxpayer

Address: _____ City, State, Zip: _____

Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Louisiana Tax Commission is:

\$ _____

I am requesting that the Fair Market Value be fixed at:

\$ _____

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No.: _____

Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007).

§3107. Practice and Procedure for the Appeal of Insurance Credit Assessments

A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days of the dated Certificate of Value to the taxpayer. In order to institute a proceeding before the commission, the taxpayer shall file Form 3107.A and, if applicable Form 3103.B.

B. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form, and accompanied by a \$50 filing fee, if any. All filings shall be in the form of an original and seven copies.

C. At the close of the time period for filing protests, the commission shall assign each case to the docket and notify the parties of the time and place of the hearing.

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. Every taxpayer, witness, attorney or other representative shall conduct themselves in all proceedings with proper dignity, courtesy and respect for the hearing officer or the commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for

attorneys at law by the Louisiana Bar Association. Any taxpayer, witness, attorney or other representative may be excluded by the hearing officer or the commission of any hearing for such a period and upon such conditions as are just for violation of this rule.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, prior to the hearings and/or prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible, of the number of witnesses;
3. possible consolidation of like protests;
4. the time required for presentations;
5. stipulations as to admissibility of exhibits;
6. submission of proposed findings of fact;
7. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the taxpayer and filed with the commission seven days prior to the hearing. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is a disagreement, together with a brief summary of the nature of the disagreement.

H. A motion for consolidation of two or more protests, if made prior to hearing, shall be in writing, signed by the mover, his attorney or representative, and filed with the commission prior to the date set for the hearing. No two or more protests shall be consolidated or heard jointly without the consent of the taxpayer and by consent of the commission, unless the commission shall find that the two or more protest involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expenses, delays or substantial injustice.

I. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

J. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses and rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

K. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission. The proposed order shall be served upon the protesting taxpayer by mailing of the notice of final decision by the commission.

L. The commission or hearing officer shall direct the taxpayer to enter their appearance on the record. In all proceedings, the protesting taxpayer shall open with a statement and/or argument. After the protesting taxpayer has presented all its evidence, the commission or hearing officer may call upon any witness or the staff of the commission for further material or relevant evidence upon any issue.

M. The commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and shall provide for such copies of the transcript as may be requested by any party or as may be required for the purposes of the commission upon payment of the cost of transcribing the hearing.

N. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

Q. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

S. The taxpayer/taxpayer agent and the assessor shall be notified in writing by certified mail of the final decision of the commission. The taxpayer or assessor shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

T. The word "commission" as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Louisiana Tax Commission is:
\$ _____

I am requesting that the Fair Market Value be fixed at:
\$ _____

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No.: _____

Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007).

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2006, and ending on June 30, 2008, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007).

§3503. Homestead Exemptions

A. - A.7.b. ...

8. Homestead exemptions are allowable in any year in which the owner occupied the home prior to December 31 of that year.

A.9. - C.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:320 (February 1999), LR 32:440 (March 2006), LR 33:502 (March 2007).

3509. Tulane University—Exemption Allocation Regulation

A. This Regulation shall be titled and known as "Tulane University—Exemption Allocation Regulation".

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 33:502 (March 2007).

§3511. Tulane University—Purpose

A. - B.3. ...

C. Section 3509 allocates the \$5,000,000 exemption equitably among all Tulane University income producing property subject to ad valorem taxation in the state of Louisiana.

LTC Docket No. _____

Form 3107.A
Appeal To Louisiana Tax Commission
by Taxpayer
for Insurance Assessments

LA Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____

Taxpayer

Address: _____ City, State, Zip: _____

D. Louisiana Constitution, Article VII, Section 21 provides that all non-profit companies are exempt from property taxes.

E. The Supreme Court of Louisiana held in Board of Administrators of the Tulane Educational Fund vs. Louisiana Tax Commission consolidated with Thomas L. Arnold, Assessor, vs. Board of Administrators of the Tulane Educational Fund, dated January 30, 1998, denying an appeal of the decision of the Court of Appeal, Fourth Circuit, dated October 1, 1997, that non-income producing or vacant properties owned by a non-profit company are exempt from property taxes under the Louisiana Constitution. The Louisiana Attorney General agreed in Opinion Number 01-323, dated September 13, 2001.

F. Louisiana Constitution, Article VIII, Section 14, reconfirming Act No. 43 of July 21, 1884, provides that, in addition to Tulane's full exemption on properties used for educational purposes and properties that are non-income producing or vacant, Tulane is exempt from property taxes on its first \$5,000,000 in Fair Market Value of all income producing properties in Louisiana. This exemption was confirmed in the decision of the Civil District Court for the Parish of Orleans, Division "J", Case No. 89-14534, Board of Administrators of the Tulane Educational Fund vs. The Louisiana Tax Commission, dated April 19, 1990, which was never appealed and is therefore final. The Louisiana Tax Commission also confirmed this \$5,000,000 exemption in LTC Regulation No. 3509.

G. To administer this exemption, which extends throughout the state and requires coordination among all assessors, the Louisiana Tax Commission established LTC Regulation No. 3509 procedures to be followed by all assessors when assessing property owned by Tulane. The commission instructs each assessor to list each property owned by Tulane as exempt and, at the time the rolls are filed with the commission, all assessors shall deliver a list of all Tulane properties in their parish or municipal district that are not otherwise exempt from taxation pursuant to Louisiana law (i.e., not used for educational purposes or non-income producing). See: Memo of Louisiana Tax Commission to all Assessors, dated December 18, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:724 (March 2005), amended LR 33:502 (March 2007).

§3513. Tulane University—Definitions

A. For the purpose of this Section, the following definitions apply.

Allocation Formula—defined in LTC Regulation 3519.

Assessed Value (AV)—determined according to Louisiana law.

Commission—the Louisiana Tax Commission (sometimes referred to as "LTC").

Fair Market Value (FMV)—defined by Louisiana law.

FMV Each Improvement—the Fair Market Value of all buildings and improvements in each tax assessment. (Tax assessors should issue one tax assessment amount for all buildings and improvements.)

FMV Each Land Parcel—the Fair Market Value of all land in each tax assessment included in Non-Exempt Property.

FMV Improvements Statewide—the total Fair Market Value of all buildings and improvements included in Non-Exempt Property.

FMV Land Statewide—the total Fair Market Value of all land included in Non-Exempt Property.

Improvement Assessment Ratio—for Commercial Properties, 15 percent of the Fair Market Value of the buildings and other improvements only and for Residential Properties, 10 percent of the Fair Market Value of the buildings and other improvements only.

Land Assessment Ratio—10 percent of the Fair Market Value of the land only.

Louisiana Tax Commission Form TC-TU01-A (Tulane Non-Exempt Property Report)—the form adopted by the Commission for Tulane University to provide its list of Non-Exempt Property.

Louisiana Tax Commission Form TC-TU01-B (Tulane Non-Exempt Property Report of the Pre-Exemption Property Values)—the form completed by the Tax Assessor to provide to Tulane University and the commission the Tax Assessor's proposed Fair Market Value and Assessed Value of Tulane University's Non-Exempt Property.

Louisiana Tax Commission Form TC-TU02 (Tulane University Exemption Allocation Report)—the form adopted by the commission in the form of a spreadsheet with formulas to be used for allocation of the Tulane Exemption.

Net Fair Market Value of a Property—the Fair Market Value of that property minus its Pro-rata Share.

Non-Exempt Property—any property owned by Tulane University in the state of Louisiana that is not exempt by Louisiana law for ad valorem tax purposes prior to application of the Tulane exemption.

Pro-Rata Share—that portion of the Tulane Exemption allocated to each Non-Exempt Property according to the Allocation Formula.

Tax Assessor—all tax assessors within the state of Louisiana, individually and/or jointly, whose jurisdiction includes property owned by Tulane University.

Tulane Exemption—the \$5,000,000 exemption as provided in Act 1884, No. 43.

Tulane Hearing Date—the first Wednesday and/or Thursday of each December shall be the commission hearing date for resolution of any property valuation issues, and/or allocation of the Tulane Exemption, and/or ordering issuance of supplements and change orders to the tax rolls. If after the closing of the rolls in all Louisiana parishes in which Tulane University owns Non-Exempt Property, there is no dispute as to the Fair Market Value of any Non-Exempt Property, the commission, at its discretion, may hold a hearing at an earlier date.

Tulane University—the Administrators of the Tulane Educational Fund, a Louisiana Non-Profit Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:724 (March 2005), amended LR 33:503 (March 2007).

§3515. Tulane University—General Rule

A. - D. ...

E. All Tax Assessors and related governmental entities shall use current, accurate property legal descriptions found

in the public records for all real estate assessments, correspondence, and notices when complying with Section 3509.

F. All Tulane University property tax bills and related correspondence shall be sent to:

The Administrators of the Tulane Educational Fund
Office of the General Counsel
6823 St. Charles Avenue
New Orleans, Louisiana 70118

G. ...

H. All correspondence to each Tax Assessor related to Section 3509 shall be sent to its address as shown in the public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:725 (March 2005), amended LR 33:503 (March 2007).

§3517. Tulane University—Reporting and Valuation Procedure

A. ...

1. On or before June 30 of each year, Tulane University shall deliver, in writing, to the Commission and the Tax Assessor for each municipal district/parish in which Tulane University owns Non-Exempt Property a report on each Non-Exempt Property on Louisiana Tax Commission Form TC-TU01-A.

2. Each year, on or before the date the roll opens for public review and inspection, each Tax Assessor shall complete, sign and deliver to Tulane University and the Commission Louisiana Tax Commission Form TC-TU01-B for each property submitted on Louisiana Tax Commission Form TC-TU01-A and each property in such Tax Assessor's jurisdiction that the Tax Assessor intends to assess as Non-Exempt Property, showing the proposed Fair Market Value and Assessed Value of the land and of the improvements for each such property. The Tax Assessor shall determine one Assessed Value for the land and one Assessed Value for the improvements.

3. Should Tulane University agree with the Fair Market Value and Assessed Value of each Land Parcel and the Fair Market Value and Assessed Value of each Improvement proposed by the Tax Assessor, then Tulane University shall sign each form and forward it to the Commission and each respective Tax Assessor. Should Tulane University disagree with the Fair Market Value and Assessed Value of each Land Parcel and the Fair Market Value and Assessed Value of each Improvement proposed by the Tax Assessor, then Tulane University shall note its objection on each form and forward it to the Commission and each respective Tax Assessor.

4. All Tax Assessors may make reasonable inquiry of Tulane University in an effort to determine all property owned by Tulane University within the Tax Assessor's jurisdiction.

5. All Tax Assessors shall list all Non-Exempt Property as exempt and indicate the Tax Assessor's proposed Fair Market Value of each property in the tax rolls, until the Allocation Formula is applied and approved by the Commission and the Tax Assessor receives a change order from the Commission.

6. In each Board of Review certification to the Commission, the Board of Review shall list all Non-Exempt Property as exempt and indicate the Board of Review's

recommended Fair Market Value of each property in the tax rolls, until the Allocation Formula is applied and approved by the Commission and the Tax Assessor receives a change order from the Commission.

7. All Board of Review decisions on appeals of the proposed assessments by the Tax Assessor shall be delivered to the Commission according to standard procedures and deadlines as the Board of Review's recommended assessment.

8.a. On the Tulane Hearing Date of each year, the Commission shall:

i. hold all appeal hearings involving Non-Exempt Property;

ii. decide each appeal and issue written reasons for decisions on all such appeals; and

iii. allocate the Tulane Exemption across all Non-Exempt Property according to the Allocation Formula, and LTC Form TC-TU02, then order issuance of all supplements and change orders of the tax rolls to each reporting municipal district/parish, establishing the Land Parcel Assessed Value after Exemption and the Improvement Assessed Value after Exemption for each Non-Exempt Property.

b. Upon receipt of said change orders, the Tax Assessor shall adjust the tax rolls to reflect the commission's change orders.

9. Nothing in these regulations shall alter or diminish in any way Tulane University's right to appeal a proposed or actual assessment by any Tax Assessor or any decision or ruling of any Board of Review or the commission under the administrative and judicial remedies available to all taxpayers. The proposed assessment by the Tax Assessor, the Board of Review's recommended assessment, and the commission's determination shall be treated in the same manner as if the property were not marked exempt on the tax rolls and the proposed assessment was the Tax Assessor's final assessment on the tax rolls, the Board of Review's recommended assessment and/or the commission's determination was its final assessment decision.

10. Nothing in these regulations shall alter or diminish in any way Tulane University's right or any Tax Assessor's right to appeal, by all available administrative and judicial remedies the commission's allocation of the Tulane Exemption.

11. After allocation of the Tulane Exemption and issuance of the requisite supplements and change orders by the commission, the total amount of the Tulane Exemption allocated to each property (as shown in the column entitled "FMV Reduction by Exemption" of the Louisiana Tax Commission Form TC-TU02) shall remain unchanged thereafter and not be later readjusted, regardless of the outcome of subsequent appeals of valuation of assessments for that tax year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:725 (March 2005), amended LR 33:504 (March 2007).

§3519. Tulane University—Allocation Formula

A. - A.1. ...

a. (FMV Land Statewide) (x) (Land Assessment Ratio) (=) (Land Assessed Value Statewide)

b. (FMV Improvements Statewide) (x) (Improvement Assessment Ratio) (=) (Improvement Assessed Value Statewide)

c. (Land Assessed Value Statewide) (+) (Improvement Assessed Value Statewide) (=) (Total Assessed Value Statewide)

d. (Land Assessed Value Statewide) (÷) (Total Assessed Value Statewide) (=) (Land Exemption Percentage Statewide)

e. (Improvement Assessed Value Statewide) (÷) (Total Assessed Value Statewide) (=) (Improvement Exemption Percentage Statewide)

f. (Land Exemption Percentage Statewide) (x) (Tulane Exemption) (=) (Land Exemption Amount Statewide)

g. (Improvement Exemption Percentage Statewide) (x) (Tulane Exemption) (=) (Improvement Exemption Amount Statewide)

2. ...

a. (FMV each Land Parcel) (÷) (FMV Land Statewide) (=) (Land Parcel FMV %)

b. (Land Parcel FMV %) (x) (Land Exemption Amount Statewide) (=) (Land Parcel FMV Reduction by Exemption)

c. (FMV each Land Parcel) (-) (Land Parcel FMV Reduction by Exemption) (=) (Land Parcel FMV after Exemption Reduction)

d. (Land Parcel FMV after Exemption Reduction) (x) (Land Assessment Ratio) (=) (Land Parcel Assessed Value after Exemption)

3. ...

a. (FMV each Improvement) (÷) (FMV Improvements Statewide) (=) (Improvement FMV %)

b. (Improvement FMV %) (x) (Improvement Exemption Amount Statewide) (=) (Improvement FMV Reduction by Exemption)

c. (FMV each Improvement) (-) (Improvement FMV Reduction by Exemption) (=) (Improvement FMV after Exemption Reduction)

d. (Improvement FMV after Exemption Reduction) (x) (Improvement Assessment Ratio) (=) (Improvement Assessed Value after Exemption)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:726 (March 2005), amended LR: 33:504 (March 2007).

§3521. Tulane University—Allocation Report

A. On the Tulane Hearing Date, the commission shall calculate and adopt the Allocation Formula and evidence its application on the report entitled Tulane University Exemption Allocation Report (LTC Form TC-TU02).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:726 (March 2005), amended LR 33:505 (March 2007).

§3523. Tulane University—Forms

A. ...

1. Louisiana Tax Commission Form TC-TU01-A, Tulane Non-Exempt Property Report.

2. Louisiana Tax Commission Form TC-TU01-B, Tulane Non-Exempt Property Report of the Pre-Exemption Property Values.

3. Louisiana Tax Commission Form TC-TU02, Tulane University Exemption Allocation Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:726 (March 2005), amended LR 33:505 (March 2007).

Chapter 37. Reassessment Guidelines Pursuant to R.S. 47:1978 and 1978.1

§3701. Listing and Assessing of Overflowed Lands

A. Whenever lands or other property are overflowed by the waters of the Mississippi River, or by the waters of any other river, lake, bayou, or backwater, the assessors within whose parishes such lands or other property may be situated, shall reassess such lands or property for their actual cash value, and in so doing they shall specially take into consideration all the damages to the lands or property and the depreciation of the value of such land or property caused by the overflow. The assessors throughout the state shall make these reassessments whether the time fixed by law for filing assessment rolls has elapsed or not, and in case of reassessments, as provided by this Section, the assessor shall prepare supplemental rolls of overflowed lands and other overflowed property, which they shall file in the manner provided by law for general assessment rolls; such reassessment shall be subject to the same rights as to contest as to assessment generally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1978 and R.S. 47:1978.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:505 (March 2007).

§3702. Listing and Assessing of Land and Property Damaged or Destroyed during a Disaster or Emergency Declared by the Governor or Fire

A. If lands or property, including buildings, structures, or personal property, are damaged or destroyed, non-operational, or uninhabitable due to an emergency declared by the governor or to a disaster or fire, the assessor or assessors within such parish shall assess such lands or property for the year in which damage has occurred at the percentage of fair market value provided in the Constitution of Louisiana by taking into consideration all the damages to the lands or other property, including obsolescence, and the depreciation of the value of such land or other property caused by the disaster, fire, or emergency described in this Section. Notwithstanding other provisions of law to the contrary, the assessor shall make these assessments whether the time fixed by law for filing assessment rolls has elapsed or not.

B. The assessments provided for in this Section and in §3701 shall be completed no later than six months following the implementation of §3701 or this Section. The Louisiana Tax Commission shall grant the assessor an additional six months to complete the assessments referred to in §3701 or this Section upon a reasonable showing by the assessor that additional time is needed to complete the assessment of the property described in §3701 or this Section.

C. The assessor shall assess such damaged, destroyed, non-operational, or uninhabitable property in one of the following three manners.

1. The assessments of such property shall be reflected on the general assessment roll if at the time lands and other property are damaged, destroyed, non-operational, or uninhabitable due to an emergency declared by the governor or due to a disaster or fire, the general assessment roll has not been certified by the assessor to the local Board of Review. The procedures for public inspection of the general assessment rolls, review of assessments by the Board of Review, and certification of the assessment rolls to the Louisiana Tax Commission shall be followed. The rolls shall be open for public inspection for a period of 15 days, and the assessor shall advertise such public exposure dates and dates for board of review as provided for by existing law. If the dates provided for by existing law have expired, the assessor shall advertise new exposure dates and dates for the board of review even if those dates are not within the time period provided for by existing law.

2. If, at the time such lands and other property are damaged, destroyed, non-operational, or uninhabitable due to an emergency declared by the governor or due to a disaster or fire, the general assessment rolls have already been certified by the assessor to the local Board of Review, the assessor shall prepare a supplemental roll of land or property damaged or destroyed as the result of the events described in this Section, which rolls shall be filed in the same manner as provided for in this Section for general assessment rolls, and such assessments shall be subject to the same rights as to contest as to assessments generally.

3. If, after the filing of the assessment roll with the Louisiana Tax Commission, the assessor requests a change order as a result of the events described in this Section, such request for change order shall be signed by the assessor or his deputy and shall contain a declaration that the property owner agrees to the change in the assessment and that the property owner waives any right to further contest the correctness of the assessment. In the event the request for change order is not agreed upon by the assessor and the property owner, the assessor shall mail to the property owner the assessor's determination of the assessed value of the property. If the property owner is dissatisfied with the assessor's determination of assessed value, the property owner shall have 15 days from the mailing of the notification by the assessor of the determination of assessed value to contest the assessment to the Louisiana Tax Commission. All decisions by the Louisiana Tax Commission are final unless appealed to the district court within 15 days from the mailing of the decision of the Louisiana Tax Commission. If the assessor requests change orders in lieu of an original assessment roll or supplemental roll under this Section, the assessor shall submit an amended grand recap reflecting the changes in assessed values requested in such change orders.

D. The assessment provided for in this Section shall not be considered an implementation of the reappraisal and valuation provisions of Article VII, Section 18(F) of the Constitution of Louisiana, nor shall such assessment result in the adjustment of ad valorem tax millages pursuant to Article VII, Section 23 of the Constitution of Louisiana.

E. The provisions of this Section shall apply to the Louisiana Tax Commission in the assessment of public service properties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1978 and R.S. 47:1978.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:505 (March 2007).

Elizabeth L. Guglielmo
Chairman

0703#027

RULE

Department of Social Services Office of Family Support

Child Care Assistance Program-Provider Rate Increase (LAC 67:III.5103, 5107 and 5109)

The Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program.

A 2005 Child Care Market Rate Survey concluded that Louisiana's payment rates fall below the seventy-fifth percentile. In an effort to reach this desired level of payment, the agency is increasing the State Maximum Rate for services to eligible child care providers.

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

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

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5103. Conditions of Eligibility

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

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

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007).

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - B. ...

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

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

a. - g. ...

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

C.2. - E. ...

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

1. - 2. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 33:507 (March 2007).

§5109. Payment

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

Sliding Fee Scale for Child Care Assistance Recipients 75 Percent of Projected Median Income						
Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 1069	0 - 1341	0 - 1613	0 - 1884	0 - 2156	80%
	1070-1608	1342-1997	1614-2386	1885-2774	2157-3163	60%
	1609-2147	1998-2653	2387-3158	2775-3664	3164-4169	40%
	Above 2147	Above 2653	Above 3158	Above 3664	Above 4169	0%
Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0-2428	0-2699	0-2971	0-3243	0-3514	80%
	2429-3346	2700-3529	2972-3712	3244-3896	3515-4079	60%
	3347-4264	3530-4358	3713-4453	3897-4548	4080-4643	40%
	Above 4264	Above 4358	Above 4453	Above 4548	Above 4643	0%
Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0-3786	0-4058	0-4329	0-4601	0-4873	80%
	3787-4262	4059-4445	4330-4628	4602-4811	4874-4995	60%
	4263-4737	4446-4832	4629-4927	4812-5021	4996-5116	40%
	Above 4737	Above 4832	Above 4927	Above 5021	Above 5116	0%
Number in Household	17	18				DSS %
Monthly Household Income	0-5144	0-5416				80%
	5145-5178					60%
	5179-5211					40%
	Above 5211					0%

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

B. Determination of Payments

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

a. ...

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

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

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

a. ...

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

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

B.3. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007).

Ann S. Williamson
Secretary

0703#054

RULE

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

**Mandatory Fee for Successful Child Support Collection
(LAC 67:III.2303 and 2523)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, adopted Title 67, Part III, Subpart 4, Support Enforcement Services (SES), Section 2523, Mandatory Fee for Successful Child Support Collections, which provides for the imposition of an annual fee for successful child support collection in compliance with federal guidelines.

Section 7310 of the Deficit Reduction Act (DRA) of 2005, amended the Social Security Act by adding Subsection 454(6)(B)(ii) which reads "in the case of an individual who has never received assistance under a state program funded under Part A and for whom the state has collected at least \$500 of support, the state shall impose an annual fee of \$25 for each case in which services are furnished, which shall be retained by the state from support collected on behalf of the individual (but not from the first \$500 so collected), paid by the individual applying for the services, recovered from the

absent parent, or paid by the state out of its own funds." Adoption of §2523 is necessary to ensure continued compliance with federal regulations and avoid federal penalties and sanctions that could be imposed by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67

SOCIAL SERVICES

Par III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 23. Single State Agency Organization

Subchapter A. Designation, Authority, Organization and Staffing

§2303. State Plan

A. ...

B. The state plan is available for review at the Office of Family Support Planning Section, 624 North Fourth Street, Room 5-233-19, Baton Rouge, LA 70804.

AUTHORITY NOTE: Promulgated in accordance with Title IV-D of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Youth Services, LR 11:495 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), LR 33:508 (March 2007).

Chapter 25. Support Enforcement

Subchapter E. Individuals Not Otherwise Eligible

§2523. Mandatory Fee for Successful Child Support Collection

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

B. The custodial party shall be responsible for the annual fee and the fee shall be retained by the state from support collected, (but not from the first \$500 collected) or paid by the state out of its own funds (the payment of which from state funds shall not be considered as an administrative cost

of the state for the operation of the plan, and the fees shall be considered income to the program).

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:508 (March 2007).

Ann Silverberg Williamson
Secretary

0703#053

RULE

Association of Tax Administrators

Local Sales Tax Reporting Date (LAC 72.I:Chapter 3)

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Association of Tax Administrators has adopted regulations relating to the local sales tax reporting date.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 3. Local Sales Tax Reporting Date

§301. General Provisions

A. In accordance with R.S. 47:337.18(A), the taxes levied by the local ordinance shall be due and shall be payable on the first day of the month and returns shall be prepared and transmitted to the collector by all dealers on or before the twentieth day of each month for the preceding reporting period. Every dealer, at the time of making the return required hereunder, shall compute and remit to the collector the required tax due for the preceding reporting period, and failure to so remit such tax shall cause said tax to become delinquent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.2, R.S. 47:337.18(A), and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:509 (March 2007).

§303. Definitions

A. Definitions. For the purposes of these rules, the following terms shall have the meaning ascribed to them in this Section.

Courier—a messenger other than the United States Postal Service that delivers parcel, packages and the like containing returns, reports, other documents or payments.

Legal Holiday—any legal holiday observed by the Local Collector, Louisiana Department of Revenue or the United States Post Office.

Local Collector—the individual or entity designated as collector of the appropriate single sales and use tax collection office, and his duly authorized assistants, of any political subdivision authorized under the constitution and

laws of the state of Louisiana to levy and collect a sales and use tax, except a statewide political subdivision, when used in reference to a sales and use tax levied by such political subdivision.

Local Collector's Designated Agent for Electronic Filing—

a. the Louisiana Department of Revenue solely for electronically transmitted returns and remittances as defined in R.S. 47:337.23; or

b. agents that have contractual agreements with the local collectors to accept electronic return and remittances.

Postage—the amount of money paid for the delivery of a piece of mail by the United States Postal Service.

Postage Meter—the postage printing die and postage registering mechanism of a mailing machine which must meet postal service test specifications and is subject to inspection by the United States Postal Service.

Postmark—an official mark made by the United States postal service on a piece of mail to cancel the stamp and to indicate the place and date of sending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.2, R.S. 47:337.18(A), and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:509 (March 2007).

§305. File Date of a Return, Report and Other Documents

A. Delivery by the United States Postal Service. A return, report or other document in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed on the date postmarked by the United States Postal Service. The postmark must bear a date on or before the last date prescribed for filing the return, report or other document in order to be considered timely filed. If the postmark on the envelope is not legible, the taxpayer has the burden of proving the date that the postmark was made. If the return, report or other document is sent by United States registered or certified mail, the date of registration is treated as the date of postmark. A postage meter date is considered a valid postmark date provided it does not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

B. Delivery by Courier. A return, report or other document delivered by courier is deemed filed on the date it is delivered to the local collector's office.

C. Delivery by the Taxpayer. A return, report or other document delivered by the taxpayer or a representative of the taxpayer is deemed filed on the date it is delivered to the local collector's office.

D. Electronically Filed Report and Remittance. The return and remittance are deemed to be filed when both the return and remittance are transmitted and available to be received by the local collector or the local collector's designated agent for electronic filing.

E. Timely Filing When the Twentieth Calendar Day Falls on Saturday, Sunday, or Legal Holiday. Unless otherwise specifically provided, when the twentieth calendar day following the due date for of any report or return prescribed under the laws administered by the local collector, falls on a Saturday, Sunday, or a legal holiday, the report or return shall be considered timely if it is filed on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.2, R.S. 47:337.18(A), and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:509 (March 2007).

Tom O'Neal
Secretary-Treasurer

0703#066

RULE

Association of Tax Administrators

Tax on the Storage of Property (LAC 72.I:Chapter 5)

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Association of Tax Administrators has adopted regulations relating to the tax on the storage of property.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 5. Tax on the Storage of Property

NOTE: See LAC 61:I.4404.I for rules on Interstate Commerce and Export

§501. Purpose

A. For the purpose of use tax levied by local political subdivisions, *storage* means the keeping or retention of tangible personal property for use or consumption within the local taxing jurisdiction. An analysis of whether or not a taxable storage event has occurred within a local taxing jurisdiction requires an evaluation of the original sales transaction as well as the subsequent possession and use of the tangible personal property by the purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:510 (March 2007).

§503. Transactions

A. Transactions involving specific pieces of property imported by the purchaser into the taxing jurisdiction, which have written documentation, i.e., invoices, purchase orders, etc., clearly labeled (earmarked for exclusive use outside the taxing jurisdiction) for transshipment outside the taxing jurisdiction at the time of importation into the taxing jurisdiction, are excluded from use tax. Property may be stored in the taxing jurisdiction for an indefinite period of time, however any disposition of the property for a purpose contrary to that originally labeled (earmarked) would immediately subject the transaction to the use tax in the jurisdiction where stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:510 (March 2007).

§505. Property that Comes to Rest in the Taxing Jurisdiction

A. Property that comes to rest in the taxing jurisdiction which has been documented for exclusive use outside the taxing jurisdiction may also be excluded from use tax if the purchaser obtains a Temporary Storage Tax Exemption Certificate from the collector prior to or at the time the

tangible personal property is imported into the taxing jurisdiction. This certificate would allow the taxpayer/purchaser to store the tangible personal property without the payment of the use tax, however, the purchaser must identify where the tangible personal property will be used on the certificate. If the parish of use is the same as the parish of storage, the tax must be paid at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:510 (March 2007).

§507. Transaction in which Title and Possessions Are Transferred

A. Transactions in which title and possession of tangible personal property are transferred within a local taxing jurisdiction are clearly sales at retail and these transactions are not eligible for the temporary storage exclusion. Sales tax is due regardless of whether a Temporary Storage Tax Exemption Certificate has been issued or the property is labeled (earmarked) for use in another jurisdiction. The key factor in the transaction is the delivery in purchaser's taxing jurisdiction via the seller's vehicle or by the seller's agent. In such event, the seller is physically giving possession to the purchaser in the purchaser's taxing jurisdiction and a sales tax would be due. Likewise, when the purchaser picks up the property in its own vehicle at the seller's place of business, title and possession have been transferred, and a sales tax would be due in the seller's taxing jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:510 (March 2007).

Tom O'Neal
Secretary-Treasurer

0703#065

RULE

Department of Transportation and Development Intermodal Transportation Division

Intermodal Transportation (LAC 70:IX.Chapters 1-11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby amends current regulations concerning Intermodal Transportation.

Title 70

TRANSPORTATION

Part IX. Intermodal Transportation

Chapter 1. Aeronautics in Louisiana

§101. General

A. The Louisiana Department of Transportation and Development (formerly the Department of Public Works) as provided under Title 2 of the Louisiana Revised Statutes of 1950, as regulates aeronautics in Louisiana.

1. Section 2.8 of the Title provides that "All proposed airports, landing fields, air schools, flying clubs, air beacons, or other navigation facilities, shall first be approved by the department before they are so used or operated. No airport, landing field, air school, flying club, air beacon, or other

navigation facility, except airports and landing fields constructed and operated prior to July 28, 1936, shall be used or operated without the approval of the department, and no aircraft except in case of emergency, shall land upon or take off from any area other than an airport, landing field, or landing strip. No license, rule, order, or regulation promulgated under the authority of this Section or of this Chapter shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the government of the United States or by this state. The department may issue a certificate of its approval in each case and make reasonable charges therefor."

2. ...

B. Landing Area Registration Procedures. Pursuant to these statutory provisions, all landing area proponents will provide the Louisiana Department of Transportation and Development, Aviation Section with the following information prior to use of the area for landing or take-off of aircraft.

1. Completed Environmental Questionnaire This form addresses general environmental considerations.

2. Completed Landing Area Location Sketch This sketch shows the relationship of the proposed site to other prominent centers of activity within an area of several miles.

3. Completed Landing Area Immediate Vicinity Sketch This sketch shows the relationship of the proposed site to structures within the immediate vicinity.

4. - 5. ...

6. One copy of the Federal Aviation Administration's notification of its favorable or unfavorable airspace findings. Instructions for registration along with copies of all appropriate forms are combined in OAPT Information Publication Number 5000, a copy of which may be obtained at no charge from: Louisiana Department of Transportation and Development, Aviation Section, Post Office Box 94245, Baton Rouge, LA 70804, Attention: Aviation Safety/Compliance Officer.

C. - C.1. ...

2. Airports. The airports in the LASP are classified according to a simplified version of the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) classification system. Essentially, this involves identifying the airport according to the type of aircraft which it will principally serve. Although the LASP classification is less complicated than that of the FAA NPIAS, there is no conflict between the NPIAS classification of an airport and the LASP classification. The classification of each publicly-owned airport is listed on the individual airport data sheets in Volume Two of the State Plan. Additional classifications were necessary to complete the System Plan: Landing Strip; Seaplane Base; and Heliport. The letter codes used are as follows:

a. - d. ...

e. GT-General Transport. These airports generally accommodate transport category aircraft between 60,000 pounds and 175,000 pounds MGW. Generally, the GT airport serves scheduled jet commercial service operators.

3. - 6. ...

7. Heliport. Any area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters, which has been specifically prepared for use by helicopters, any area for use by helicopters which is "open to

the public", or any area, other than those used for agricultural operations, which may have three or more takeoffs or landings in a 30-day period. All heliports must be registered with the state in accordance with the Department of Transportation and Development, Aviation Section.

8. Heliport Service Facilities. Those facilities such as major maintenance facilities, or fueling facilities which may be used in conjunction with a heliport. Such facilities must receive approval from the Aviation Section prior to their construction or use. Registration of a heliport is not to be understood as approval for heliport service facilities.

D. ...

E. Review of Landing Area Proposals. Upon receipt of the required information, the Aviation Section, following a reasonable period for review, will provide the proponents with a statement of its findings and issue a notice of no objection to the establishment and use of the proposed landing area, if such is appropriate. The review may include:

E.1. - H.[Figure 9]

...
* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 6:163 (May 1980), amended LR 6:559 (September 1980), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:510 (March 2007).

Chapter 3. Ultralight Aircraft, Testing and Licensing of Pilots of Ultralight Aircraft; Establishment of Ultralight Airports; Restriction of Use of Ultralight Aircraft in Hazardous Areas

§301. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:417 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:511 (March 2007).

§303. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:417 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:511 (March 2007).

§305. Use of Licensed Airports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:418 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:511 (March 2007).

§307. Special Ultralight Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:418

(June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:511 (March 2007).

§309. OAPT Powered Ultralight Vehicle Pilot/Instructor Competency and Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:419 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§311. Powered Ultralight Vehicle Pilot Competency and Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:419 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§313. OAPT Powered Ultralight Vehicle Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:421 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§315. Registration Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:421 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§317. Appendix

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:422 (June 1983), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

Chapter 5. Flight Operations Manual

Subchapter A. General

§501. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§503. Director of Flight Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§505. Chief of Aircraft Maintenance (DOTD/OFO)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§507. Chief Inspector (DOTD/OFO)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§509. Authorized Chief Pilots (Agency or Department)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§511. Authorized Check Pilots (DOTD and Agency)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§513. Variance Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§515. Waiver Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§517. Operations Bulletins

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705

(July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:512 (March 2007).

§519. Purchasing Guidelines for Aircraft (Other Than Normal Maintenance Items)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§521. Safety (General)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§523. Public Protection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§525. Insurance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§527. Authorized Use of Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§529. Flight Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§531. Medical-Evacuation Flights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§533. Use of Personally Owned Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§535. Hazardous Material

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§537. General Personnel Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§539. Pilot Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§541. Minimum Qualifications for State Flight Crew Personnel (Pilot Certification and Flight Physical)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§543. Pilot Physical Condition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§545. Blood Donations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:513 (March 2007).

§547. Drugs and Medication

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§549. Use of Alcoholic Beverages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§551. Alcoholic Beverages on State Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§553. Unauthorized Personnel, Baggage, and Cargo

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§555. Personal Appearance and Conduct

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§557. Aircraft Appearance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§559. Maintaining Logs and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§561. Aircraft Accidents/Incidents (General)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

Subchapter B. Operations

§563. Standard Operating Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§565. Flight and Duty Time

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§567. Pilot Proficiency

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§569. Pilot Information File

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§571. Publications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§573. Flight Preparation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§575. Passenger Manifests

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and

Development, Intermodal Transportation Division, LR 33:514 (March 2007).

§577. Weather Briefings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§579. Takeoff Weather Minimums (Airplanes)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§581. Landing Weather Minimums

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§583. IFR Takeoff and Landing Minimums for Newly Upgraded (Second-in-Command to Pilot-in-Command) State Pilots

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§585. Frost, Snow and Icing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§587. Severe Weather and Weather Detection Devices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§589. Day, Night, and Instrument Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§591. Single-Engine Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§593. Multi-Engine Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§595. Helicopter Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§597. Refueling of Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§599. Weight and Balance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§601. Responsibility for Determination of Aircraft Airworthiness (Pilots)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§603. Aircraft Discrepancy Record

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§605. Minimum Equipment List

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:515 (March 2007).

§607. Deferred Discrepancies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§609. Flight Following/Flight Plans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§611. Daily Inspections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§613. Preflight Inspections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§615. Walk-Around Inspection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§617. Emergency Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§619. Survival, Over-Water, and Flotation Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705

(July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§621. Passenger Briefing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§623. Use of Seat Belts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§625. Oxygen Requirement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§627. Portable Electronic Devices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§629. Smoking

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§631. Passengers Requiring Special Attention

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§633. Noise Abatement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:516 (March 2007).

§635. Admission to the Cockpit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§637. Flight Crewmembers at Duty Stations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§639. Use of Checklists

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§641. Crew Coordination (IFR Operations)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§643. Hijack Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§645. Postflight Inspection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§647. Tie Down and Securing Aircraft

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§649. Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§651. Aircraft Management Data Sheet (Form 100E)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

Subchapter C. Maintenance

§653. Maintenance Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§655. Maintenance Reference Library

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§657. Overhaul Time Limits (TBO)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§659. Aircraft Maintenance Request Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§661. Contract Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§663. Required Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and

Development, Intermodal Transportation Division, LR 33:517 (March 2007).

§665. Required Inspection Items

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§667. Incomplete Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§669. Ferry Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§671. Maintenance Test Flights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§673. Airworthiness Determination (Maintenance)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§675. Malfunction and Defect Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§677. Aircraft Discrepancy Record (Form 200A Rev 6/20/84)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§679. Fuel Quality Control

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§681. Tagging Parts (Maintenance)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§683. Ground Support Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

Subchapter D. Training

§685. Pilot Training Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§687. Pilot Qualification Certificate Completion Instructions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§689. First Aid

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§691. Simulated Engine Failures and In-Flight Aircrew Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:518 (March 2007).

§693. Certificate of Ground Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§695. Certificate of Flight Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

Subchapter E. Scheduling

§697. Scheduling Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§699. Waivers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§701. Executive Transport Flight

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§703. Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§705. Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:705 (July 1985), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

Chapter 9. Aviation Program Needs and Project Priority Process

§901. Introduction

A. The Louisiana Department of Transportation, Aviation Section is responsible for the development of public aviation facilities in the state. Assistance with the planning, design, and construction of facilities is provided to local governments which own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement if the improvement is federally funded, receives 90 percent or more of project funds from sources other than state funds, or if most or all of the total funding is previously approved by the Legislature. The aviation portion of the Louisiana Transportation Trust Fund is known as the Aviation Trust Fund (ATF), which is funded by the collection of sales tax solely on aviation fuels, and is the only source of state funds for airport capital improvements or matching funds for federal airport improvement grants.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803B and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§903. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants

A. Federal funding for projects is received through grants from the Federal Aviation Administration directly to the recipient airport. Under the Airport Improvement Program (AIP) a minimum of 90 percent of project funds are federal. Occasionally, the FAA may offer a grant requiring a local match of more than 10 percent. For example, terminal building projects at commercial service airports are offered as 75 percent federal, 25 percent local match. Terminal buildings at commercial service airports may have a percentage of the project not eligible to receive funding. In most instances, the FAA determines what portion is or is not eligible. When the local sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The local sponsor must coordinate the development of the project with the Aviation Section and the FAA in order to receive the matching funds through the priority system. When the required match is greater than 10 percent, the state will participate in no more than 10 percent of the project cost and the local sponsor must provide the additional matching funds. The FAA provides the AIP grants directly to the airport sponsor who is responsible for administering the grant.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803B and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§905. Project Identification and Development

A. The primary objective of the priority system is to prioritize airport improvement projects. Nonprioritized

projects are not included in the priority system as individual projects, but are funded through approved amounts for each category of project. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with airport improvement projects.

B. Potential projects for inclusion in the priority system are initiated by the airport sponsor or by the State Aviation Section. The need for the project may be identified in a master plan, action plan, system planning document, or as a result of a change in conditions or facilities at the airport.

C. Only airport development projects are subject to prioritization. Airport administration and operations are not included since they are the responsibility of the airport owner and are not within the purview of the prioritization process.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007).

§907. Project Prioritization Process

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available. Support documentation may include a project resolution from the local airport owner or sponsor requesting state assistance for that project, project scope and estimated cost, justification of the project, any environmental clearance documentation (if necessary), and information from the local sponsor necessary for prioritization of the project. Height limitation and land use zoning ordinances, operations manual, documentation that Part 139 and 5010 inspection discrepancies have been corrected, pavement maintenance plan, and a certified copy of the legal document creating the airport district or authority may also be requested before the process can continue. If any pertinent documentation is missing, the review process may cease and not continue until all information is made available to the Aviation Section. If all of the necessary documents are not received by the Aviation Section by November 1, the proposed project may not be allowed to compete for funding for that fiscal year being prioritized but may be considered for the following fiscal year.

B. Those projects which qualify for prioritization are then assigned point values to determine their relative priority. Those with insufficient information may be returned to the airport owner until required information can be provided. Once it has been determined that the project is eligible and all documentation has been provided, the next step is the assignment of point values. When point values are finalized, the project is placed into the priority system where it is ranked in relation to all other projects in the system.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project will be restructured into usable units if necessary. An example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is

usable without the extension of the taxiway so these may be considered as two projects in the priority system. On the other hand, the extension of the runway's lighting system would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting. See §915.B for further details.

D. The structure of the priority rating system is based on an evaluation of four categories:

1. Category I—Project Type;
2. Category II—Facility Usage;
3. Category III—Sponsor Compliance;
4. Category IV—Special Considerations.

E. Points are awarded to a project based on evaluation criteria in each category and the total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a prioritized program of projects is developed by the Aviation Section and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves the program of projects which becomes the capital improvement projects that will be implemented by the Aviation Section in the next fiscal year. A project submitted after this approval with a ranking high enough to place the project on the program of projects cannot be added until a new program of projects is submitted to the committee the following year. However, a project receiving other than state funds may receive a state match in accordance with R.S. 2:803B, if funds are available as determined by the Aviation Section.

F. The Transportation Trust Fund legislation requires a priority system to prioritize projects in some logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy.

G. The only projects that should appear on the prioritization list are those that have a chance of being implemented in the foreseeable future. Ideally, this would be within a three-year period from the time the project appears on the priority list. Prioritized projects which have been approved for state funding but which, for lack of federal matching funds or other reasons, do not have a signed construction contract within three fiscal years may be deleted from the program. Funds which had been approved for a deleted project will be reallocated to any other prioritized project as needed. Normally such funds will be used to cover project overruns, "up front" engineering costs (FAA reimbursable engineering costs incurred by the airport owner prior to the issuance of a federal grant in aid), or "up front" land purchase costs (FAA reimbursable costs associated with survey, real estate and title fees, and purchase of land by the airport owner prior to the issuance of a federal grant-in-aid).

H. These funds may also be used to fund the next-in-line project on the four-year unfunded portion of the priority list if that project has received funding or for projects funded by other than state funds not covered by the Future FAA Obligations funds. As a general rule, funds originally allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport four-year unfunded list. Funds allocated to general

aviation airports will likewise be used to fund projects on the general aviation airport four-year unfunded list. In the event there are insufficient projects on either four-year unfunded list, funds originally allocated to one class of airport may be reallocated to the other class of airport.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803B and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:520 (March 2007).

§909. Nonprioritized Programs

A. Through the legislative approval process for the Priority Program, the Aviation Section may specify on the Priority Program, nonprioritized programs as needed. Such statewide programs may include, but are not limited to Planning, Navigational Aids, Discretionary Projects, Maintenance Reimbursement, Obstruction Removal Safety programs, Future FAA Obligations, Statewide Marking Program, and Statewide Sealcoat Program. These programs are an integral element of the state's aviation program. Projects cannot reach the facility improvement stage without going through the planning phase. Navigational aid projects enhance use of the overall state system. Discretionary projects provide the Aviation Section with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects. The Maintenance Reimbursement Program assists the general aviation airports in the high cost of maintaining an airport and allows the airport to maintain a safe and operational status. The Obstruction Removal Safety Program is needed to keep the state's airports safe from obstructions that penetrate the airports approach slopes, runway protection zones, FAR Part 77 and transitional surfaces. The Future FAA Obligations are needed to meet the funding requirements for the projects the Federal Aviation Administration (FAA) has funded after the priority program has been approved. This phenomenon is caused by the state's fiscal year being out of synchronization with the federal fiscal year by approximately three months. This special program precludes the loss of federal funds and improves the state's timely response. The Statewide Marking Program assists airports statewide in maintaining a safe visual marking aid environment on the airfield. The Statewide Sealcoat Program assists airports statewide in maintaining their pavement in good condition.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007).

§911. Planning Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1506 (August 1998), repealed by the

Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007).

§913. Navigational Aid Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1506 (August 1998), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007).

§915. Discretionary Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1506 (August 1998), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007).

§917. Project Prioritization Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1506 (August 1998), repealed by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007).

§911. Commercial Service Versus General Aviation Airports

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users, however, it primarily identifies projects that have the greater need, even if the airport serves less users than another airport. When airports are compared on the basis of persons served, airports offering scheduled or unscheduled commercial air service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service airports (those airports which enplane 2,500 or more passengers annually) as compared to general aviation airports make it difficult to compare the need for projects between the commercial service and general aviation airports.

B. Because of aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at commercial service airports have more demanding standards and thus more costly engineering and construction. Because of the significant differences between commercial service and general aviation airports project standards, each group's projects are prioritized separately.

C. The commercial service airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for airport improvement projects in a given year are allocated between commercial service and general aviation airport projects in a ratio of 65 percent for commercial service airports and 35 percent for general aviation airports. This balance is adjusted, however, if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experience in the state's aviation program and the levels of state funding

allocated to each type of airport. It also reflects the fact that commercial service airports have a far greater capability of generating revenue through means unavailable to general aviation airports such as: vendor leases, landing fees, airline contracts, passenger facility charges, and rental car lease agreements. Passenger Facility Charges (PFC) are charges passed on to a commercial service passenger, which can be collected by the airport to fund projects not otherwise funded. These projects are eligible to be approved by the FAA for 100 percent funding through the PFC collection. Therefore, PFC funds are not normally eligible to receive matching funds from the state.

D. The division of projects by commercial service or general aviation airport categories results in two project priority lists, one for each of the two types of airports. Each step of the prioritization process is identical for both commercial service and general aviation airport projects.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007).

§913. Preliminary Evaluation

A. The preliminary evaluation is used to screen potential projects and determine those which can realistically be implemented, assuming available funding.

1. The first step is to determine whether the project should be included in the priority process. There are three basic criteria:

- a. project type;
- b. project size;
- c. eligibility for federal matching funds.

2. The second step is to determine whether the information necessary for prioritization is available.

B. A review committee consisting of, at a minimum, the aviation director, grants manager, and aviation program manager for the airport concerned will make an initial determination of whether there is sufficient information to prioritize a project when a project request is received. Some of the information considered by the committee is required by either Title 2 of the Louisiana Revised Statutes, the Louisiana Aviation Needs and Project Priority System, or DOTD and Aviation Section policy.

C. The DOTD Aviation Section is responsible for assigning priority values to projects and determining if they are consistent with development plans in the master plan or action plan for the airport. If insufficient data is sent to the Aviation Section, correct prioritization of the project will not be possible. When insufficient data is provided, a request will be made for the additional information needed. Therefore, project applications and necessary documentation should be sent to the Aviation Section early enough to allow time for processing and possible return for additional information before the program can be presented to the legislature for approval. Any document package not meeting all requirements or not in Aviation Section hands by the deadline may not be prioritized or included in the upcoming fiscal year's program.

D. Project Type. Generally, only airport improvement or preservation projects are included in the priority program. Some exceptions are:

1. land acquisition for obstruction removal or airport expansion;
2. Aircraft Rescue and Firefighting (ARFF) vehicles and equipment;
3. airport noise studies; and
4. FAA AIP eligible projects when FAA is providing funding.

E. Some projects may be of a type in which the Aviation Section might not participate. For example, construction of roads and utilities for an air industrial park development and other such land side projects are not undertaken by the priority system and will not be funded by the Aviation Trust Fund.

F. Project Size. To be included in the priority system, a project must require the use of \$25,000 (other than discretionary funds) or more in state funding. The \$25,000 requirement only applies to projects which receive no federal funding. Some projects may be too costly to be funded from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than \$1,000,000 in state funding may be programmed to a single commercial service airport and no more than \$250,000 in state funding may be programmed to a single general aviation airport through the aviation priority program per fiscal year. Projects in excess of these amounts may be funded more than two or more funding years. For example, a project for a commercial service airport may have a total cost of \$2,500,000. The project may be prioritized in the upcoming budget cycle for no more than \$1,000,000 but the remaining \$1,500,000 will receive top priority in the following two yearly budgets to insure project completion. The same is true for a general aviation airport project except that the project maximum cost is \$250,000 per budget year. This does not include projects that are prioritized as an FAA AIP grant unless it is known that the FAA will use a multi year funding approach. Regardless of project size, if the FAA uses multi year funding, the state will also use a multi year approach.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007).

§915. Project Support Documentation

A. Once it has been determined that a project is of the type and size to be considered in the priority system, an evaluation of required supporting documentation will be made. The project support documentation is a combination of documents and information necessary for the Aviation Section to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation may include the following items:

1. Project Resolution. The initial document the Aviation Section needs for consideration of any project is a resolution from the public body operating the airport requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the local owner to participate in the cost of the project is also documented in the resolution. The resolution from the owner

of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable provisions of state law. It is also a written commitment of support for the project by the owner. The Aviation Section requires a resolution (except from state-owned and operated airports) from the airport sponsor or owner before a project can receive state funds.

2. Funding Sources. Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program which provides funding grants for eligible projects at eligible airports. A request for 100 percent state funding will not be processed for a project that is eligible for AIP funding until it has been approved and prioritized in the state system as an FAA/state matching funds project and competed unsuccessfully in the federal system for at least three fiscal years. The three years in the federal priority system may be waived if the FAA verifies in writing that the proposed project will not receive AIP funding. On the other hand, if the FAA indicates that the project will be funded at some reasonable time beyond the initial three years, the project will remain in the system awaiting FAA matching funds rather than receiving 100 percent state funding which could deprive other airports of receiving funding assistance.

B. Project Components. In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening, widening, lighting, grooving, etc., of the primary runway. Projects are defined on a usable basis or unit. This means that, if a runway is widened, the relocation of runway lighting and striping are all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these may be considered as two projects in the priority system. Development of projects as a usable unit prevents projects of a lower priority being tagged onto a high priority project so they will be ranked higher. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects along with otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself if it is in especially poor condition. This can prevent damage to aircraft, provide a safe operational area for the necessary movement of aircraft, and take advantage of significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects, is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are developed and for determining if special circumstances exist which would warrant combining unrelated projects.

C. Planning Data. The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is found in the master

plan or action plan for the airport, but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway, or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point.

1. Submitting a master plan or action plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with a narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

2. The planning data for a project, at a minimum, must:

- a. document the need for the project;
- b. explain how the project meets the need;
- c. give the estimated cost; and
- d. include a sketch of the project on the airport's approved layout plan.

3. The documentation need not be lengthy but should focus on what is generating the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircraft that need to be parked on the apron would be adequate documentation. A description of how large an apron expansion is proposed and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or action plan development recommended for the airport. If the expansion of the apron is not consistent with that shown in the master plan or action plan, an explanation for the proposed deviation is necessary.

D. Environmental Requirements. Some proposed projects, because of their potential environmental impact, may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, a determination should be made whether or not environmental clearance is required. If the FAA Airports District Office or DOTD Aviation Section indicates environmental clearance is required, any documents that are available to show that environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be done before the project is placed in the priority system unless the environmental delineation and/or mitigation is part of or included in the project to be funded. Environmental clearance of projects can be a lengthy process and allowing a project to be dormant in the priority system while waiting for clearance could preclude another project or projects from being implemented.

E. Local Sponsor Requirements. The priority system recognizes the responsibility of the local government owners of the airport to operate the airport in a safe, professional manner. A category is included in the rating system that assigns a value for sponsor responsibility. To be able to assign this value, certain information is required from the owner of the airport.

1. Two of the evaluation criteria in the "sponsor responsibility" category are whether the airport has height

limitation zoning and land use zoning in effect at the airport. If the Aviation Section does not have a copy of the airport's zoning ordinances on file, the local owner is required to provide this. The lack of zoning at the airport will cause a lower ranking of the proposed project.

2. No airport may receive state funding from the DOTD, Aviation Section if officially declared in noncompliance with federal or state laws, regulations, rules, or policies by the FAA or DOTD, Aviation Section.

3. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the airport operations manual, and adequate airport maintenance are evaluated in the preliminary evaluation of a project because if they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before the project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve the project score. If the owner does not initiate and document corrective action that clearly shows that action is being taken to address these items and correct deficiencies in these areas, the project will not receive points in this category.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

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§917. Project Priority Rating System

A. There are four categories of evaluation, each addressing one of the general areas in §925.A.1-4. The categories are as follows:

1. Category I—Project Type;
2. Category II—Facility Usage;
3. Category III—Sponsor Compliance;
4. Category IV—Special Considerations.

B. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by Aviation Section policy.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007).

§919. Category I—Project Type (See Exhibit 1)

A. This category is designed to segregate projects by type defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type. These subcategories are:

1. Safety;
2. Airside Preservation;
3. Airside Improvements;
4. Landside Improvements.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly. Development of projects directly related to safety of aircraft operations is considered the highest priority because of the potential for loss of life and property should safety needs not

be addressed. Preserving the existing airport system is next in importance because the existing facilities represent an investment of public dollars and there is a commitment to maintain those facilities that are in use. The airside improvement type of project is the next project priority and reflects a policy by the Aviation Section to develop facilities to the design standards established by DOTD and FAA to accommodate existing aviation activity at an airport. Projects for landside improvements at an airport are last in the project type priority because safety, airside preservation and airside improvements are all types of projects that need to be addressed in order to maintain a safe and operational airport.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. As an example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally regardless of what area of the airport they impact.

D. It should be noted that project types listed are generic. For example, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are shown in Exhibit 1. The type of project within each subcategory and its corresponding point value are displayed.

E. The Aviation Section may participate in revenue-generating projects such as fueling systems and hangars. Such projects are usually done after all other airside projects or issues have been completed. Certain areas of terminal buildings at General Aviation airports may be eligible. Areas such as the airport manager's office, flight planning area, pilot's lounge, and a small conference room would be considered eligible for funding. Areas such as a location for rental car agencies, restaurants, and Fixed Base Operators (FBO's) would not be considered eligible for funding. The size of the terminal building eligible for funding would also be limited to the needs for the size airport in which it would be located.

F. Safety (See Exhibit 1.A). Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, Aircraft Rescue and Firefighting (ARFF) equipment, and lighting. It can be argued that most aviation improvement projects increase safety at an airport, but caution is used to place only those projects in this subcategory that specifically affect the safety of aircraft using the airport. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. Projects in the "safety" category are those developed specifically to address an unsafe condition and thus receive the highest evaluation points possible.

G. Airside Preservation (See Exhibit 1B). Projects that are required to maintain the functional integrity of existing

facilities are evaluated in this subcategory. Projects such as reconstruction of a runway or taxiway or rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from preservation of existing facilities toward making improvements to airside facilities.

H. Airside Improvements (See Exhibit 1.C). Projects evaluated in this category are those the purpose of which is to upgrade a facility to a design standard based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system and the Aviation Section facility development standards. The airport role and standards are found in the Louisiana Airport System Plan and in appropriate FAA and state airport design manuals and advisories.

I. Landside Improvements (See Exhibit 1.D). Projects in this subcategory are those that are designed to facilitate the handling of issues dealing strictly with landside improvements. These projects receive the least amount of points in the prioritization process due to the fact that emphasis must be put on airside needs in order to maintain a safe and operational airport. Projects in this subcategory may be addressed once the major airside issues have been addressed and resolved.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007).

§921. Category II—Facility Usage (See Exhibit 2)

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced, however, with the Aviation Section's goal of maintaining a viable statewide system of public use airports and maintaining aviation and public safety.

B. As previously discussed, for this reason commercial service and general aviation airports are prioritized separately.

C. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

D. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, is used to determine the relative level of use at an airport by general aviation interests. There are some drawbacks to this approach. The number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. Itinerant operations, which are very important to an airport, are not recognized by counting based aircraft. Other operations by aircraft not based on the field, such as agricultural and military aircraft, are also missed. All of these factors affect the overall number of operations at an airport which is a much more accurate measure of airport use than based aircraft, but reliable operations counts at all

nontowered airports are not available for general aviation airports. Should the Aviation Section develop a systematic program for counting operations at nontowered airports, the relative number of operations at an airport may replace based aircraft as the indicator of facility use. Until such a system is developed, counts of based aircraft are the only consistent way to measure general aviation use at the airports.

E. For commercial service airports, points are also awarded in this category for the number of commercial service enplanements. The number of enplanements is taken from the FAA's annual enplanement data.

F. Airports that do not have enplanements, but are designated as reliever airports, receive points in this category also. Reliever airports are important in the system for diverting general aviation operations from commercial service airports with operational capacity problems and thus receive points in the category. The sum of points awarded for general aviation-based aircraft, commercial service passenger enplanements (commercial service airports), and reliever airports status constitutes an airport's score for the "facility usage" category of the priority rating system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007).

§923. Category III—Sponsor Compliance (See Exhibit 3)

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, in the total closure of the airport. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded in this category for having height hazard zoning ordinances in effect at an airport.

C. A related area evaluated in this category is compatible land use zoning. Height hazard zoning controls the height of objects but has no impact on the actual use of the land. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport

which may create pressures to restrict use of the airport. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. For this reason, the presence of land use zoning is evaluated in this category.

D. The final evaluation area in the "sponsor responsibility" category is maintenance. The local owners of the airport are responsible for routine maintenance such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing or filling pavement cracks, and refurbishing marking and painting stripes. If regular maintenance is not done, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified by letter of the problem and the corrective action to be taken. Until the airport corrects the problem, all projects evaluated in the priority system for the airport will lose points.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007).

§925. Category IV—Special Considerations (See Exhibit 4)

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated with respect to each item to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. The first area of evaluation is "special programs". At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. Also, as a matter of policy, the Aviation Section may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria. An example of this type of project would be a phased project. Additional points will be awarded to assure that a consecutive phase of a project receive a higher priority than a project that is not phased.

C. Economic development potential is another evaluation area under the "special considerations" category. While it is acknowledged that any construction project generates economic development, there are some projects that are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development aspects of the project must be well documented and clearly demonstrate the potential economic impact of the project. Facilities developed to accommodate the aviation needs of a business moving to the community is an example of an economic development type of project. The facilities would have to constitute a major factor in the business' decision to locate in the community. To receive bonus points in this area may require an economic impact study, the cost of which is the

responsibility of the airport owner. Another example is a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business.

D. Commercial air service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract commercial air service to the airport. For a project to receive points under this category, it must be directly responsible for affecting commercial air service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. Another "special considerations" category is the provision of local matching funds in excess of Aviation Section match requirements. Any project for which at least \$5,000 in local funds are provided will receive bonus points in this category. For every \$5,000 contributed by the airport owner, 5 bonus points will be awarded, up to a total to 20 bonus points for \$20,000 contributed. Any amount above \$20,000 contributed by the sponsor will only receive a maximum of 20 bonus points. This is designed to give higher preference to projects that are financially supported by the local owner in excess of that which is required; therefore, no matching funds from other state sources will qualify for bonus points. Commitment for local funding support should be included in the resolution submitted by the local owner requesting assistance from the Aviation Section for the project.

F. The last evaluation criterion under the "special considerations" category is the GA Entitlement Loan Program. Under this category a NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement (NPE) funds to another NPIAS GA airport. The airport receiving the loan will in turn, loan their future NPE funds to the airport which gave them the loan. The participating airport loaning the funds will be awarded additional bonus points for their next priority project.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007).

§927. New Airports

A. An airport that is constructed on a new site presents some different prioritization issues than improvements to existing airports. Generally, a new airport will fall into either of two categories.

1. The first is an airport that is proposed for an area of the state not served by a public airport.

2. The second is a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a process slightly different than that for an existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. At some point during its development, a new airport becomes an existing airport. For purposes of the priority process, an airport is considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. The completion of these elements allows aircraft to operate at the airport and thus, at this point, the airport is no longer considered "new" and future projects are prioritized using the standard prioritization process. Before this point is reached, however, the land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrade to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally-funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport should be prioritized under the project type "capacity increases" subcategory. These airports are primarily to increase the capacity of the Louisiana public airports system and thus are prioritized in the "capacity increases" subcategory. As previously discussed, land acquisition costs are usually reimbursed by the FAA and these projects should be prioritized accordingly.

F. For the "facility usage" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "sponsor responsibility" category, there are two areas that can be included in the prioritization process. The presence of height limitation zoning and land use zoning should be determined and points assigned accordingly. Most new airports will not have developed an operations manual for the airport. In cases where the airport has not developed an operations manual, the airport will be awarded five points based on the assumption that the elements of an operations manual will be in place when the airport is opened for operations.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing airport. If an airport is the first public airport in an area, a strong case can be made that the airport should receive bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and thus should have a significant long-term economic impact on the area served. The remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007).

§929. Prioritization of Projects

A. Once a determination has been made by the Aviation Section that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves. Subsequent questions about why the project received the evaluation score may be difficult to answer without the documentation to support the points assigned in each category.

B. Point values are assigned in each category using the worksheet that is included as Exhibit 5. The worksheet follows the priority rating system and provides the documentation of how the total score for a project was derived. The worksheet is maintained with the project file so that documentation of the value assigned in each category is available.

C. Occasionally, a change in a project or at the airport might occur requiring the point values for a project to be modified. The new values are put on the same worksheet with a note explaining the reasons for the change.

D. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

E. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a break is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the tie and, if still tied, Category II is used, etc. Should the projects still be tied after examining all four categories, the project at the airport with the largest number of based aircraft will be ranked higher.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007).

§931. Priority Ranking System

A. After the total evaluation score for a project is determined, it is entered into a priority ranking system and its relative ranking is determined. This system ranks projects by descending score in the commercial service airport or general aviation airport priority program as appropriate.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538

(June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007).

§933. Program of Projects

A. The lists of projects for commercial service and general aviation airports prioritized by evaluation score represent the program of projects that the Aviation Section will seek to implement through its development program. The actual number of projects from each list that will ultimately be constructed is primarily dependent upon the level of funding that the Aviation Section receives each year.

B. The priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are the key to developing a program of projects.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II, etc.) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. This group of projects for which funding is available will not be changed until more funds become available. However, projects on the four-year unfunded list do not automatically move up to the funded list in the succeeding fiscal year. Rather, unfunded projects re-compete for funding each fiscal year until they are either funded or dropped from the list after three years. Because needs, cost estimates, airport situation, and other data change regularly, after three years all projects which have not been started may be dropped from the program. If projects are dropped from the program, they must be resubmitted with updated information. They will then be reviewed and re-entered into the priority system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007).

§935. Projects Eligible for FAA Funding

A. Special consideration for projects that will receive FAA funding is included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies. Utilization of the FAA's priorities to set state priorities is sometimes inconsistent with a state prioritization process. This does not mean that the state should ignore potential FAA funding in its development program.

B. There are two decisions that the Aviation Section makes when seeking FAA funding for its program. Projects that are planned at National Plan of Integrated Airport Systems (NPIAS) airports and that are types in which FAA will participate are noted. This enables the Aviation Section to present a proposed program of projects to the FAA that

are eligible for FAA funding and that reflect state priorities. The Aviation Section then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is that there will be projects the FAA will fund that do not appear in the implementation program based on priority rankings. Realistically, the Aviation Section cannot reject a project that will receive funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program or may be funded by Future FAA Obligation funds or funds available from cost underruns. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program coordinate their application with both the FAA and the Aviation Section.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007).

§937. Exhibits

A. Exhibit 1

Exhibit 1	
Category I - Project Type	
A. Safety -Projects directly affecting operational safety.	
Points	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other action directly related to safety.
49	Repair of primary runway lighting system or approach lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstruction removal to meet FAA Part 152 clear zone and FAR Part 77 imaginary surface requirements.
46	ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Airside Preservation—Preserving the infrastructure of the airport dealing with air operations. Examples are preserving and maintaining the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
20	Primary runway
19	Taxiway serving primary runway
18	Apron
17	Secondary runway
16	Taxiway serving secondary runway
15	Stub taxiways and taxilanes
C. Airside Improvements—Improving the infrastructure of the airport dealing with air operations. Examples are improving and upgrading the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
14	Primary runway
13	Primary taxiway
12	Apron
11	Perimeter fencing
10	Navigational Aids (NAVAIDS)
9	Secondary runway
8	Secondary taxiway

Exhibit 1	
Category I - Project Type	
7	Agricultural loading area
6	Noise Mitigation / Terminal Building for Commercial Service Airports
5	New airport construction including runway, taxiway, and apron / Terminal Building for General Aviation Airports.
D. Land Side Improvements—Improvements that enhance an airport's infrastructure not related to the air side.	
4	Land acquisition for future expansion
3	Primary vehicle access road
2	Primary vehicle nonrevenue-generating parking.
1	Other Land Side Improvements

B. Exhibit 2

Exhibit 2	
Category II - Facility Usage	
Based Aircraft*	Points
91 or More	20
81 to 90	18
71 to 80	16
61 to 70	14
51 to 60	12
41 to 50	10
31 to 40	8
21 to 30	6
11 to 20	4
1 to 10	2
Additional points for Air Commercial Service Enplanements**	
	Points
500,000 or more	20
250,000 to 499,999	15
50,000 to 249,999	10
2,500 to 49,999 ***	5
If noncommercial reliever airport	10
* Taken from latest 5010 Inspection	
** Taken from Annual FAA Enplanement Data	
*** Less than 2,500 enplanement do not receive points	

C. Exhibit 3

Exhibit 3	
Category III - Sponsor Compliance	Points
Height Limitation Zoning	10
Land Use Zoning	5
5010 / Safety Inspection***	0 - 30
*** Points are not awarded based solely on the number of deficiencies. Also taken into consideration are the timeliness and appropriateness of corrective actions. Points may be awarded on a sliding scale relative to the progress toward correcting deficiencies.	

D. Exhibit 4

Exhibit 4	
Category IV - Special Considerations	Points
Designated as Special Program*	15
Economic Development Potential**	10
Maintain or Attract Commercial Service	10
Local Funding in Excess of Requirements***	5-20
GA Entitlement Loan Program****	25
* Special Program Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. If DOTD wishes to place emphasis on a particular type of project, e.g., hazard removal around the state, subsequent phase of a project continuation, these types of projects could receive Special Program points.	

Exhibit 4	
Category IV - Special Considerations	Points
** Economic Development - Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.	
*** Five points will be awarded for each \$5,000 of matching funds provided by the airport owner up to a maximum of 20 points for \$20,000. Any amount above \$20,000 will only receive the maximum of 20 points. Funds may not come from other state sources.	
**** GA Entitlement Loan Program—A NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement funds to another NPIAS GA airport.	

E. Exhibit 5

Project Priority Evaluation Worksheet	
Project Number	Date Evaluated
Airport Name	
Description of Work	
Category I: Project Type	Score
Safety	
Airside Preservation	
Airside Preservation	
Airside Improvements	
Landside Improvements	
	Total
Category II: Facility Usage	
Based Aircraft	
Enplanements	
Reliever Airport	
	Total
Category III: Sponsor Responsibility	
Height Limitation Zoning	
Land Use Zoning	
5010 / Safety Inspection	
	Total
Category IV: Special Considerations	
Special Program	
Economic Development	
Commercial Service	
Local Funding	
GA Entitlement Loan Program	
	Total
Project Total Evaluation Score	Total

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007).

Chapter 11. Speed Restrictions for Railroad Traffic
§1101. General Procedure for Municipality Request

A. ...
B. In order to establish speed restrictions for railroad traffic within the specified areas of corporate limits of a municipality, the governing body of said municipality shall adopt a resolution and forward it to the director of Intermodal Transportation Division, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804. This written request in the form of a resolution shall contain the following:

1. - 4. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:761 (July 1992), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:530 (March 2007).

§1111. Public Hearing

A. A committee shall be formed within the department to conduct the public hearing, accept evidence, and render written reasons for its findings. This procedure shall be conducted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 48:389. Said committee shall be composed of representatives of the following sections appointed by the secretary of the department: Intermodal Transportation Division; legal section; maintenance section; traffic and planning section. The committee shall publish necessary rules in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:530 (March 2007).

J. Michael Bridges
Undersecretary

0703#042

RULE

Department of Transportation and Development
Office of Highways/Engineering

Control of Outdoor Advertising
(LAC 70:III.127, 134, 135, 139, 141, and 143)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development amends a Rule entitled "Regulations for Control of Outdoor Advertising", in accordance with the provisions of R.S. 48:461 et seq.

Title 70
TRANSPORTATION

Part III. Outdoor Advertising

Chapter 1. Outdoor Advertising
Subchapter C. Regulations for Control of Outdoor Advertising

§127. Definitions

* * *

Day Care Facility—for purposes of outdoor advertising, a day care facility is considered a school when it includes a comprehensive child development program such as Early Headstart and Headstart.

* * *

Landscaped Area—landscaped areas of the commercial and industrial activity shall be areas within 50 feet of the commercial or industrial building/structure(s) that are planted and maintained in good health with commercially available ornamental and/or natural vegetation for the beautification of the commercial or industrial activity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), LR 31:944 (April 2005), LR 33:530 (March 2007).

§134. Spacing of Signs

A. ...

B. Interstate Highways and Freeways on the Federal-Aid Primary System and National Highway System (Control of Access Routes).

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), amended LR 33:530 (March 2007).

§135. Measurements for Spacing

A. Distance from the edge of the right-of-way to a subject sign for control purposes is measured horizontally along a line perpendicular to the centerline of the said highway.

B. Centerline of the highway means a line of equal distance from the edges of the median separating the main traveled ways of a divided highway or the centerline of the main traveled way of a non-divided highway.

C. The minimum distance between structures shall be measured horizontally along a line perpendicular to the edge of the main traveled way between points directly opposite the center of the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of

§139. Determination of On-Premise Exemption

A. ...

B. Criteria. A sign, display or device will be considered to be an on-premise sign and exempt from controls, if it conforms to the following standards.

1. Premises. The sign must be situated on the same premises, as the principal or accessory activities, products, or services offered, or upon the property or land area advertised to be for sale or for lease. The structure or office housing the principal or accessory activities, products or services must meet the following requirements.

a. Area. Any structure to be used as a business must have an enclosed area of 600 square feet or more. For any structure containing multiple offices, each office may have an on-premise sign if the individual office has an enclosed area of 120 square feet or more.

b. Foundation. Any structure to be used as a business or office must be affixed on a slab, piers, or foundation.

c. Access. Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate customer parking lot adjacent to the business building.

d. Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative.

e. Identification. The name of the business must be displayed on premises.

2. Activity Requirements

a. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a minimum of five days each week.

b. The purported activity or enterprise must maintain and display all necessary business licenses, occupancy permits, and other records as may be required by applicable state, parish or local law or ordinance.

c. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it is available for purchase on the premise.

3. Purposes. The sign must have as its purpose:

a. the identification of the principal or accessory activities, products or services offered; or

b. the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

4. Premises Test. For purposes of determining whether outdoor advertising is exempt from control as on-premise advertising, the following definitions of property or premises shall apply.

a. The property or land upon which an activity is conducted is determined by physical facts rather than boundaries of ownership. Generally, premises are defined as the land area occupied by the buildings or other physical uses that are necessary or customarily incident to the

activity, including such open spaces as are arranged and designated to be used in connection with such buildings or uses.

b. The following will not be considered to be a part of the premises on which the activity is conducted, and any signs located on such land areas will not be "on-premise" signs which are exempt from control.

i. Any land which is not used as an integral part of the principal activity. Such would include, but is not limited to, land which is separated from the activity by a public roadway or other obstruction and not used by the activity, and extensive undeveloped highway frontage contiguous to the land which is actually used by the commercial or industrial facility, even though such undeveloped land is commonly owned with the land area comprising the premises of the activity.

ii. Any land which is used for or devoted to a separate purpose unrelated to the advertised activity. For example:

(a) land adjacent to or adjoining an automobile service station, but which is devoted to raising of crops;

(b) residential use;

(c) farm stead uses; or

(d) another commercial or industrial use having no relationship to the service station activity would not be part of the premises of the said service station even though under common ownership or lease.

iii. Any land which is:

(a) developed or used only in the area of the sign site, or between the sign site and the principal activity; and

(b) occupied solely by structures or uses which are only incidental to the principal activity, and would serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for advertising purposes. For example:

(i) such inexpensive facilities as a picnic, playground, or camping area;

(ii) dog kennels;

(iii) golf driving ranges;

(iv) common or private roadways or easements;

(v) walking paths;

(vi) fences; and

(vii) sign maintenance sheds.

(c) Narrow Strips. Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is: nonbuildable land, such as a swampland or wetland; or which is a common or private roadway; or held by easement or other lesser interest than the premises where the advertised activity is located.

c. Purposes Test. For purposes of determining whether an advertising sign display or device shall be exempted from control as an "on-premise" advertising, the

following standards shall be used for determining whether a sign, display or device has as its purpose:

i. the identification of the activity conducted on the premises where the sign is situated or the products or services sold on said premises; or

ii. the sale or lease of the land or property on which the subject sign, display or device is situated, rather than the business of outdoor advertising:

(a). any sign, display or device which consists exclusively of the name of the activity conducted on the premises is an on-premise sign;

(b). any sign which exclusively identifies the principal or accessory products or services offered on the premises is an on-premise sign. An example of an accessory product would be a brand of tires offered for sale at a service station, but would not include products merely incidental such as cigarettes or beverages;

(c). when a sign brings rental income to the landowner or other occupant of the land; consists of brand name or trade name advertising, and the product or service advertised is only incidental to the principal activity, it shall be considered the business of outdoor advertising, and such signs shall be subject to control;

(d). a sign, display or device which does not exclusively advertise activities conducted upon the premises or services and principal and accessory products offered on the premises or exclusively advertise sale or lease of the premises or land whereon situated shall not be considered on-premise advertising which is exempt from control; but, rather, shall be considered and shall be outdoor advertising subject to control and regulation.

C. Public Facility Sign Restrictions

1. Signs on the premises of a public facility, including but not limited to the following: schools, civic centers, coliseums, sports arenas, parks, governmental buildings and amusement parks, that do not generate rental income to the owner of the public facility may advertise:

a. the name of the facility, including sponsors of the public sign; and

b. principal or accessory products or services offered on the property and activities conducted on the property as permitted by 23 CFR 750, 709, including:

i. events being conducted in the facility or upon the premises, including the sponsor of the current event; and

ii. products or services sold at the facility and activities conducted on the property that produce significant income to the operation of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 33:531 (March 2007).

§141. Destruction of Trees and Violations of Control of Access

A. The Louisiana Department of Transportation and Development shall not issue a permit for any sign which cannot be erected or maintained from private property without violating control of access boundaries. A permitted

sign shall not be serviced, repaired or replaced from highway right-of-way.

B. The Louisiana Department of Transportation and Development shall not issue permits for any signs, the visibility of which will be obscured by existing vegetation, trees or landscaping on the highway from which subject sign is intended to be read.

AUTHORITY NOTE: Promulgated in accordance with R.S.48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191 (June 1976), amended by Department of Transportation and Development, Office of Highways/Engineering, LR 33:532 (March 2007).

§143. Procedure and Policy for Issuing Permits for Controlled Outdoor Advertising

A. - B. ...

C. All permits for the erection of outdoor advertising shall be conditioned upon compliance with state law, and any action by or on behalf of the permit holder or sign owner contrary to state law and regulations shall be grounds for voiding any subject permit heretofore or hereafter issued.

D. The department shall void the permit for the sign wherein the violation took place and the department shall not issue future permits within the district where the violation occurred to the permit holder and/or sign owner and/or landowner until the illegal sign is removed.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permitted installation.

F. An original signature or a copy of the current lease agreement shall be submitted with each application.

G. Every applicant who seeks to situate a controlled advertising structure in a commercial or an industrial zone shall furnish evidence of the restrictive zoning of the subject land by an appropriate state or local authority.

H. Permit applications which are properly completed and executed and which are accompanied by all other required documentation or evidence shall be thereafter submitted by the district office to the appropriate permit office in Baton Rouge, Louisiana for review. Permits which are not in proper form or which are not complete or not accompanied by required documentation and evidence or do not meet the requirements of state law at the time of the submittal of the application shall be returned to the applicant by the district office with reasons for its return. Applications may be resubmitted at any time.

I. The appropriate permit-issuing officer designated by the director of highways shall review all permit applications. Thereafter, permits shall be issued or the application rejected and returned to the applicant with reasons for denial of the permit.

J. Copies of all permits shall be transmitted to the district office of the district where the sign is to be situated for subsequent surveillance by the district office.

K. Each permit shall specify a time delay of 6 months or 12 months (at the permittee's option) within which to erect the subject advertising device. The district office shall determine whether or not the device has been erected within the specified time delay.

L. If a sign has not been erected within the delay provided by the subject permit, the permit may be voided by the Louisiana Department of Highways and the applicant or permittee so notified. On the day following the posting of notice to any such applicant or permittee of the voiding of the permit to the last known address as furnished by the applicant, the subject sign location shall be available to any other applicant.

M. If a sign has been erected within the delays allowed by the permit, but the subject sign does not conform to the specifications of the permit, the Louisiana Department of Transportation and Development shall notify the applicant or permittee in writing to cause the sign to conform to the permit. The applicant or permittee shall have 30 days to cause the sign to conform to the permit. The time delay begins on the day following the posting of written notice to said applicant or permittee at the last known address as furnished by the applicant or permittee. Extensions of time within which the applicant or permittee may bring the sign into legal conformity may be granted by the department when the department determines that good cause has been demonstrated. The department will void any permit when the permittee fails to conform the sign within the time delay or extensions provided. Thereafter the sign must be removed at the sign owner's expense. The sign owner may prevent such removal only by securing a new permit for the subject sign, which did not conform to the previous permit. A new permit may be obtained upon appropriate application including payment of all fees in connection therewith. Nevertheless, once a permit has been voided the sign location is available to any applicant.

N. If a sign is erected without first obtaining a permit from the department and the department notifies the owner that the sign is illegal, the owner of the sign will have a period of 30 days from the date of receipt of the department's letter to bring the sign into legal compliance and make proper application for the permit. Extensions of time within which the applicant or permittee may bring the sign into conformity may be granted by the department when the department determines that good cause has been demonstrated.

O. When a permitted outdoor advertising sign or device is knocked down or destroyed, or modified, the sign or device cannot be reinstalled or rebuilt without first obtaining a new outdoor advertising permit pursuant to the procedures established in this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191 (June 1976), amended by the Department of Transportation, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 31:945 (April 2005), amended LR 33:532 (March 2007).

Cedric Grant
Deputy Secretary

0703#039

RULE

Department of Transportation and Development Office of Highways/Engineering

Traffic Impact Policy for New Access Requests (LAC 70:I.1101)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby promulgates a Rule entitled "Traffic Impact Policy for New Access Requests", in accordance with R.S. 32:2 and R.S. 48:344 et seq.

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 11. Traffic Impact Policy for New Access Requests Affecting Traffic on State Highways

§1101. Traffic Impact

A. Purpose

1. The Louisiana Department of Transportation and Development (LADOTD) has a responsibility to design, operate and maintain highway facilities that are reasonably safe and efficient for prudent drivers using the highway system. At the same time DOTD must allow all property owners reasonable access to the highway system.

2. In an effort to balance these often conflicting needs, this Section was developed to ensure that new or expansion of existing developments generating significant traffic on state highways are evaluated in a consistent manner by using objective data to facilitate decision-making.

3. The department shall review the effectiveness, applicability and efficiency of this rule annually. Changes to this Section shall be promulgated as applicable. Recommendations for change shall be forwarded to the DOTD traffic impact engineer.

B. Applicability

1. This Section applies to new or expanding developments, typically generating 100 hourly trips in the peak direction on state highways.

2. This Section also applies to developments on local public or private streets, with an access point within 0.25 of a mile of a state highway.

3. These developments include, but are not limited to:

- a. new businesses;
- b. new subdivisions;
- c. new apartment complexes;
- d. additions to existing subdivisions;
- e. additions to existing apartment complexes;
- f. new streets and/or traffic control devices;
- g. new schools;
- h. minor developments in traffic networks that are already congested;
- i. hospitals; and
- j. large commercial or industrial complexes.

4. Additional requirements (such as analysis of nearby major intersections as determined by DOTD) may be necessary for large commercial centers and regional shopping malls.

5. This Section, in certain situations, may apply to new, smaller developments located on congested highway corridors, as determined by the district traffic operations engineer. Congested highways are discussed in the traffic impact policy referenced in Paragraph E.1.

6. The district traffic operations engineer may, in his discretion, waive the requirement for a traffic impact study for developments marginally meeting minimum traffic thresholds.

C. This Section does not apply to the following:

1. access to interstate and other controlled-access facilities;

2. individuals requesting single-family residential access; or

3. access to local public and private streets for developments which are greater than 0.25 of a mile from the state system.

D. Pre-Application Procedure

1. Prior to any permit requests, land developers shall meet with the DOTD district traffic operations engineer and the district permit specialist for a pre-application meeting during preliminary site planning for the development. The purpose of this meeting is to discuss the proposed development and determine if a traffic impact study is warranted.

2. The developer shall be notified within seven calendar days after the pre-application meeting whether or not a traffic impact study is required. The decision will be based on the preliminary site plan layout and anticipated additional traffic.

3. The DOTD will coordinate with the appropriate local authorities for developments not abutting the state highway system.

E. Traffic Impact Study

1. When a traffic impact study is required by DOTD, it shall be prepared and sealed by a professional engineer licensed by LAPELS, before an application for access is submitted. The study will include all information as outlined in the DOTD traffic impact policy, a detailed guidance document which includes forms, roadway classification, traffic volume criteria and mitigation strategies. This document may be obtained from the district office, or the department's website, or from DOTD headquarters in the office of the traffic impacts engineer. The purpose of the traffic impact study is to:

a. determine existing traffic conditions on the network surrounding the proposed development;

b. estimate the traffic likely to be generated by the proposed development which is within the sole purview of the Department of Transportation and Development;

c. assess the impact of additional traffic on the existing and future road network system at full build out and the anticipated construction phasing; and

d. identify effective roadway improvements and/or changes in the site plan of the proposed development that will minimize impact to the state highway system.

F. Responsibilities of the Developer

1. The developer is responsible for mitigating traffic caused by the development.

2. All road improvements constructed by the developer shall comply with the latest DOTD standards and specifications.

G. Letters of Compliance

1. No permit applications will be accepted until DOTD provides the developer with a letter of compliance indicating the approval of the traffic impact study and the traffic mitigation required.

2. The letter shall be attached to any permit application.

H. Traffic Mitigation

1. Traffic Mitigation is a roadway improvement or improvements designed to minimize congestion and improve the safety of the highway system.

2. The required mitigation shall be constructed prior to completion of the new development.

3. Types of mitigation include, but are not limited to:

a. turn lanes;

b. traffic signal upgrades;

c. traffic control devices;

d. signal phasing/timing/interconnect;

e. raised medians;

f. roadway widening;

g. restricted turning movements;

h. right-of-way donation; and

i. roadway resurfacing.

I. Approval Process

1. The office of the DOTD district traffic operations engineer and the DOTD Headquarters (HQ) traffic impact engineer, if requested for a joint review, will review the traffic impact study. The department shall take one of the following actions.

a. Approve the traffic impact study submitted by the developer and recommend mitigation to minimize traffic impacts. The DOTD HQ traffic impact engineer will provide the developer with a letter of compliance to indicate approved traffic impact study and mitigation. The developer may apply for access, driveway, project, or traffic signal permits.

b. Recommend alternative mitigation procedures to minimize traffic impacts.

c. Deny the traffic impact study and/or the recommended mitigation. If it is denied, no further reviews will be made. The developer may request a new review based on revisions to the traffic impact study and recommended mitigation for the proposed development, or the developer may appeal the decision.

J. First Level Appeals Process

1. Following are provisions for a first level appeal of the traffic impact review process for developers which disagree with the DOTD decision on traffic mitigation.

2. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD. Each member may appoint a substitute if he or she is unable to attend a meeting:

a. maintenance (access management engineer or his designee) (nonvoting);

- b. legal;
- c. traffic engineering (two or more personnel/designees); and
- d. district traffic operations engineer or his designee from the particular district in which the development is located (nonvoting).

3. The traffic impact review committee, pursuant to a majority vote, may arbitrate and resolve disputes which arise during the review process and grant or deny relief to appealing parties.

4. The appealing party must bring his/her complaint before the traffic impact review committee no later than 30 calendar days after notification of the decision of DOTD.

5. Upon receipt of the appeal, the traffic impact review committee will schedule a meeting to review the appeal. The meeting will be scheduled not earlier than 14 calendar days and not more than 39 calendar days after receipt of the appeal. The traffic impact review committee shall give due notice of the meeting time and place to those filing the appeal and shall render a decision on its action within 14 calendar days of its meeting. The maintenance division shall also be notified of the pending requirements for permit purposes.

6. The party appealing the decision shall submit the written reason for the appeal, together with any supporting documents deemed applicable by the developer, to the Department of Transportation and Development, Traffic Engineering Development Section, 1201 Capitol Access Road, Baton Rouge, LA 70802. Such submittal must be received at least 14 calendar days before the Traffic Impact Review Committee meeting.

7. The submittal will be checked by the department within 14 calendar days of its receipt. If the information deemed necessary for a proper review is not complete, the appealing party will be notified and the appeal will then be postponed at least one month.

8. The party submitting the appeal may appear before the traffic impact review committee to offer a brief explanation of the complaint.

9. Failure to submit an appeal in a timely manner shall constitute a denial of the traffic impact appeal.

K. Second Level Appeals Process

1. Should the appeal of the developer be rejected by the traffic impact review committee, the developer may appeal the decision in writing within 30 calendar days from receipt of the initial decision to the Department of Transportation and Development, Attn: Deputy Secretary, 1201 Capitol Access Road, Baton Rouge, LA 70802.

2. The second traffic impact review committee shall be composed of the following:

- a. the chief engineer or his designee;
- b. the deputy secretary or his designee; and
- c. the general counsel or his designee.

3. A decision will be based upon a majority vote and shall be made within 14 calendar days from the date that the appeal was received. It shall be served on the appealing party by registered or certified mail.

4. The second level appeal shall include any correspondence from the first level traffic impact review committee.

L. Third Level Appeals Process—the Secretary

1. The secretary or his designee shall have the authority to review any appeal by an aggrieved party from a determination pursuant to the foregoing appeals processes.

2. Such review may be made pursuant to an appeal filed by the developer within 30 calendar days from his receipt of the second level decision or it may be made on the secretary's own motion.

3. A decision shall be made within 14 calendar days from the day that the appeal was received and shall be served on the appealing party by registered or certified mail.

4. This appeal shall include any correspondence from the first and second level traffic impact review committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, and R.S. 48:344 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Transportation and Development, Office of Highways/Engineering, LR 33:533 (March 2007).

Cedric S. Grant
Deputy Secretary

0703#041

RULE

**Department of Transportation and Development
Office of Public Works**

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

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby promulgates a Rule entitled "Hurricane Flood Control Protection Program Rules", in accordance with the provisions of R.S. 38:241-248.

Title 56

PUBLIC WORKS

Part III. Flood Control and Water Control

Subpart 1. Water Resources and Flood Control

Chapter 9. Hurricane Flood Control Protection Program Rules

§901. Framework for Receipt and Evaluations of Funding Applications

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

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

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

- 1. Documentation of flood problem—20 points maximum
- 2. Local support—5 points maximum
- 3. Technical feasibility—45 points maximum
- 4. Prevention of loss of life and improved public safety—5 points maximum

5. Environmental effects and impact on development—15 points maximum

6. Projects recommended but not funded—10 points maximum

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

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

2. Local Support category takes into consideration the following:

a. letters of support on file from the respective legislative delegation;

b. no letters of objection from public officials, neighboring authorities, citizens groups, etc.; and

c. multiple sponsorship.

3. Technical Feasibility category takes into consideration the following:

a. completeness of project design;

b. due consideration of alternatives (structural and non-structural);

c. compatibility of the project to other federal, state and local projects; and

d. impact on flooding in areas upstream, downstream and adjacent to the benefited area.

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

a. historical losses of life that may have been prevented by the project; and

b. the degree of success of the project at maintaining access to vital services such as hospitals, and protection of evacuation routes.

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

a. no letters of objection from public agencies;

b. no impact on special historical, archeological, geological features, or environmentally sensitive areas; and

c. effectiveness of the project in relation to encroachment into flood prone area (i.e., 100 year floodplain).

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

E. Procedure for Application Evaluation Form—Part B

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

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

PLM = percent local match

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

F. Application Evaluation Form—Total Score

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 33:535 (March 2007).

Johnny B. Bradberry
Secretary

0703#040

RULE

Department of Wildlife and Fisheries Office of Fisheries

Invasive Noxious Aquatic Plants (LAC 76:VII.1101)

The Department of Wildlife and Fisheries, Office of Fisheries hereby promulgates rules to control, eradicate, and prevent the spread or dissemination within the state of Louisiana all invasive noxious aquatic plants that pose a threat to the wildlife or fisheries resources of the state.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 11. Invasive Noxious Aquatic Plants

§1101. Invasive Noxious Aquatic Plants

A. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this Section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

Invasive Noxious Aquatic Plant Permit—the official document that identifies the terms of and allows for the importation, transportation or possession of any of the listed prohibited aquatic plants.

Listed Plant—any of the listed invasive noxious aquatic plants.

Permittee—person or organization that possesses a valid permit to possess, import or transport invasive noxious aquatic plants. A permittee may represent himself, a business, corporation or organization. The permittee is responsible for compliance with all stipulations in the permit.

Secretary—the Secretary of the Louisiana Department of Wildlife and Fisheries.

B. Importation, transportation and possession of invasive noxious aquatic plants; permit required.

1. No person shall at any time import or cause to be transported into the jurisdiction of the state of Louisiana, from any other state or country any of the invasive noxious aquatic plants listed below, without first obtaining an Invasive Noxious Aquatic Plant permit from the department.

Prohibited invasive noxious aquatic plants:

- a. *Eichhornia azurea* (rooting or anchoring hyacinth)
- b. *Elodea canadensis* (Elodea)
- c. *Hydrilla verticillata* (Hydrilla)
- d. *Lagarosiphon muscoides* and *Lagarosiphon major* (African Elodea)
- e. *Myriophyllum spicatum* (Eurasian watermilfoil)
- f. *Najas marina* (Marine naiad)
- g. *Najas minor* (Slender naiad)
- h. *Panicum repens* (torpedograss)
- i. *Pontederia rotundifolia* (Pickerelweed)
- j. *Spirodela oligorrhiza* (giant duckweed)
- k. *Trapa natans* (waterchestnut)
- l. *Melaleuca quinquenervia* (kapok tree)
- m. *Pistia stratiotes* (Water lettuce)
- n. *Salvinia spp.* (Salvinia)
- o. *Lythrum salicaria* (Purple loosestrife)
- p. *Eichhornia crassipes* (Water hyacinth)
- q. *Limnophila sessiliflora* (Asian marshweed)
- r. *Hygrophila polysperma* (Indian swampweed)
- s. *Solanum tampicense* (Aquatic soda apple or Wetland nightshade)
- t. *Urochloa mutica* (Paragrass)
- u. *Nymphoides indica* and *Nymphoides cristata* (Little floating hearts)
- v. *Rotala rotundifolia* (roundleaf toothcup)
- w. *Marsilea mutica* (Australian water clover)
- x. *Marsilea minuta* (Asian water clover)

C. Permits may be issued by the Secretary of the Department of Wildlife and Fisheries or his designee for the importation, transportation or possession of any invasive noxious aquatic plant for the purpose of conducting scientific investigations.

1. Application Requirements

a. Individuals wishing to import, transport, or possess any listed plant for the purpose of conducting scientific investigations in Louisiana must first request an Invasive Noxious Aquatic Plant permit from the department through an application form furnished by the department.

b. Site visits will be made to inspect the facility and determine if all possible safeguards have been taken to prevent escape into the natural habitat.

c. The department shall ensure that the applicant is furnished with a copy of the terms and conditions pertaining to the importation, transportation or possession of any of the listed plants.

d. The secretary or his designee shall notify the applicant in writing as to whether or not the permit has been granted and if not, the reasons therefore. In the event of disapproval, applicants may re-apply after meeting department requirements.

2. Terms and Conditions of Permit

a. Permits are not transferable from person to person or from site location to site location.

b. Specimens of the listed plant(s) shall be handled deliberately, cautiously, and in controlled settings to avoid contamination of state habitats.

c. Specimens shall be processed and grown within the confines of controlled facilities (growth chambers, greenhouses, laboratories, etc.).

d. Reproductive parts of plants (seeds, tubers, roots, etc.) that are collected in the field shall be transported in double zip lock bags such that the reproductive part cannot escape en route.

e. A U.S. Department of Agriculture (USDA) permit shall be required to import and possess specimens of prohibited plants from other countries and such plants shall be sent through a USDA inspection center at a port of entry as described by the USDA permit.

f. Before processing, the plants or plant parts shall be stored in a locked office or laboratory. Only qualified individuals shall have access to these materials.

g. Any part of the plant used for molecular work shall be subjected to a departmentally approved procedure that will render the plant material incapable of further growth or reproduction.

h. Specimens to be used for environmental studies (e.g., climate, shading, etc.) shall be grown in pots within the confines of growth chambers or greenhouses.

i. After the experimental work is completed, all plant materials, and the soil within the growth pots, and the pots shall be sterilized in some manner (e.g., autoclaved) to kill any remaining seeds or living plant material to render the plant material incapable of further growth or reproduction.

j. All collections by and shipments to or from the permittee shall be reported to the department one week prior to said collections or shipments. Information to be included shall be the type of material (whole plant, leaves, seeds, etc.) and the quantity collected or shipped.

k. The disposition of the plant material at the conclusion of the experimental work shall be reported to the department.

l. Personnel from the department shall have the authority to inspect the facility and operation with 24 hours notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:328 (C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 33:536 (March 2007).

Bryant O. Hammett, Jr.
Secretary

0703#032

RULE

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

Flotation Devices (LAC 76:XI.103)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby amend and reenact provisions relating to personal flotation devices on recreational boats.

**Title 76
WILDLIFE AND FISHERIES**

Part XI. Boating

**Chapter 1. Flotation Devices, Fire Extinguishers,
Flame Arrestors and Ventilation**

§103. Flotation Devices

A. In accordance with R.S. 34:851.24(F)1, the provisions of this Act shall apply on all waters within the jurisdiction of this state.

B. Definitions

Operate—to navigate or otherwise control the movement of a vessel, including controlling the vessel's propulsion system.

Operator—any person who navigates or is otherwise in control or in charge of the movement of a vessel, including the vessel's propulsion system.

Owner—a person, other than the lienholder, having the property in or registration to the vessel.

Personal Flotation Device or PFD—a device approved by the United States Coast Guard under 46 CFR Part 160, which is labeled with such approval and with the appropriate size for the person intended and which is in serviceable condition.

Readily Accessible—easily located and retrieved without searching, delay, hindrance or being in a locked area.

Serviceable Condition—a condition as defined by the United States Coast Guard under 33 CFR Part 175.23.

Trick Water-Skier—a trick water-skier is a person whose equipment and activities have all of the following characteristics:

a. type of skis: for standard double trick skis, a length of no more than 46 inches and width of at least 8 inches, with no keels on the bottom; for single trick boards, a length of no more than 56 inches and width of at least 22 inches, with no keel on bottom; and

b. tow rope no longer than 50 feet.

Vessel—watercraft and airboats of every description, other than seaplane(s), located on the water and, used or capable of being used as a means of transportation on the water.

Watersports—activities that involve being towed by, or riding in the wake of, a vessel and include but are not limited to water skiing, wake boarding, wake surfing, and tubing.

C. Personal Flotation Device Requirements

1. Every operator of a vessel shall ensure that the vessel is carrying at least one readily accessible Type I, II, or III wearable personal flotation device for each person on board. In addition, vessels 16 feet or over in length shall carry at least one Type IV throwable personal flotation device.

2. A United States Coast Guard approved Type V PFD may be used in lieu of a Type I, II, or III PFD required by this Part provided:

a. the approval label on the Type V PFD indicates that the device is approved by the United States Coast Guard:

i. for the activity for which the vessel is being used; or

ii. as a substitute for a PFD of the Type required by this act on the vessel in use; and

b. the PFD is used in accordance with any requirements of its approval label; and

c. the PFD is used in accordance with requirements in its owner's manual, if its approval label makes reference to such manual.

3. Persons engaged in watersports shall wear a Type I, II, III or V PFD. No vessel operator shall tow a watersports participant who is not wearing such a device. No person shall use an inflatable PFD to meet the requirements of this section. Exceptions to the requirements of this subsection are allowed under the following conditions:

a. a skier engaged in barefoot water-skiing who wears a barefoot wetsuit designed specifically for such activity;

b. a skier engaged in trick water-skiing whose movements would be restricted or impeded by the bulk of a PFD;

c. the operator of a vessel towing a trick water-skier or barefoot water-skier shall make a PFD readily available aboard the tow vessel for each such skier who elects not to wear such a device while skiing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 11:705 (July 1985), amended LR 26:1493 (July 2000), LR 33:538 (March 2007).

Bryant O. Hammett, Jr.
Secretary

0703#031

RULE

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

White Lake Wetlands Conservation Area (LAC 76:III.335)

The Wildlife and Fisheries Commission has adopted as a Rule the general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area for the 2006-2007 Season.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

**Chapter 3. Particular Game and Fish Preserves,
Wildlife Management Areas, Refuges and
Conservation Areas**

§335. White Lake Wetlands Conservation Area

A. The general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area Management Plan for the 2006-2007 season is as follows.

White Lake Wetlands Conservation Area Management Plan General Framework for Public Use of Consumptive Resources 2006-2007 Season			
Specific Activities	Season	Number/ Quantity	Cost (\$), each
Alligators			
Wild Alligator Harvest	Sept. 6-Oct. 5	375 alligators	40% of sale price
Alligator Egg Collection	June and July	10,000 eggs	Bid \$20.10
Waterfowl			
Teal Lottery Hunts	LDWF Season	108 hunters	\$100 per gun
Youth/Physically Challenged Hunts	First Weekend	14 hunters	no cost
Marsh Lottery Hunts	LDWF Season	120 hunters	\$150 per gun
Rice Lottery Hunts	LDWF Season	207 hunters	\$150 per hunt (up to 3 per hunted area)
Group Hunts	LDWF Season	12 groups	\$25,000 per

White Lake Wetlands Conservation Area Management Plan General Framework for Public Use of Consumptive Resources 2006-2007 Season			
Specific Activities	Season	Number/ Quantity	Cost (\$), each
			group
Fishing	March 15-August 1	75 permits	\$30 per group
Negotiated —Natural or Facilities (i.e. services involving personnel, equipment, and/or structures)			

AUTHORITY NOTE: Promulgated in accordance with Act 613 of the 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:538 (March 2007).

Bryant O. Hammett, Jr.
Secretary

0703#030

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Seed Commission

Germination Tolerance Standards (LAC 7:XIII.105 and 207)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations regarding germination tolerances for seed and the sugarcane (tissue culture) greenhouse requirements.

The proposed changes to the Rule update germination tolerance standards in order to meet current germination standards set by the Association of Official Seed Analysts in 2005 and to amend Sugarcane (Tissue Culture) Certification Standards in order to prevent the introduction and spread of potentially harmful insects and diseases to foundation sugarcane stock. This Rule is enabled by R.S. 3:1431 and 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§105. Tolerances

A. Except as otherwise provided in this Section, the tolerances published in the latest rules and regulations for testing seed by the Association of Official Seed Analysts shall be applicable in the administration of the Louisiana Seed Law.

B. Germination Tolerances. The following tolerances which are recognized by the Federal Seed Act, 7 USC 1551-1611, are adopted and are applicable to the percentage of germination and also to the sum of the germination plus the hard seed.

Maximum Tolerance Values between Two and Four Replicates of 100 Seeds in a Germination Test							
Average percent Germination		No. replicates of 100 seeds		Average percent Germination		No. replicates of 100 seeds	
A	B	4	2	A	B	4	2
A	B	C	D	A	B	C	D
84	17	14	11	60	41	19	15
83	18	15	12	59	42	19	15
82	19	15	12	58	43	19	15
81	20	15	12	57	44	19	15
80	21	16	13	56	45	19	15
79	22	16	13	55	46	20	15
78	23	16	13	54	47	20	16
77	24	17	13	53	48	20	16
76	25	17	13	52	49	20	16
				51	50	20	16

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 33:

Subchapter C. Certification of Specific Crops/Varieties

§207. Sugarcane (Tissue Culture) Certification

Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center (LSUAC) or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, the Louisiana Department of Agriculture and Forestry, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

3. Source of registered stock is limited to plantlets produced through tissue culture of foundation material or the first ratoon. Stock that meets all standards except insect and/or weeds standards be maintained in the program as seed increase fields only, but may not be marketed to producers. Such stocks are eligible for re-certification once they come in compliance with applicable regulations.

4. Source of certified stock is limited to:

- three consecutive years from planting of registered stock; and
- two consecutive harvests of certified stock.

B. Greenhouse Requirements

1. Foundation plants and plantlets shall be kept in certified greenhouses.

2. Certified greenhouses shall comply with the following requirements:

- all sugarcane plants within the certified greenhouse must have been processed through the LSUAC sugarcane quarantine program;

Maximum Tolerance Values between Two and Four Replicates of 100 Seeds in a Germination Test							
Average percent Germination		No. replicates of 100 seeds		Average percent Germination		No. replicates of 100 seeds	
A	B	4	2	A	B	4	2
A	B	C	D	A	B	C	D
99	2	5	--	75	26	17	14
98	3	6	--	74	27	17	14
97	4	7	6	73	28	17	14
96	5	8	6	72	29	18	14
95	6	9	7	71	30	18	14
94	7	10	8	70	31	18	14
93	8	10	8	69	32	18	14
92	9	11	9	68	33	18	15
91	10	11	9	67	34	18	15
90	11	12	9	66	35	19	15
89	12	12	10	65	36	19	15
88	13	13	10	64	37	19	15
87	14	13	11	63	38	19	15
86	15	14	11	62	39	19	15
85	16	14	11	61	40	19	15

- b. greenhouses shall be clearly marked to warn workers that they shall not enter if they are coming from the field or from other non-certified greenhouses;
- c. doors shall be kept locked when the greenhouse is not in use;
- d. sticky traps or other monitoring devices shall be used to monitor aphids and other insects;
- e. screens of such mesh as to prevent entry of aphids and other insects shall be placed over all openings (vents, fans, windows, etc.);
- f. aphids, whiteflies or other harmful insects shall be controlled within the greenhouse;
- g. cutting tools shall be decontaminated on a regular basis and always when moving to another group of foundation plants or plantlets;
- h. different varieties must be clearly identified and separated.

3. Foundation stock shall be tested on a yearly basis for Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellowleaf Virus.

a. Tissue sample testing and protocol shall be provided by the LSU Ag Center Sugarcane Disease Detection Lab. The certifier shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellowleaf Virus.

4. LDAF must approve greenhouses before foundation plants can be entered into the certification program.

5. Inspections

a. Producer shall inspect and/or sample the greenhouse on a regular basis for harmful diseases and insects. If symptomatic plants are found either visually or by sample test results, they will be removed and destroyed. The grower will keep a log showing that inspections were made and if plants were removed.

b. If problems are observed during these inspections the producer should notify LDAF.

c. LDAF may inspect certified greenhouses several times during the year as needed. If symptomatic plants are found during these inspections they must be rogued and disposed of properly.

C. Field Inspections and Sampling

1. At least four field inspections by Louisiana Department of Agriculture and Forestry inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The third inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. Individual fields shall be sampled by Louisiana Department of Agriculture and Forestry inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

D. Land Requirements. The land shall be fallowed one summer from the previous crop.

E. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds: Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
Harmful Diseases:			
*Sugarcane Yellow Leaf Virus	None	10.00%	10.00%
** Sugarcane Mosaic Virus	None	10.00%	10.00%
** Sugarcane Smut	None	0.50%	0.50%
Harmful Insects:			
***Sugarcane Borer	None	5.00%	5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

F. Stock Handling

1. General Requirements

a. During harvest, constant care should be taken in the handling of certified seed to ensure genetic identity and purity.

b. Stock shall be labeled or identified in a manner such as to represent a lot or field.

c. Planting stock shall be subject to inspection by the Louisiana Department of Agriculture and Forestry at any time during the harvest season.

G. Reporting System

1. No certified seed tags will be issued for certified sugarcane stock.

2. The certifier shall be furnished certification forms by the Louisiana Department of Agriculture and Forestry and shall:

a. issue a copy of the certification form to the purchaser for each load;

b. send a copy of each issued certification form to the Louisiana Department of Agriculture and Forestry within 10 days after each sale; and

c. maintain a copy of each issued certification form on file, which shall be available for examination by the Louisiana Department of Agriculture and Forestry upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry,

Family Impact Statement

The proposed amendments to Title 7 Part XIII §105 and §207 regarding germination tolerances and sugarcane (tissue culture) certification standards 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 April 23, 2007, to Eric Gates, 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: Germination Tolerance Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no 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 is estimated to be no costs or economic benefits to directly affected persons or non-governmental groups. Because these persons or non-governmental groups are currently meeting the national standards these amendments merely bring Louisiana's requirements for seed standards up to national standards currently being met by the industry.
- 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
0703#025

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Entertainment Industries Development**

Entertainment Industry Tax Credit Programs
(LAC 61:I.Chapter 16)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development pursuant to the authority of R.S. 47:6007 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Motion Picture Production and Infrastructure Tax Credit Programs. The purpose of the Rules is to establish program policies and procedures in the administration of the Motion Picture Incentive Program which includes a production and infrastructure portion.

The text of this proposed Rule can be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed Rules 61:I.Chapter 16. Subchapter A. Louisiana Motion Picture Investor Tax Credit Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. 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 the 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 Christopher Stelly through the close of business on April 20, 2007, at P. O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to cstelly@la.gov or by fax to 225-342-5403. A meeting for the purpose of receiving the presentation of oral comments will be held on April 24, 2007 at the Department of Economic Development, 1301 N. 3rd St., Baton Rouge, LA.

Sherri McConnell
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Entertainment Industry Tax Credit Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rules will have no implementation costs to state or local governmental units. The Department of Economic

Development and the Division of Administration have adequate funding and staff to monitor and administer the Motion Picture Investor Tax Credit Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Film and video production activity in the state associated with the tax credit program has resulted in state and local tax receipts estimated at \$51.4 million over the 2002-2005 period (estimated by Economics Research Associates, 2007), with approximately 53.5% of these receipts or \$27.5 million received by state government and 46.5% or \$23.9 million received by local governments (shares estimated by the Legislative Fiscal Office, 2005). Production activity is expected to generate more than \$25 million per year of state and local tax receipts in subsequent years, growing by at least 5% per year.

Investor and Employment tax credits generated over the 2002-2005 period were \$232.8 million (data from the Governor's Office of Film and Television Development), and tax credits actually realized against state personal and corporate income taxes and state corporate franchise taxes during state fiscal years 2004-2006 were \$122.8 million (data from the Louisiana Department of Revenue). The current state official revenue forecast expects investor and employment tax credit realizations to be \$89 million in FY2007, growing to \$140 million in FY2011.

Infrastructure projects proposed so far could generate \$115 million of state tax receipts and \$100 million of local tax receipts over the construction periods of these projects (12 projects with \$2.4 billion of estimated total budgets reported by the Governor's Office of Film and Television Development; tax receipt estimates by the Legislative Fiscal Office). State income tax and corporate franchise tax credits associated with the proposed budgets of these projects are \$962 million. These credits would be granted only as expenditures on these projects occur and would be realized against state tax receipts over two – four year periods. It is uncertain at this time to what extent these proposed projects will actually be certified to participate in the program, to what extent these projects will actually occur, and what the total number and size of participating projects will be.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Film and video production activity in the state has resulted in compensation paid to workers directly employed by film productions in the state of \$140.3 million, over the 2002-2005 period (estimated by Economics Research Associates, 2007), with full-time equivalent employment now approximating 3,000 positions per year. Additional employment and earnings are also generated as a result of the industry's direct production activity.

Infrastructure projects proposed so far could result in as much as \$2.4 billion of construction and equipping activity in the state over the next few years. This activity will also generate earnings and employment over the periods of construction. It is uncertain at this time to what extent these proposed projects will actually be certified to participate in the program, to what extent these projects will actually occur, and what the total number and size of participating projects will be.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Louisiana has become a national leader in sites selected for motion picture projects. These proposed rules aim to maintain and improve Louisiana's attractiveness for motion picture projects. These projects will stimulate demand for a variety of

worker skills, and increase the amount of employment in the state.

Sherri McConnell
Director
0703#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,
and State Accountability System
(LAC 28:LXXXIII.1301, 4313, 4903, and 4905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes occur within the following Sections of Bulletin 111:

- §1301 Reward Eligibility—changes one requirement for Exemplary Academic Growth to 2.0 points improvement in a Subgroup Assessment Index rather than growth in a Subgroup Performance Score;
- §4313 Corrective Actions—adds detail for how school districts that have been identified for District Improvement can exit Corrective Actions; and
- §4903 Local Superintendent and Board Responsibilities and §4905 Contracting and Employing a District Superintendent—both of these items concern District Academically in Crisis and together reflect the legislature's repeal of C and D only of R.S. 17:10.6, Act 687, Reg. Session 2006.

Title 28

EDUCATION

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

Chapter 13. Rewards/Recognition

§1301. Reward Eligibility

A. Beginning in 2004, a school shall receive recognition and monetary awards (as appropriated by the Legislature) when it achieves a growth label of Exemplary or Recognized Academic growth. Exemplary Academic Growth (EAG) shall require, in addition to achieving the school's Growth Target, at least 2.0 points growth in every subgroup's GPS (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students), and the school cannot be in any level of school improvement. Recognized Academic Growth (RAG) is earned by any school that meets its growth target, regardless of subgroup growth or school improvement status.

Beginning in 2007, the Subgroup Performance Score (GPS) shall be replaced with an adjusted Subgroup Assessment Index (SAI). The SAI shall be calculated for two subgroups, the Economically Disadvantaged and the Students with Disabilities. For combination schools, the K-8 and 9-12 SAI (Subgroup Assessment Indices) will be combined using a weighted average of eligible test takers.

NOTE: As with the GPS, a minimum of 2.0 points of growth is required in each SAI for a school to qualify for Exemplary Academic Growth. Identification for School Improvement prevents consideration for EAG.

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:

Chapter 43. District Accountability

§4313. Corrective Actions

A. - E. ...

F. Districts shall exit District Improvement if they pass Subgroup AYP in the same subject for which they entered District Improvement in the same cluster for 2 consecutive years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:

Chapter 49. School District Academically in Crisis

§4903. Local Superintendent and Board Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:543 (April 2006), repealed LR 33:

§4905. Contracting and Employing a District Superintendent

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:545 (April 2006), repealed LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., May 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The changes to Bulletin 111 Chapter 1301 and 4313 provide needed definition, and clarify the Board of Elementary and Secondary Education's intent regarding processes already established in policy. Chapters 4903 and 4905 are removed to reflect the repeal of R.S. 17:10.6 (C) and (D) through Act 687 of the 2006 Regular Legislative Session. There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0703#050

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 125—Standards for Educational Leaders in
Louisiana (LAC 28:CXXXVII.Chapters 1-5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 125—Standards for Educational Leaders in Louisiana*. Bulletin 125 will be printed in codified format as Part CXXXVII of the Louisiana Administrative Code. The Standards for Educational Leaders in Louisiana were created to assist local education agencies in achieving the goals of the state's School and District Accountability System to place effective administrators at every school. Educational leaders are strongly encouraged to use the standards to examine organizational structures, examine their enacted roles, and examine day-to-day operations to ensure they are leading the way for school

success by keeping the focus on enhanced student achievement. In order to ensure that the goals of the state's accountability system are supported and achieved the Educational Leader Standards were created to guide and identify the knowledge, skills, performances, and dispositions of effective educational leaders. Based on current research the need for effective leadership at the school and district level has become increasingly important. Research has proven that effective leaders are an essential component in overall school improvement efforts.

**Title 28
EDUCATION**

**Part CXXXVII. Bulletin 125—Standards for
Educational Leaders in Louisiana**

Chapter 1. Purpose

§101. Introduction

A critical component to ensuring that the goals of the state's School and District Accountability System are achieved is the placement of effective administrators at every school. In order for this to be attained, attention must be focused on building leadership capacity at both the school and district levels. Utilizing the Standards for Educational Leaders, educational leaders are strongly encouraged to examine organizational structures, their enacted roles, and day-to-day operations to ensure they are leading the way for school success by keeping the focus on enhanced student achievement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Chapter 3. Standards

§301. Standard #1 Vision

A. The educational leader engages the district/school community in developing and maintaining a student-centered vision for education which forms the basis for district/school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of a "preferred" future regarding the success of all students:

i. group process strategies for melding the diverse values and expectations of the district/school community into a shared understanding of desired student outcomes;

ii. theories of child and human development, the teaching-learning, and models of and best practices for on-going district/school improvement; and

iii. relevant research findings and strategies for using data to develop and maintain the district/school vision.

2. Disposition

a. The educational leader believes in, values, and commits to:

i. a focused mission/vision to improve student achievement and a vision of the elements of school, curriculum, and instructional practices that make higher achievement possible;

ii. the centrality of students to the district/school vision and goals;

iii. involving the community in establishing the district/school vision and goals;

iv. respecting the existing community cultures while working for changes that improve outcomes for all students;

v. stewardship of the district/school vision, and sponsorship of district/school goals; and

vi. enabling students to think critically about complex issues.

3. Performances

a. The educational leader demonstrates the ability to:

i. work collaboratively with the school community to establish clear goals and to keep those goals in the forefront of the school's attention;

ii. bring the district/school vision to life by using it to guide decision making about students and the instructional programs;

iii. maintain focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;

iv. maintain open communication with the community, and effectively convey high expectations for student learning to the community;

v. inspire and lead new and challenging innovations by providing opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing district/ school improvement;

vi. monitor, assess, and revise the district/school vision and goals as needed; and

vii. foster the integration of students into mainstream society while valuing diversity.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§303. Standard #2 Teaching and Learning

A. The educational leader uses a knowledge of teaching and learning in working collaboratively with the district/school faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. research and theories related to teaching, learning, curriculum development and integration, and motivation;

ii. methods for effectively communicating high expectations for all students to learn high-level content;

iii. effective instructional practices that motivate and increase student achievement;

iv. supervisory and observational techniques that promote effective teaching and learning in a growth-oriented environment;

v. authentic, psychometrically sound methods for assessing student learning; and

vi. emerging technologies and their use in enhancing student learning.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. all children's learning at high levels,

- ii. excellence and life-long learning,
- iii. collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking; and
- iv. developing a caring environment that nurtures teaching and learning.

3. Performances

- a. The educational leader demonstrates the ability to:
 - i. design, model, and implement effective curriculum, instruction, and assessment practices;
 - ii. encourage and support the use of both innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
 - iii. conduct frequent classroom/school visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
 - iv. foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and
 - v. promote collaboration and team building among faculty.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§305. Standard #3 School Management

A. The educational leader promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

1. Knowledge and Skills

- a. The educational leader has knowledge, skills, and understanding of:
 - i. organizational theory and principles of organizational development;
 - ii. human resources management and development, including related/support/ancillary services;
 - iii. local, state, and federal laws, policies, regulations, and procedures;
 - iv. sound fiscal procedures and practices;
 - v. time management to maximize the effectiveness of the organization; and
 - vi. current technologies that support management functions.

2. Dispositions

- a. The educational leader believes in, values, and commits to:
 - i. creating a learning community who believes that every student counts and has the support of a caring adult;
 - ii. building a safe, orderly environment;
 - iii. upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
 - iv. upholding high standards in the day-to-day operations of the school and using current technology;
 - v. making management decisions to enhance teaching and learning; and

- vi. involving members of the school community in shared decision-making processes.

3. Performances

- a. The educational leader demonstrates the ability to:
 - i. establish and implement a set of standard operating procedures and routines;
 - ii. understand the change process and have the leadership and facilitation skills to manage it effectively;
 - iii. organize and use time in innovative ways to meet the goals and objectives of school improvement;
 - iv. maintain safe, secure, clean, and aesthetically pleasing physical school plants;
 - v. maintain a positive learning environment where proper student discipline is the norm;
 - vi. manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
 - vii. manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective faculty/staff;
 - viii. monitor support services such as transportation, food, health, and extended care responsibly;
 - ix. provide and coordinate appropriate co-curricular and extra-curricular activities;
 - x. use shared decision making effectively in the management of district/school operations;
 - xi. manage time and delegate appropriate administrative tasks to maximize attainment of the district/school goals;
 - xii. use available technology effectively to manage operations; and
 - xiii. monitor and evaluate operations and use feedback appropriately to enhance effectiveness.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§307. Standard #4 School Improvement

A. The educational leader works with the district/school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

1. Knowledge and Skills

- a. The educational leader has knowledge, skills, and understanding of:
 - i. methods by which information from various data sources can be used to establish challenging standards for self, faculty, students, and the district/school community;
 - ii. strategies for monitoring progress toward reaching the standards established;
 - iii. research-based literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
 - iv. the district/school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and
 - v. methods of data collection, analysis, interpretation, and program evaluation.

2. Dispositions

- a. The educational leader believes in, values, and commits to:

i. empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the district/school community;

ii. working toward consensus and compromise among members of the district/school community, guided by the district/school vision and goals;

iii. examining one's own assumptions, practices, and beliefs in the light of new knowledge;

iv. accepting limitations and mistakes from self and others while maintaining commitment to the standards established;

v. encouraging faculty experimentation in order to maximize opportunities for all students to learn;

vi. promoting a district/school culture that values and promotes individual and collaborative reflection and learning; and

vii. recognizing and celebrating school accomplishments and acknowledging failures.

3. Performances

a. The educational leader demonstrates the ability to:

i. keep everyone informed and focused on student achievement;

ii. use data to initiate and continue improvement in student achievement;

iii. provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and district/school goals;

iv. grow professionally by engaging in professional development activities and making such activities available to others;

v. use research findings to plan district/school improvement initiatives, monitor the implementation of these changes, and evaluate their effectiveness on teaching and learning;

vi. foster the genuine continuous involvement and commitment of the district/school community in promoting the progress of all students toward attaining high standards;

vii. enhance school effectiveness through the coordination of teacher selection, induction, evaluation, and professional development;

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§309. Standard #5 Professional Development

A. The educational leader works collaboratively with the district/school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. theories related to motivation, adult learning, and staff development;

ii. sound pedagogical practices and emerging technologies;

iii. current trends in terms of social, political and cultural influences on education;

iv. research, measurement, and assessment strategies;

v. organizational learning for district/school cultures, goal setting, change processes, and group dynamics; and

vi. resource management.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. lifelong learning for self and others;

ii. ongoing change processes;

iii. faculty expertise and collaborative work strategies; and

iv. fostering creativity and establishing high expectations in self and others.

3. Performances

a. The educational leader demonstrates the ability to:

i. communicate a focused vision for both district/school and individual professional growth;

ii. use research and data from multiple sources to design and implement professional development activities;

iii. secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;

iv. ensure that faculty and staff are aware of the most current theories and practices and makes the discussion of these a regular aspect of the district's/school's culture;

v. provide opportunities for individual and collaborative professional development;

vi. provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and

vii. assess the overall impact of professional development activities on the improvement of teaching and student learning.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§311. Standard #6 School-Community Relations

A. The educational leader uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. the composition of the district/school community including relevant demographic statistics and trends, competing issues and values, and available resources;

ii. successful strategies for establishing positive district/school community relations and fostering parental and community participation;

iii. techniques for promoting the positive aspects of the district/school and communicating with the media effectively; and

iv. effective interpersonal communication skills.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. establishing a partnership with the community for mutually supportive relationships;

ii. promoting the school/school system as an integral part of the community;

- iii. diversity as a strength; and
- iv. promoting the positive aspects of the district/school, celebrating successes, acknowledging the district's/school's shortcomings, and involving the community in overcoming problems within the district/school.

3. Performances

a. The educational leader demonstrates the ability to:

- i. foster shared beliefs and an sense of community and cooperation;
- ii. be visible and involved in the community and treat members of the district/school community equitably;
- iii. involve the school(s) in the community while keeping all stakeholders informed;
- iv. use district-/school-community resources to enhance the quality of instructional programs, including those resources available through business and industry;
- v. recognize and celebrate educational successes publicly; and
- vi. communicate effectively, both interpersonally and through the media.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§313. Standard #7 Professional Ethics

A. The educational leader demonstrates honesty, integrity, and fairness to guide district/school programs in an ethical manner.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

- i. various perspectives on ethics;
- ii. his/her own principled convictions about what is best for students and the ethical implications of those convictions;
- iii. relevant laws, policies, regulations, procedures and the relationship of these to protecting the rights of individuals; and
- iv. ethical means for improving district/school programs.

2. Dispositions

a. The educational leader believes in, values, and commits to:

- i. being accurate in providing information while respecting the rights of others;
- ii. caring for the feelings of others;
- iii. principled action in upholding the substance of laws, policies, regulations, and procedures; and
- iv. using the influence of his/her leadership constructively and productively in the service of all students.

3. Performances

a. The educational leader demonstrates the ability to:

- i. model ethical behavior at both the school and community levels;
- ii. communicate to others expectations of ethical behavior;
- iii. respect the rights and dignity of others;
- iv. provide accurate information without distortion and without violating the rights of others;

v. develop a caring school environment in collaboration with the faculty and staff;

vi. apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;

vii. minimize bias in self and others and accept responsibility for his own decisions and actions; and

viii. address unethical behavior in self and others.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Chapter 5. Glossary

§501. Definitions

Preferred Future—an understanding and conviction conveyed to teachers and students that opportunities available to students are not limited.

Psychometrically Sound—data that are valid and reliable; refers to data from tests and other forms of assessment.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., May 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 125—Standards for Educational Leaders in Louisiana

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 125 contains the Standards for Educational Leaders in Louisiana policy. The standards were created to assist Local Education Agencies in achieving the goals of the state's School and District Accountability System to place effective administrators at every school. The adoption of this

policy will cost the Department of Education approximately \$408 (printing) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0703#028

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for
State Certification of School Personnel
(LAC 28:CXXXI.314)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §314. Extended Endorsement License (EEL). This policy allows for the issuance of an Extended Endorsement License (EEL) to individuals who hold standard Louisiana teaching certificates (Level 1, Level 2, Level 3, Type C, Type B, Type A, or Out-of-State), pass the current PRAXIS content exam(s) required for the area in which the EEL is requested, and present detailed prescriptions that identify any additional coursework and/or exams needed to complete requirements for the area/level certification endorsement. The EEL could be renewed annually, upon completion of renewal requirements, for a maximum of three years. This license will ensure that individuals teaching in core content areas have fulfilled highly qualified requirements by passing content area examination(s) of PRAXIS.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

§314. Extended Endorsement License (EEL)

A. Extended Endorsement License (EEL)—issued for one school year, renewable annually, and may be held a maximum of three years while the holder pursues certification in the content area of the license.

B. Eligibility Requirements—issued to an individual who meets the following requirements:

1. the individual holds a valid Louisiana teaching certificate of one of the following types: Level 1, Level 2, Level 3, Type A, Type B, Type C, OS; and

2. the individual has passed the current content area exam(s) appropriate for the content area in which the Extended Endorsement License is being requested; and,

3. the individual provides a detailed prescription that identifies any additional coursework or exams needed to complete the area/level certification endorsement and that is signed by the superintendent and the human resources director of the employing local education agency.

C. Renewal Requirements. Teacher must successfully complete a minimum of nine credit hours of coursework per year, applicable toward certification in the content area of the license.

1. If fewer than nine hours are required to complete the certification, then all of the remaining hours must be taken.

2. If no credit hours remain to be taken, then the individual must provide evidence of taking the required exams, a minimum of once per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., May 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy allows for the issuance of an Extended Endorsement License (EEL) to individuals who hold standard Louisiana teaching certificates (Level 1, Level 2, Level 3, Type C, Type B, Type A, or Out-of-State), pass the current Praxis content exam(s) required for the area in which the EEL is requested, and present detailed prescriptions that identify any additional coursework and/or exams needed to complete requirements for the area/level certification endorsement. The

EEL could be renewed annually, upon completion of renewal requirements, for a maximum of three years. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Director
0703#029

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Scholarship/Grant Programs—Definitions and
Post Secondary Institutions Responsibilities
(LAC 28:IV:301 and 1903)**

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0782NI)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

Chapter 3. Definitions

§301. Definitions

A. ...

* * *

First-Time Freshman—a student who is awarded TOPS opportunity, performance, or honors and enrolls for the first-time as a full-time freshman in an academic program in a post-secondary school subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a Vocational or Technical Education Certificate or Diploma Program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for term and quarter institutions). A student who is awarded TOPS opportunity, performance, or honors and begins in an academic program in a post-secondary college or university in a summer session will be considered a first-time freshman for the immediately succeeding fall term. A student who is awarded TOPS opportunity, performance, or honors and

begins in a non-academic program in a post-secondary school in a summer term will be considered a first-time freshman at the time of such enrollment. The fact that a student enrolls in a post-secondary school prior to graduation from high school and/or enrolls less than full time in a post-secondary school prior to the required date for full time enrollment shall not preclude the student from being a first-time freshman.

* * *

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the 14th class day or later at a semester school or the 9th class day or later at a quarter or term school;

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining eight quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends (see §§705.A, 705.D, 805.A, and 907.A for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330,

2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth Challenge Program Grant is enrolled full-time, as defined in §301, at the end of the 14th class day or later for semester schools and the 9th class day or later for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the 14th class day for semester schools or the 9th class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the 14th or 9th class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111 and 3114 (December 2005), LR 33:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 9, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant
Programs—Definitions and Post
Secondary Institutions Responsibilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed change affects only a small number of students who are already eligible for a TOPS award and the change will not have a significant impact on TOPS expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0703#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Expedited Permit Processing Program
(LAC 33:I.1801, 1803, 1805, 1807, and 1809)(OS073)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.1801, 1803, 1805, 1807, and 1809 (Log #OS073).

This Rule provides for an expedited permit processing program and the implementation of the associated permitting fees authorized by Acts 586 and 779 of the 2006 Regular Session of the Louisiana Legislature. This program allows interested applicants who request such processing to reimburse the department for overtime costs incurred by department employees who work overtime to expedite an application for a permit, modification, license, registration, or variance. The statutes also allow the department to hire contractors to perform this work if deemed necessary. Many companies consider environmental permitting timelines when determining where to locate a proposed facility. Expedited permit processing allows the regulated community to act more quickly in response to market demands and conditions. Commencement of any necessary construction and operations may be authorized more expeditiously. This Rule promulgates the provisions of Emergency Rule OS073E, which implemented a pilot program for this service on July 31, 2006. The basis and rationale for this Rule are to shorten the permit processing time by allowing the department to offer paid overtime to employees to expedite the permit processing and recoup the costs of that overtime pay.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 18. Expedited Permit Processing Program

§1801. Scope

A. This Chapter establishes a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services. Expedited processing of an application for a permit, modification, license, registration, or variance is an exercise of the discretion of the administrative authority and is subject to the availability of resources needed in order to process the permit, modification, license, registration, or variance. Permit actions approved for expedited permit processing must meet all regulatory requirements, including required public comment periods and any required review by other agencies.

B. Eligibility

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

2. An application for permit modification that does not result in new permanent jobs is eligible for expedited processing pursuant to the provisions of this Chapter if it is associated with new construction; includes increases in production that benefit the national, state, or local economy; or provides a direct benefit to the environment.

3. Applications for permit renewal and/or reconciliation will be considered for expedited processing pursuant to the provisions of this Chapter on a case-by-case basis.

4. Applications for permits, modifications, licenses, registrations, or variances under the Solid Waste and Hazardous Waste programs are not eligible for expedited permit processing.

5. A request for expedited permit processing submitted prior to submittal of the associated permit application will not be considered.

6. Requests for exemptions, letters of no objection, and other miscellaneous letters of response are not eligible for expedited permit processing.

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

D. Approval of a request for expedited permit processing in no way guarantees issuance of the permit action or issuance of the permit action by the date requested.

E. The department may deny a request for expedited permit processing for any reason, including but not limited to the following:

1. the applicant's failure to pay outstanding fees or penalties;
2. compliance history concerns regarding the applicant;
3. an infeasible date requested for permit action;
4. an insufficient maximum amount the applicant is willing to pay; or
5. insufficient workforce resources available to assign to the task or a request not in line with department priorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5

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

§1803. Procedures

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

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

C. Permit Applications. The following are additional permit application requirements for facilities requesting expedited permit processing.

1. If requested by the department, the applicant shall submit permit application information electronically using the Air Permit Data Upload (APDU) system or any other electronic data submittal program provided by the department.

2. Prior to submittal of a permit application for a new major source, a new synthetic minor source, or a major modification of an existing source, a technical meeting with a representative of the department is recommended to review and discuss the proposed application.

D. Requests for Additional Information

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

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

§1805. Fees

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

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

2. The fee shall be computed by multiplying the salary figure from Paragraph A.1 of this Section by every overtime hour or portion thereof that a department employee or

contractor works on expedited processing of the application for a permit, modification, license, registration, or variance.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

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

§1807. Invoicing and Failure to Pay

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

B. If the administrative authority has ceased processing the permit application in accordance with LAC 33:I.1803.D.3 or 1805.A.3, an invoice for the appropriate expedited permit processing fee shall be transmitted to the applicant.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

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

§1809. Public Notice and Availability of Records

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

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

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

B. Contents of the Notice

1. The notice on the official website for the department shall contain the name of the applicant/permittee, the agency interest number, the parish in which the facility is physically located, the environmental medium involved, the date the request for expedited processing was received, and the date of the decision to approve or deny the request for expedited processing.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

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

A public hearing will be held on April 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS073. Such comments must be received no later than May 2, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS073. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Expedited Permit Processing Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are additional administrative duties associated with implementing the expedited permit processing program. Annual administrative costs are estimated to be \$53,760.47.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule allows LDEQ to charge a separate fee for each permit, modification, license, registration, or variance that is processed on an expedited basis. Because all revenue generated will be used to compensate the employee or contractor for the services performed, there will be no net increase in revenues in excess of expenditures associated with the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Participation in the Expedited Permit Processing Program is voluntary. The applicant must complete a brief "Request for Expedited Permit Processing" form and pay a fee in addition to those charged pursuant to R.S. 30:2014. The fee will be based on the actual number of overtime hours an employee works (or hours a contractor works) to process the application, which will be highly dependent on the size and complexity of the project. The applicant may, however, request that the expedited permit processing fee not exceed a maximum amount.

Expedited permit processing allows the regulated community to act more quickly in response to market demands and conditions. Commencement of any necessary construction and operations may be authorized more expeditiously. As such, the revenue generated by the project would also be realized sooner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sectors. A final decision on each application must still adhere to the statutory deadlines imposed by R.S. 30:2022(B) and other applicable regulations, regardless of whether or not it is processed on an "expedited" basis.

Herman Robinson, CPM
Executive Counsel
0703#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Murphy Exploration and Production Delisting
(LAC 33:V.4999.Appendix E)(HW096P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been

initiated to amend the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW096P).

Murphy Exploration and Production (Murphy) is petitioning to exclude from the hazardous waste regulations (delist) approximately 6,120 tons of incinerator ash generated and used as fill in 1986 and 1987. This is a one-time delisting that applies to the particular ash (and to any contaminated media associated therewith) used as fill in the Rim Tide barge slip located on a 1.83 acre tract of land near Amelia, Louisiana. The purpose of this delisting petition is to facilitate the excavation and offsite disposal of the ash and any associated contaminated media. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The department has reviewed Murphy's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The department's proposed action to grant the petition is based on an evaluation of waste-specific information provided by the petitioner. Based on the information submitted by Murphy, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on an evaluation of waste-specific information submitted by Murphy Exploration and Production.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. – Appendix D. ...

**Appendix E. Wastes Excluded under LAC 33:V.105.M
A. - B.3.b. ...**

Table 1 - Wastes Excluded
[See Prior Text in Dupont Dow Elastomers, LLC, LaPlace, LA – BFI Waste Systems of Louisiana, LLC, Colonial Landfill, Sorrento, LA, (4)]

Table 1 - Wastes Excluded
Murphy Exploration and Production Company, Amelia, LA
Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, Louisiana. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after [INSERT DATE OF PROMULGATION].

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:

A public hearing will be held on April 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW096P. Such comments must be received no later than May 2, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW096P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: **Murphy Exploration
and Production Delisting****

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units for implementing this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Under current rules and regulations, the state would collect on a one-time basis approximately \$244,800 in hazardous waste tax revenue from the imposition of the \$40 per dry weight ton tax on an estimated 6,120 tons of waste at the Rim Tide slip area near Amelia, Louisiana. The proposed rule would delist this waste and would alternatively provide that it be taxed

at the rate for solid waste of \$4 per dry weight ton, which would result in tax revenue of approximately \$24,500, or a net one-time decrease in revenue of \$220,300. Monies generated by the hazardous waste tax are paid into the Hazardous Waste Site Cleanup Fund until the fund balance reaches \$6 million, and at such time the treasurer pays the remaining sums into the Environmental Trust Fund. Solid Waste fees are directly deposited into the Environmental Trust Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Assuming that the delisting petition is granted, Murphy will proceed with the remediation of the Rim Tide slip area. This will produce both environmental and economic benefits for the state. The economic benefits to the directly affected parties will be the restoration of 1.83 acres of property to full use, and the savings of unnecessary expenditures of as much as \$2.5 million for Murphy. The remediation work is expected to cost approximately \$650,000 if the petition is granted, which will benefit various Louisiana companies who will participate in the remediation project, and save Murphy approximately \$1.85 million. The remediation of the 1.83 acres will allow industrial property in St. Mary Parish to be more fully utilized. The delisting will also avoid the unnecessary use of hazardous waste landfill space for nonhazardous wastes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition are negligible. The delisting facilitates the remediation of materials that were placed on this location approximately 20 years ago. The remediation activities at the 1.83 acres will involve short-term environmental, laboratory, and construction related employment.

Herman Robinson, CPM
Executive Counsel
0703#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Recycling Tax Credit (LAC 33:VII.10401, 10403, 10405, 10407, 10409, 10411, 10413, and 10415)(SW043)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10401, 10403, 10405, 10407, 10409, 10411, 10413, 10415 (Log #SW043).

This Rule establishes the technical requirements to qualify for the recycling tax credit for new recycling manufacturing or process equipment and service contracts outlined in Act 319 of the 2005 Regular Session of the Louisiana Legislature. The Rule requires a person wishing to take advantage of the tax credit to submit an application to DEQ for review, and provides guidance on which equipment and/or service contracts will be considered for the tax credit. The regulations require DEQ to review the application to determine if the equipment and/or service contract meet the requirements for the credit. DEQ then certifies the application and forwards the recommendation to the Department of Revenue. The basis and rationale for this

proposed Rule are to implement Act 319 of the 2005 Legislative Session.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

§10401. Authority

A. These regulations are hereby established by the Department of Environmental Quality (DEQ) in consultation with the Louisiana Department of Revenue (LDR) as mandated by Act 319 of the 2005 Regular Session of the Louisiana Legislature. These regulations are to establish technical specifications and certification requirements for the qualification of new recycling manufacturing or process equipment and/or service contracts for the credit against income and corporate franchise taxes provided by R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10403. Applicability

A. These regulations apply to taxpayers who purchase *qualified new recycling manufacturing or process equipment* and/or *qualified service contracts*, as defined in LAC 33:VII.10405 and R.S. 47:6005, and who apply for tax credit pursuant to R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10405. Definitions

A. For the purpose of this Chapter the terms below shall have the meaning specified herein as follows.

Beneficial Use—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Conventional Disposal—the disposal as waste in a cell at a landfill. It shall not include any application specifically approved by the department as a beneficial use (e.g., alternate daily cover).

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process, or which is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products;

nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term shall not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste which is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

* * *

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* shall not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither shall the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Qualified New Recycling Manufacturing or Process Equipment—new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both, and manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both. For purposes of this Chapter, *qualified new recycling manufacturing or process equipment* shall not include vehicles, structures, machinery, equipment, or devices used to store or incinerate waste material, or construction equipment or farm equipment used in the process.

Qualified Recycling Equipment—repealed.

Qualified Service Contract—any service contract utilized by a nonhazardous industrial waste generator or a nonhazardous industrial waste beneficial user to implement Department of Environmental Quality-approved beneficial use programs for nonhazardous industrial waste streams as defined under the department's solid waste rules and regulations so as to avoid conventional disposal of such waste in a landfill.

Recovered Material—*recovered materials* as defined in R.S. 30:2412 and which would otherwise be processed or disposed of as nonhazardous solid waste.

* * *

Solid Waste—any garbage, refuse, or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* shall not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), repromulgated LR 18:960 (September 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10407. Technical Specifications for Qualified New Recycling Manufacturing or Process Equipment and/or Service Contracts

A. In order to qualify for certification as qualified new recycling manufacturing or process equipment and/or a qualified service contract, the equipment and/or service contract must utilize new apparatus used exclusively to process post-consumer waste material and/or involve the processing of post-consumer waste material in a Department of Environmental Quality-approved beneficial use program for nonhazardous industrial solid waste and meet the following requirements:

1. be new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both; or
2. be new manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both; and/or
3. be a service contract associated with the construction and/or operation of new recycling manufacturing or process equipment implementing a Department of Environmental Quality-approved beneficial use program for industrial solid waste; and/or
4. be an in-kind replacement or new apparatus that results in a greater than 25 percent increase in beneficial use of post-consumer waste material, recovered material, or both, that is a part of a previously-approved certification under these regulations; and
5. be used exclusively in the state of Louisiana.

B. The following categories of equipment, and any associated service contracts, will be excluded from certification as qualified new recycling manufacturing or process equipment and/or qualified service contracts:

1. a *vehicle*, as defined in LAC 33:VII.10405, or any service contract associated with the vehicle;
2. in-kind replacement, or any service contract associated with the in-kind replacement, of parts for machinery or apparatus. Any replacement part or new apparatus that results in less than a 25 percent increase in beneficial use of post-consumer waste material will be considered an *in-kind replacement*;
3. structures, machinery, equipment, or devices, or any service contract associated with the structures, machinery, equipment, or devices, used to store or incinerate waste materials; and
4. used equipment, or any service contract associated with the used equipment.

C. The DEQ shall determine the costs to obtain and construct the qualified equipment, as well as the reasonable amount of the associated qualified service contract, that may be allowed for the credit. When the equipment is built from components and assembled at the installation site or a site separate from the installation site, and subsequently transported and installed at the installation site, the costs of the components, the costs to assemble the components, and

the costs to install the components shall be considered the allowed costs. In addition, any qualified service contract necessary to carry out the assembly, transportation, or installation of the qualified equipment shall be considered allowed costs.

D. The costs of materials, labor, and qualified service contracts associated with the project, used to construct a building or other structure necessary to support the equipment or to protect the equipment and operators from the elements while they operate the equipment shall be allowed costs, provided that the building or structure is used exclusively in connection with the recycling operations.

E. Under no circumstances shall any of the following be considered allowed costs:

1. financial charges;
2. the costs of acquiring land or rights in land, including any service contract associated with the costs of acquiring land or rights in land, and any costs incidental thereto, including recording fees; and
3. the costs to construct a building or structure, including any service contract associated with the construction of the building or structure, to store raw material or finished products.

F. The DEQ shall determine the costs to obtain and utilize a service contract by nonhazardous industrial waste generators or nonhazardous industrial waste beneficial users. Beneficial use programs for nonhazardous industrial waste streams shall be defined according to the DEQ's solid waste rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended LR 24:27 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10409. Application Requirements

A. Application Form for Equipment and Qualified Service Contracts

1. In order to qualify for the tax credit provided for in this Chapter, the taxpayer shall apply for certification from the Secretary of the Department of Environmental Quality that the new recycling manufacturing or process equipment purchased, and any associated service contract, is *qualified new recycling manufacturing and process equipment* or a *qualified service contract* as defined in LAC 33:VII.10405 and the equipment or service contract will be used or rendered exclusively in the state of Louisiana.

2. In addition to information provided on the application form, the DEQ may require and the applicant shall provide cost estimates, engineering drawings, specifications sheets, and any other documents necessary to establish with sufficient specificity the equipment and/or associated service contract qualifying for the tax credit.

3. In addition to information provided on the application form, the DEQ may require and the applicant shall provide such documentation as may be necessary to establish with sufficient specificity that the post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste under applicable state and federal law and regulations.

4. In addition, the DEQ may request documentation, in the form of bid amounts or other documentation, that a qualified service contract is for a reasonable amount and that

the qualified service contract complies with all existing State of Louisiana Code of Ethics provisions, or otherwise complies with all applicable state and federal law and regulations.

B. The applicant must report final costs of recycling equipment purchases and qualified service contracts to the LDR and the DEQ. Audits will be performed by the LDR and the DEQ as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10411. Applicant Certification

A. Included with the application for certification shall be a statement acknowledging that the applicant shall use a good faith effort to utilize post-consumer waste material or recovered material, or has used the equipment or services contracted for to implement a Department of Environmental Quality-approved beneficial use program for a nonhazardous industrial waste stream, which was generated within the state of Louisiana or was destined to be land-filled within the state.

B. The applicant shall certify to the accuracy of the information contained in the application regarding the equipment or service contract description, the date of purchase, and the cost of the equipment or service contract. The certification shall also state that the equipment and/or service contract is used exclusively in the state of Louisiana and has not previously qualified for a credit pursuant to this Chapter either for the owner or for a previous owner. The certification shall specify the following:

1. the date of purchase of the qualified new recycling manufacturing or process equipment, a description of the equipment, and the cost;
2. the date of the qualified service contract, if any, a description of such contract, and its cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10413. Department of Environmental Quality Certification

A. Prior to certification, the Secretary of the Department of Environmental Quality shall determine that any post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste or nonhazardous industrial solid waste under applicable state and federal law and regulations and/or is being used for a qualified beneficial use approved by the DEQ.

B. The Secretary of the Department of Environmental Quality shall examine the application and, if he determines that the equipment and/or service contract described therein is qualified new recycling manufacturing or process equipment and/or a qualified service contract used or rendered exclusively in the state of Louisiana, shall certify that the equipment and/or service contract is eligible for credit against state income and corporation franchise taxes pursuant to R.S. 47:6005.

C. Upon certification, the Secretary of the Department of Environmental Quality shall submit a copy of the signed, certified application to the taxpayer and to the Secretary of the Louisiana Department of Revenue. The secretary shall also submit a copy of the certification to the Commissioner of Administration, who shall approve the certification prior to a credit being granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is 20 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

Cost of equipment	\$1,000,000
	X .20
	\$ 200,000
Less other Louisiana credit on purchase	\$ 100,000
Maximum credit for all taxable periods	\$ 100,000

B. One-fifth (20 percent) of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

Maximum credit for all taxable periods	\$ 100,000
	X .20
Credit earned for this taxable period	\$ 20,000

C. The maximum credit that may be claimed for all purchases of qualified recycling equipment and/or qualified service contracts, including carryover of previously earned but unused credits, in any taxable period shall not exceed 50 percent of the tax that would be otherwise due. Example:

Tax otherwise due:	
Income tax	\$ 12,000
Franchise tax	\$ 18,000
Total	\$ 30,000
	X .50
Maximum credit to be claimed on return	\$ 15,000

D. ...

E. If the qualified recycling equipment is sold or exchanged before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of sale. If a qualified service contract is transferred by virtue of a sale of the qualified recycling equipment or otherwise before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on April 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW043. Such comments must be received no later than May 2, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW043. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Recycling Tax Credit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local governmental units. DEQ will use existing personnel to review applications for certification of equipment and service contracts as new recycling equipment or service contracts. The Department of Revenue will process the credits with existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 319 of the 2005 Regular Session of the Louisiana Legislature limits the aggregate total tax credit to five million dollars per fiscal year. Maximum impact for FY07 through FY09 is fifteen million dollars.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The regulations implement a legislatively-approved tax credit. As a tax credit, the regulations will directly benefit the applicants and the businesses that provide recycling services and, indirectly, the public. The tax credit will encourage an

increase in recycling activity and corresponding savings in valuable landfill space.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulations are expected to have minimal impact on competition or employment. The regulations will decrease costs for businesses that increase recycling.

Herman Robinson, CPM
Executive Counsel
0703#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Annual Leave (LAC 58:V.1305)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend LAC 58:V.1305. The proposed amended Rule expands the basis upon which a member of the fund can opt to convert annual leave to obtain additional pension credits.

All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 13. Service Credit

§1305. Sick and Annual Leave

A. A member may elect to utilize any sick and annual leave he has accrued for purposes of obtaining additional pension credits.

B. A member may also elect at any time prior to retirement to utilize annual leave in excess of the "use it or lose it" leave limitations established by rules of the New Orleans City Civil Service Commission during any period of time allowed by City Civil Service Commission action for the "rolling over" of such excess annual leave to avoid forfeiture. Such excess leave may be used to obtain additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:293 (February 2000), amended LR 33:

Family Impact Statement

1. Estimated effect on the stability of the family.
There is no estimated effect on the stability of the family.

2. Estimated effect on the authority and rights of parents regarding the education and supervision of their children. There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated effect on the functioning of the family.
There is no estimated effect on the functioning of the family.

4. Estimated effect on family earnings and family budget. It is estimated that this Rule will beneficially affect the family earnings of covered participants in that it will encourage longer service with the New Orleans Fire Department.

5. Estimated effect on the behavior and personal responsibility of children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule. There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Any interested person may submit written comments regarding the content of this proposed Rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 3520 General DeGaulle, Suite 3001, New Orleans, LA, before 5 p.m., April 19, 2007.

Louis L. Robein, Jr.
Fund Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Annual Leave**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that very minimal costs will be incurred by the New Orleans Firefighters' Pension Fund (Fund) associated with the processing of applications for such converted credits in that data entry is routinely made by the Fund with respect to service credit adjustments for plan participants. The actuarial cost (ultimately borne by the City of New Orleans) would be de minimis.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Members of the Fund (Firefighters employed by the City) would benefit by receiving incremental increases in their vested pension benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rule would enhance the working conditions of New Orleans Firefighters and allow them to take advantage of a City program authorized by the City Civil Service Commission.

Louis Robein, Jr.
Fund Counsel
0703#086

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the

responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO, EPO, and MCO Plan Documents to change the lifetime maximum benefit for all benefits, including outpatient prescription drugs, to \$5,000,000 per person, deleting the separate lifetime maximum for outpatient prescription drugs.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2007.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

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

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.1. - D. . . .

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

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

Part V. Exclusive Provider Organization (EPO)

Plan of Benefits

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

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

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.1. - E. . . .

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006), LR 33:

Part IX. Managed Care Option (MCO) Plan of Benefits
Chapter 7. Schedule of Benefits—MCO

§701. Comprehensive Medical Benefits

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

1. Lifetime Maximum Benefits

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

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

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

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

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: It will change the lifetime maximum benefit in all OGB plans, for all benefits, including outpatient prescription drugs, to \$5,000,000 per person, deleting the separate lifetime maximum for outpatient prescription drugs.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, April 27, 2007.

Tommy D. Teague
 Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO, EPO, and MCO Plans of Benefits
 Lifetime Maximum Benefit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule will increase the current lifetime maximum benefit from the current \$1,000,000 (PPO & MCO)/\$2,000,000 (EPO) per member to \$5,000,000 per member. It is estimated that this benefit modification will cost the PPO, EPO and MCO plans of OGB approximately \$396,000 to \$589,000 in FY 07/08, \$436,000 to \$648,000 in FY 08/09, and \$479,000 to \$713,000 in FY 09/10 (a 10% trend factor has been applied to FY 08/09 and FY 09/10). Although the increase of \$396,000 to \$589,000 in FY 07/08 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact (\$264,000 to \$392,666) is on the State General Fund for employer contribution of premiums paid to OGB. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 07/08.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in PPO, EPO and MCO members (approximately 230,000) having the lifetime maximum benefit

increased to \$5,000,000 per member from the current \$1,000,000 (PPO & MCO)/\$2,000,000 (EPO) limit. There is a minimum cost associated with this benefit change, but increased costs will be considered for premium rates that are effective July 1, 2007 and thereafter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague
 Chief Executive Officer
 0703#057

Robert E. Hosse
 Staff Director
 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
 Board of Examiners for Speech-Language
 Pathology and Audiology**

General Provisions
 (LAC 46:LXXV.103-109, 115-135, 501 and 701)

In accordance with the applicable provisions of R.S. 950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:2656 vesting the Louisiana Board of Examiners for Speech-Language Pathology and Audiology with the responsibility for administration of the provisions of that Chapter, and to establish licensure and other necessary administrative fees, and granting the power to adopt and promulgate rules with respect thereto, the Board of Examiners for Speech-Language Pathology and Audiology finds that it is necessary to revise and amend provisions of the rules, regulations and procedures relative to the temporary registration of Speech Pathologists and Audiologists during a declared state of public health emergency, as well as provide for the clarification of supervision requirements, an increase in video rental fees from \$15 to \$20 per video utilized for continuing education, and disciplinary action relative to current board policies and procedures. The temporary registration of professionals during a declared emergency is required by Act 207 of the 2006 Regular Session of the Louisiana Legislature.

Accordingly, the Louisiana Board of Examiners for Speech-Language Pathology and Audiology hereby gives Notice of Intent to adopt the following Rule to become effective July 2007.

**Title 46
 PROFESSIONAL AND OCCUPATIONAL
 STANDARDS**

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

A. . . .

Aides—individuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) who, after appropriate training, perform tasks that are prescribed, directed, and supervised by speech-language pathologists or audiologists licensed in accordance with R.S. 37:2659(A). Licensed speech-language pathologists and licensed audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

* * *

Nine Months of Full-Time Supervised Postgraduate Professional Employment/Experience—nine calendar months.

On-Site In-View Observation—the supervisor observing the licensee engaging in a specified clinical activity with his/her patient/client. The supervisor shall accomplish this task either by being physically present in the room or through the use of a live video monitor or web cam.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:

§105. Designations

A. - B.1. ...

C. Titles and academic credential designations must represent earned degrees obtained through regionally accredited university programs. To appropriately represent the level of education in the area of practice, when listing an educational designation, the licensee must list the highest degree earned in speech-language pathology or audiology. In addition, graduate degrees earned in other disciplines must specify the area in which the degree was earned (e.g., B.S. [Speech-Language Therapy], M.Ed. [Administration]). When listing credentials, licensees should sequentially list their name, educational designation, license designation, and professional certification, e.g., M.A., L-SLP, CCC-SLP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996), amended LR 27:197 (February 2001), LR 30:2308 (October 2004), LR 33:

§107. Qualifications for Licensure

A. Coursework Requirements: Audiology License and Provisional Audiology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester credit hours of post-baccalaureate coursework for applicants who began a doctoral program after January 1, 2005.

B. - C.2.c. ...

D. Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of 75 semester credit hours, including at least 36 at the graduate level, from an accredited speech-language pathology program for applicants who began a graduate program after January 1, 2004.

E. - G. ...

1. A bachelor's degree in speech-language pathology from a regionally accredited institution fulfills the coursework requirements of the board provided the individual has successfully completed coursework in both articulation and language disorders.

2. - 4.b. ...

c. Normal Speech and Language Acquisition* 3 semester hours

4.d. - 5.c. ...

d. Fluency Disorders 3 semester hours

5.e. - 6.c. ...

H. Clinical Practicum Hour Requirements. An individual shall submit official documentation from a regionally accredited educational institution or its cooperating programs, verifying supervised clinical practicum hours as follows.

1. Speech-Language Pathology and Provisional Speech-Language Pathology Licenses

a. 400 clinical practicum hours if graduate program began after January 1, 2004;

b. 375 clinical practicum hours if graduate program began between January 1, 1994 and January 1, 2004;

c. 300 clinical practicum hours if graduate program began prior to January 1, 1994.

2. Audiology and Provisional Audiology Licenses

a. 1820 clinical practicum hours if the graduate program began after January 1, 2005, 375 hours of which must have been obtained through direct patient/client contact;

b. 375 clinical practicum hours if graduate program began between January 1, 1994 and January 1, 2005;

c. 300 clinical practicum hours if graduate program began prior to January 1, 1994.

3. Speech-Language Pathology Assistant License

a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained through direct patient/client contact, and the remaining 25 hours may be obtained through observation of testing and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

i. minimum of 20 hours in speech disorders;

ii. minimum of 20 hours in language disorders;

iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. It is recommended that a minimum of 20 hours be in articulation.

b. The remaining 125 hours may have been obtained on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

4. Provisional Speech-Language Pathology Assistant License

a. A minimum of 100 clinical practicum hours which have been obtained through a regionally accredited educational institution or its cooperating programs as defined in §107.I.3 is required.

b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Supervised on-the-job training which counts toward upgrading the license status will only be accepted from the date that the application for license is acknowledged to have been received by the board.

c. A provisional speech-language pathology assistant may surrender his/her license if unable to find employment in the area of speech-language pathology and may defer the remaining time of the three-year period to complete the licensure requirements.

i. If the licensee has never worked as a provisional speech-language pathology assistant, a notarized statement shall be submitted to the board office.

ii. If the licensee is not currently employed as a provisional speech-language pathology assistant a letter specifying date of termination from the last employer shall be submitted to the board office with Form 200, to verify supervision to the date of termination.

I. Equivalency Requirements: Speech-Language Pathology, Provisional Speech-Language Pathology, Audiology or Provisional Audiology License

1. Individuals who do not possess a graduate degree in either speech-language pathology or audiology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled Coursework Requirements: Audiology License and Provisional Audiology License; Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License; Clinical Practicum Hour Requirements and Examination Requirement.

J. - K.3 ...

4. repealed.

L. - L.1.c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:

§109. Application Procedures

A. - D. ...

E. Speech-language pathologists, assistants and/or audiologists who have held a license in another state, shall provide official verification of their licensure status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending.

F. - J. ...

K. Individuals holding an unrestricted speech-language pathology or audiology license from another state shall be allowed to practice in Louisiana for five consecutive days within each renewal period upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

L - L.1.d. ...

e. Notice of the consent order and agreement shall be published.

f. ...

M. Applications for licensure will be denied for individuals who are in default on the repayment of any loan guaranteed in accordance with R.S. 17:3023(A)(8) and 37:2951(A)(E).

N. Temporary Registration during a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as an audiologist, speech-language pathologist, or speech-language pathology assistant may be suspended by the board at that time to those out of state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this Section.

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

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing audiology or speech language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

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

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant registered with the board thereafter fail to comply with any requirement or condition established by this Section, the board may terminate his registration upon notice and hearing.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:198 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:

§115. Requirements to Upgrade License

A - H. ...

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:

§117. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License

A.1. All duties performed by the assistant speech-language pathology licensee or provisional speech-language pathology assistant licensee shall be assigned by a licensed speech-language pathologist and shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings and assessments without interpretation, following specified protocols as approved by the supervising speech-language pathologist. An assistant may not administer a test if the publisher's examiner requirements dictate administration by a graduate-degreed individual. All screening and assessment reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. - g. ...

h. speech-language pathology assistants may participate in parent conferences, case conferences, interdisciplinary team conferences, and research projects. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist.

2. - 2.a.viii. ...

3. Failure to comply with these rules and regulations may result in disciplinary action against the assistant and/or the supervising speech-language pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2312 (October 2004), amended LR 33:

§119. Fees

A. - A.4.k. ...

5. Registration fee for audiologists to dispense hearing aids—\$25.

6.

7. Brochures/Pamphlets—\$0.10 ea. plus postage and handling.

8. Continuing Education Pre-Approval Fee for Corporations or Individuals Who Are Not LBESPA Licensees—\$50.

9. Fax transmission—\$3 for first page; \$1 each additional page.

10. Mailing list—\$0.05 per name and address plus postage and handling.

11. NSF or returned check—\$25.

12. Open book test fee—\$30:

a. open book retest fee, per section—\$10.

13. Publications to include law, rules, etc.—\$5 ea. plus postage and handling.

14. Re-issuance of license certificate—\$25.

15. Subpoena within East Baton Rouge Parish—\$50:

a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—\$50.

16. Verification of license (written)—\$5.

17. Video rental—\$20 per tape for 2 weeks:

a. \$35 for 2-tape set for 2 weeks;

b. late return fee—\$20 per tape;

c. late 30 days or more cost of tape;

d. video catalog—\$5.

18. An additional fee will be charged for on-line renewal in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:

§121. License Renewals

A. - B. ...

C. Licensees shall list on their renewal form the licensees i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants, and aides that they are supervising.

D. - E. ...

F. Inactive status is granted to licensees who are retired or who do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30.

1. ...

2. Licensees on inactive status may retain their license by payment of the annual renewal fee. In order to resume the

practice of speech-language pathology or audiology, licensees on inactive status shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours).

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or submit all of the hours the year he/she returns to work in the profession.

G. ...

H. Renewal will be denied for licensees who are in default on the repayment of any loan guaranteed in accordance with R.S. 17:3023(A)(8) and R.S. 37:2951(A)(E).

I. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through October 31, provided the delinquent renewal fee is paid in accordance with §119.C and D, and the continuing education summary form is submitted.

2. A licensee whose license lapsed on November 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §119.A and D and §123.

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §121.I.3.

J. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §119. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §119 and §123.

3. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:

§123. Continuing Education Requirements

A. - I.1. ...

2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);

3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;

4. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society) (maximum of 10 hours);

5. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);

6. distance learning (video conferences, telephone seminars and Internet courses sponsored by individual private practitioners, universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations) (maximum of 10 hours);

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of 5 hours in a related area, maximum of 10 hours if in the area of licensure);

8. publication of articles in a peer-reviewed journal for the year in which they are published (5 hours);

9. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of 5 hours);

10. audio, video and other media from the LBESPA library as well as ASHA-approved and AAA-approved continuing education media (maximum of 5 hours);

11. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

12. teaching at the college level in the area of communication disorders is not acceptable.

J. - J.2. ...

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under Section 123.I., must submit a \$50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

a. audio or video tapes (maximum of 5 hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

K. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:

§125. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with R.S. 37:2659.A. The on-site in-view supervision as well as the alternative methods of supervision must occur in every work setting in which the licensee is employed. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. Supervision must involve the personal and direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's professional employment.

C. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

D. Speech-language pathologists or audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

E. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

F. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester. If the nine-month employment is extended for a period of time, additional on-site, in-view supervision must occur.

G. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

H. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

I. The board will accept supervision provided out-of-state by an individual licensed or ASHA-certified in the area of practice. Supervision must be documented on Form 100.

a. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees who have not worked in Louisiana, may submit their Clinical Fellowship Report as proof of supervision that was carried out during the license period. Otherwise licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

J. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

K. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

L. When supervision requirements have not been met in accordance with §125, licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:

§127. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

A. ...

B. Supervision must involve the personal and direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's employment.

C. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

D. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

E. Treatment for the patient/client served remains the responsibility of the supervisor. The level of supervision required is considered the minimum necessary to ensure appropriate patient/client care. The minimum level of supervision may not be reduced until such time as the licensee has been notified by the board that an upgrade has been approved.

F. The board will accept supervision given out-of-state by a licensed or ASHA certified speech-language pathologist or audiologist in the area of licensure. Licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

G. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

I. Provisional speech-language pathology assistants and speech-language pathology assistants must undergo on-site in-view supervision as well as alternative methods of supervision in every work setting in which the licensee is employed.

J. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

K. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, pager, or other means of communication.

L. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of on-site, in-view supervision shall be completed in the primary work setting each week for each licensee. If the assistant is employed in more than one work setting, additional on-site, in-view supervision must occur in the secondary work setting.

2. A minimum of one clock hour of alternative supervision methods shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;

h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.I.1 and 2) in a given week, the remaining supervision may be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for an extended period of time, arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or restricted licensee.

M. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of on-site, in-view supervision shall be completed in the primary work setting each week for each licensee. If the provisional speech-language pathology assistant is employed in more than one work setting, additional on-site, in-view supervision must occur in the secondary work setting.

2. A minimum of two clock hours of alternative supervision methods shall be completed each week for each licensee.

3. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.J.1 and 2) in a given week, the remaining supervision may be completed the following week in conjunction with the required supervision hours for that week.

5. When the supervising speech-language pathologist is out for an extended period of time, arrangements shall be made for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.

6. When supervision requirements have not been met, in accordance with §127 licensees shall complete additional months of supervision to replace months of incomplete supervision.

7. Provisional speech-language pathology assistant full-time and part-time supervision requirement:

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	3 hours/week	2 hours/week
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

8. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or a restricted licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:2316 (October 2004), LR 33:

§129. Independent Practice

A. Licensed audiologists and speech-language pathologists, by virtue of academic coursework, clinical practicum, and professional experience, are qualified to engage in the autonomous or independent practice of the professions. Individuals who hold a license, i.e., provisional, restricted, assistant or provisional assistant, mandating supervision during the practice of the professions may not engage in the autonomous or independent practice of audiology or speech-language pathology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 33:

§131. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq., and shall register their intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$25 and an annual renewal fee of \$10 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a provisional audiology license shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §125 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines.

1. Audiologists shall ensure that a pre-purchase evaluation includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery within the preceding six month period, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing;
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements and/or real ear measurements unless the patient's physical condition prohibits accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

G. Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under R.S. 37:2464(A) as part of their employment with a state health agency may register as dispensing audiologists by presenting proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that shall include:

- a. hearing aid technology and dispensing courses sponsored by hearing aid manufacturers to include a minimum of 15 clock hours;
- b. workshops in the area of hearing aid technology and dispensing sponsored by professional organizations or

individual practitioners to include a minimum of 15 clock hours;

c. successful completion of university coursework in the area of hearing aid technology and dispensing; or

d. programs of independent study consisting of a minimum of 15 clock hours in the area of hearing aid technology and dispensing.

2. Any individualized program of study shall be submitted to the board a minimum of 30 days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:

§133. Qualifications and Duties of Aides

A. Speech-language pathologists and audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow.

1. A licensed speech-language pathologist or audiologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;
- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising speech-language pathologist or audiologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties;
- f. administration of hearing screening tests.

C. Supervision

1. The licensed speech-language pathologist or audiologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659(A). Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659(A). Speech-language pathology aides and audiology aides may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

2. The direct observation in subsequent years shall be established by the supervising speech-language pathologist or audiologist on an individual basis but shall be no less than once every three months.

3. The supervising speech-language pathologist or audiologist shall be readily available for consultation with the aide at all times.

4. Documentation of on-site, in-view supervision shall be maintained by the supervising speech-language pathologist or audiologist and shall be submitted to the board upon request.

5. The supervising speech-language pathologist or audiologist shall report to the board at the time of licensure renewal, the names and employment locations of aides.

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the audiologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient/client's performance.

F. Only the speech-language pathologist or audiologist shall exercise independent judgment in the provision of professional services. Specifically, the speech-language pathologist or audiologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
3. interpretation of test results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the *Louisiana Register* 16:409 (May 1990) of

the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 28:1781 (August 2002), LR 30:2318 (October 2004), LR 33:

§135. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650 et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 28:1975 (September 2002), LR 30:2319 (October 2004), LR 33:

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. - D. ...

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

F. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

G. Following an investigation, the designated investigator shall report to the board and make a recommendation for either dismissal of the complaint or proceeding to an informal hearing, consent order, or formal hearing. Recommendation for dismissal of the complaint or other proceedings shall be forwarded to the complainant and to the licensee.

H. The designated investigator may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed.

I. ...

J. A complaint may be resolved by a consent order and agreement approved by the board and entered into by the licensee.

K. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the

licensee fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee refuses to comply with the recommended remedial action.

L. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

M. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board.

N. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:

Chapter 7. Code of Ethics

§701. Preamble

A. - D. ...

E. Rules of Ethics

1. Principle of Ethics I. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve and provide professional services with honesty and compassion and shall respect the dignity, worth, and rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served professionally.

1.a. - 2.c. ...

d. Individuals shall provide appropriate supervision and assume full responsibility for services delegated to all supervisees, including assistants or aides. Individuals shall not delegate any service requiring professional competence to persons unqualified.

e. Individuals shall neither provide services nor supervision of services for which they have not been properly prepared, nor shall individuals require or permit their professional staff to provide services or conduct research activities that exceed the staff member's competence, level of education, training, or experience.

2.f. - 4.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language

Family Impact Statement

The proposed Rule has no known impact of family formation, stability, or autonomy.

Interested persons may present their views, in writing Richard N. Burt, Administrator, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B, Baton Rouge, LA 70809, until 4:30 p. m. on April 25, 2007.

Richard N. Burt
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that \$7,500 in printing costs will be incurred with the publishing of the proposed rule changes in FY 06-07 and FY 07-08. The Board has sufficient self-generated funds available to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that revenue collections of the Board will increase by approximately \$2,000 in FY 07-08 and subsequent fiscal years. No other state or local governmental units will be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule, pursuant to Act 207 of the 2006 Regular Session of the Louisiana Legislature, provides for the temporary registration of Speech Pathologists and Audiologists during a state of public health emergency. The proposed rule also provides clarification of supervision requirements, continuing education, and disciplinary action relative to current Board policies and procedures. The proposed rule increases the fee for video rentals used to secure continuing education hours under the Board's rules from \$15 to \$20 (approximately 400 rentals per year = \$2,000).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

Richard N. Burt
Administrator
0703#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Faculty and Faculty Organization (LAC 46:XLVII.3515)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3315 Faculty and Faculty Organization in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3515. Faculty and Faculty Organization

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective faculty/student/client ratio not to exceed 10 students to one faculty member (10:1) in a clinical setting and to implement the program in nursing in relation to its stated philosophy, purposes and objectives. The number and size of classes taught each year, and the number of community agencies and their geographic locations are considered in determining the number of required faculty (see Requirements for Preceptorship; §3541.A-J, for related standard).

B. Qualifications

1. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of bachelor's and master's degrees in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of two calendar years in any consecutive five year period;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four calendar years.

8. The number of faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. A faculty resignation rate that exceeds one third of the full-time nurse faculty employed by the program (not FTE) in an annual report shall be reported and justified in the annual school report.

D. Nurse faculty shall function under the same policies established for other faculty in the parent institution.

E. Policies for nurse faculty shall include but not be limited to:

1. qualifications for the position;
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position; and
3. salary scale, promotion, retirement, vacation, sick leave, leave of absence for personal and professional growth and health care benefits.

F. A written plan for performance evaluation of faculty shall be established and utilized on a continuing basis.

G. A nurse faculty organization shall be established consistent with the parent institution and shall have clearly delineated bylaws.

H. Faculty workloads shall allow time for class and laboratory preparation, teaching, program revision, improvement in teaching methods, guidance of students, participation in faculty organizations and committees, research and scholarly endeavors, attendance at professional meetings and participation in continuing education programs.

I. Nurse faculty shall select, teach, guide and evaluate all learning experiences in the classroom and clinical facilities.

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are observing only or engaged in a board-approved preceptor or community-based experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:

Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed Rule is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on the proposed Rule until 5 pm, April 10, 2007 to Barbara L. Morvant, Executive Director, 5207 Essen Lane, Suite 6, Baton Rouge, LA 70809.

Barbara L. Morvant, MN, RN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Faculty and Faculty Organization

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300 in FY 06-07.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules amend LAC 46: XLVII.3315 Faculty and Faculty Exceptions to increase the time that a program may request for a faculty exception from 1 year to 2 years in any consecutive 5 year period (approximately 23 facilities). The proposed rule increases the time that faculty exceptions may be granted to individuals with a baccalaureate degree in nursing who are enrolled in a master's in nursing program from 3 to 4 years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition. The benefit is to programs in nursing who wish to develop additional qualified faculty in light of the existing nursing faculty shortage and the efforts by programs to increase enrollment.

Barbara L. Morvant, MN, RN
Executive Director
0703#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary and Department of Social Services Office of the Secretary

Community and Family Support System—Cash Subsidy
(LAC 48:I.Chapter 16)

The Department of Health and Hospitals, Office of the Secretary, Office of the Secretary and the Department of Social Services, Office of the Secretary proposes to amend the entire Chapter 161 of Part I concerning the Community and Family Support System Cash Subsidy as authorized by R.S. 28:821. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This proposed amendment changes terminology for qualifying

exceptionalities to reflect current usage, recognizes Human Services Districts and Human Services Authorities (in addition to state program offices) and returns management of the program waiting lists to the administration of these regional governing agencies.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System

Chapter 161. Community and Family Support System

Cash Subsidy

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and his family, rather than fitting the person into existing programs. Family supports are those supports that enable a family to keep their child with developmental disabilities at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), repromulgated LR 33:

§16103. Definitions

Agency—the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) Regional Offices and Human Services Districts (Districts) and Human Services Authorities (Authorities) providing developmental disabilities services which shall administer the cash subsidy program for the exceptionalities of developmental delay for children between the ages of 3 through 8 years, autism, mental disability/severe, mental disability/profound, deaf-blind (deaf and blind), traumatic brain injury, multiple disabilities, other health impairment and orthopedic impairment, the Office of Mental Health (OMH) and Districts and Authorities providing mental health services which shall administer the cash subsidy program for the exceptionality, emotional disturbance.

Appropriate Documentation for Exceptionalities Served by the OCDD and Districts and Authorities Providing Developmental Disabilities Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Only documentation that is current within a year can be accepted into consideration for eligibility determination. Appropriate documentation includes: the Pupil Appraisal Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part C Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

Appropriate Documentation for the Exceptionality served by the OMH and Districts and Authorities Providing Mental Health Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. Appropriate documents includes: the Pupil Appraisal Evaluation or the Individualized Education Plan (IEP), current within a year; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional disturbance; or, a current treatment plan from a licensed community mental health center.

Cash Subsidy—a monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

Child—an individual under the age of 18.

Developmental Disability—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12).

Licensed Mental Health Professional—a person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

Qualifying Exceptionality—only the following exceptionalities identified through the Department of Education's Evaluation Process may be considered for the cash subsidy from the OCDD and Districts and Authorities providing developmental disabilities services: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound, multiple disabilities, orthopedic impairment, other health impairment, traumatic brain injury, and developmentally delayed for children between the ages of 3 through 8 years; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional disturbance may be considered for the cash subsidy from the OMH and Districts and Authorities providing mental health services.

Responsible Care Giver—a child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:

§16105. Application Process

A. Applications for cash subsidy will be accepted by mail only and only in the OCDD Regional Office or OMH or district or authority providing developmental disability or mental health services in which the child resides. There is no closing date for accepting applications.

B. The responsible care giver is responsible for completing the application and submission of appropriate documentation of a qualifying exceptionality. The responsible care giver is responsible for all aspects of the

application process and for maintaining eligibility of their child.

C. To be complete, the documentation listed in §16103 which identifies a qualifying exceptionality must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the cash subsidy shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality and the child is appropriately served by the agency to ensure that applications are routed to the appropriate agency.

E. Only complete applications will be placed on the waiting list for eligibility determination with a post mark date of application of the envelope containing the complete application. Applications that are not complete will be returned to the responsible care giver with instructions on how to complete the application.

F. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or agency.

G. Responsible care givers will receive confirmation of the date of receipt of the initial completed application and of their post marked date of application on the waiting list for eligibility determination, and annually thereafter.

H. A re-application can be submitted at any time a cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:

§16107. Determining Children Eligible for the Cash Subsidy

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation (§16103) shall be used to make a determination of eligibility for the cash subsidy program.

B. Only evaluations reported through the Pupil Appraisal process will be accepted for consideration for exceptionalities served by the OCDD, OMH, or Districts or Authorities providing developmental disabilities services; such evaluations shall be considered ~~if~~ when reported through that process.

C. Children must be involved in an educational setting approved by the local educational agency; documentation of such approval must be received on an annual basis.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible to participate in the cash subsidy program through the OCDD or District or Authority providing developmental disabilities services.

1. If a child is classified with the following primary or secondary exceptionalities, the child is eligible for the cash subsidy from the OCDD or District or Authority providing developmental disabilities services without a screening of

the severity of their exceptionality: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound and multiple disabilities.

2. If a child is classified with the following primary or secondary exceptionalities, the child shall be screened by the OCDD or district or authority providing developmental disabilities services to determine whether they meet the severity criteria specific to their exceptionality: developmental delay for children between the ages of 3 through 8 years, orthopedic impairment, other health impaired, and traumatic brain injury. Only children who meet the criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

E. If a child is classified with a primary or secondary exceptionality of emotional disturbance or presents other appropriate documentation that identifies an emotional disturbance, the child shall be screened by the OMH or district or authority providing mental health services to determine whether they meet the severity criteria specific to that exceptionality to be eligible to receive the cash subsidy.

F. Children who are adopted are eligible to participate in the cash subsidy program, including families who are receiving a specialized adoption subsidy; families who have more than one child who is eligible to participate in the cash subsidy program will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:

§16109. Children Ineligible for the Cash Subsidy

A. These children cannot participate in the cash subsidy program:

1. children living in subsidized out-of-home settings such as state-funded foster care or specialized foster care;

2. children living and/or attending schools outside the state of Louisiana; and

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child, and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible agency shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the agency when a child is removed from the home; failure to notify the responsible agency of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:

§16111. Eligibility Determination

A. The OCDD Regional Offices and the OMH or Districts or Authorities providing developmental disabilities or mental health services shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes available; if receiving the cash subsidy, an annual determination of eligibility shall be made.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to re-evaluate the child's exceptionality.

1. If the request for re-evaluation occurs at the initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the annual determination of eligibility, the cash subsidy will be discontinued until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Regional Offices and the OMH and Districts and Authorities providing developmental disabilities or mental health services shall be responsible to maintain a waiting list of all cash subsidy applicants to the agency according to their post marked date of application to ensure that applicants for the cash subsidy program are not receiving the cash subsidy from other agencies. Cash subsidy opportunities will be offered to applicants by date/time order of application (first come, first serve).

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:

§16113. Payment Guidelines

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department

of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:

§16115. Terminations

A. Reasons for termination may include the following: child moves out of state; family requests termination of the cash subsidy payment; child is placed into a subsidized living setting or attends school away from the home or in another state; death of the child; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the agency administering the cash subsidy; child's exceptionality or degree of severity no longer meets eligibility criteria; child attains age 18 years; and, responsible care giver fails to maintain the child in an approved educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:

§16117. Ongoing Monitoring

A. The responsible care giver is responsible to maintain contact with the agency administering the cash subsidy at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:

§16119. Appeals

A. All persons receiving an eligibility determination shall have access to the Department of Health and Hospital's appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:

§16121. Program Evaluation

A. An annual external evaluation based on participant satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive effect on family functioning, stability or autonomy as described in R.S. 49:972 as it will afford applicants and participants increased access and ease of interaction with the regional administrative agencies.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, April 24, 2007 at 9:30 a.m. in Room 188, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary, DHH
and
Ann S. Williamson
Secretary, DSS

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Community and Family Support System—Cash Subsidy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed rule will have no fiscal impact to the state other than cost of promulgation for FY 2006-07. It is anticipated that \$1,768 from the State General Fund will be expended in FY 2006-07 for the state's administrative expense for promulgation of this proposed rule and final rule. The agency has sufficient funds to implement this rule.

This rulemaking proposes an amendment of the Rule establishing a cash subsidy program for eligible children with severe developmental disabilities (LAC 48:I.16103-16121). The proposed amendment establishes regional administration of the program and waiting lists for participation in the cash subsidy program by the Office of Citizens with Developmental Disabilities and the Office of Mental Health and Districts and Authorities providing developmental disabilities and mental health services. Changes in terminology are made to comply with current usage. (R.S. 28:821 et seq.)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will have a positive impact on families by affording applicants and participants increased access and ease of interaction with the regional administrative agency (versus control of program activities from the OCDD Central Office).

There are no costs for directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Kathy H. Kliebert
Assistant Secretary
0703#045

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compiled the previously promulgated Rules governing the CommunityCARE Program to establish LAC 50:I. Chapter 29 (*Louisiana Register*, Volume 29, Number 6). The CommunityCARE Program provides a medical home for designated Medicaid recipients by linking the recipient to a primary care provider (PCP) selected by the recipient. The bureau promulgated an Emergency Rule to amend the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance initiative fee based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 32, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2006 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. A supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's participation in Vaccine for Children Program (VFC) and the Louisiana Immunization Network for Kids Statewide (LINKS), and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

B. Supplemental Payment Calculations. Payments will be calculated on a monthly basis utilizing only the data that is in the LINKS immunization registry at the time of the monthly calculation.

C. Supplemental Payment Levels. Supplemental payments will be made to CommunityCARE PCPs or subcontractors of KIDMED services who utilize VFC and LINKS.

1. Supplemental payments shall be made according to the following levels:

a. \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with less than 75 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series;

b. \$0.50 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 75 percent to 89 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series; and

c. \$1 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 90 percent or more of the recipients 24 months old and up-to-date with the appropriate vaccine series.

2. Providers participating in this initiative shall only qualify for a single level of payment.

3. Supplemental payments will be issued on a quarterly basis.

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

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will encourage provider participation in the Medicaid Program and increase children's access to immunizations.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, April 24, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: CommunityCARE Program Immunization Pay-for-Performance Initiative

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$314,047 for FY 06-07, \$301,364 for FY 07-08, and \$310,405 for FY 08-09. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 06-07 for the state's

administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$722,963 for FY 06-07, \$766,546 for FY 07-08, and \$789,542 for FY 08-09. It is anticipated that \$102 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the July 1, 2006 Emergency Rule, proposes to amend the provisions governing the CommunityCARE Program in order to implement a supplemental payment for an immunization pay-for-performance initiative based on the provider's participation in the Vaccines for Children (VFC) Program and the Louisiana Immunization Network for Kids Statewide (LINKS) immunization registry (approximately 250,000 units of service per year), and performance in achieving immunization benchmarks. It is anticipated that implementation of this proposed rule will increase program expenditures for CommunityCARE services by approximately \$1,036,806 for FY 06-07 and \$1,067,910 for FY 07-08 and \$1,099,947 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Medicaid Director
0703#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.6903 and to adopt §§6901 and 6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement of dental services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount that any third party coverage would pay (*Louisiana Register*, Volume 29, Number 2). Additional funds were allocated by the legislature during the 2003 and 2004 Regular Sessions and the bureau subsequently increased the reimbursement rate for certain dental procedures and established coverage for additional procedures (*Louisiana Register*, Volume 30,

Number 2 and Volume 31, Number 3). As a result of the allocation of additional funds by the legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule to increase the reimbursement fees for certain dental procedures and establish coverage for additional procedures (*Louisiana Register*, Volume 32, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 1, 2006 Emergency Rule and to clarify the payment methodology for EPSDT dental services.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive impact on family functioning, stability or autonomy as it will encourage provider participation in the Medicaid Program and improve access to dental services in the EPSDT program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental

§6901. General Provisions

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

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

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

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

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

§6903. Covered Services

A. Effective November 1, 2006, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. prefabricated stainless steel crown with resin window; and

2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:

§6905. Reimbursement

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

1. the dentist's billed charges minus any third party coverage; or

2. the state's established schedule of fees, which is developed in consultation with the Louisiana Dental

Association and the Medicaid dental consultants, minus any third party coverage.

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

1. comprehensive orthodontic treatment services are increased to the 2006 National Dental Advisory Service Comprehensive Fee Report 70th Percentile rate;

2. Resin-based Composite Crown, Anterior and Prefabricated Resin Crown are increased by 30 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006; and

3. all other dental services are increased by 25 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006 unless otherwise stated in this Chapter.

C. The following dental services are excluded from the rate increase:

1. Complete Denture, Maxillary;

2. Complete Denture, Mandibular;

3. Immediate Denture, Maxillary;

4. Immediate Denture, Mandibular;

5. Maxillary Partial Denture, Resin Base (including clasps);

6. Mandibular Partial Denture, Resin Base (including clasps);

7. Reline Complete Maxillary Denture (Laboratory);

8. Reline Complete Mandibular Denture (Laboratory);

9. Reline Maxillary Partial Denture (Laboratory);

10. Reline Mandibular Partial Denture (Laboratory);

11. Hospital Call; and

12. Behavior Management, By Report.

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

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, April 24, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Dental Program Reimbursement Rate Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$4,089,770 for FY 06-07, \$5,888,530 for FY 07-08, and \$6,065,185 for FY 08-09. It is anticipated that \$408 (\$204 SGF

and \$204 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$9,416,471 for FY 06-07, \$14,977,982 for FY 07-08, and \$15,427,322 for FY 08-09. It is anticipated that \$204 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the November 1, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) to increase the reimbursement fees and to clarify the reimbursement methodology for dental services (approximately 1,400,000 units of service per year). It is anticipated that implementation of this proposed rule will increase program expenditures for EPSDT dental services by approximately \$13,505,833 for FY 06-07 and \$20,866,512 for FY 07-08 and \$21,492,507 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Medicaid Director
0703#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

**General Requirements
(LAC 55:IX.Chapters 1 and 15)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, R.S. 40:1846 and R.S. 3:1354, relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases and anhydrous ammonia, respectively, notice is hereby given that the commission proposes to amend 43 existing rules and adoption of two new rules. The proposed changes and new rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed changes clarify the wording of 43 different Sections but will not change in a substantial way the intent of the current rules. The changes will allow the commission to place applicants for permits into business without any delay once commission rules are met, will allow an additional way for permit holders to meet the proof of insurance requirements, exempts D.O.T containers from storage capacity requirements, exempts systems with D.O.T. containers from the two stage regulator requirements, and clarifies when pressure tests, leak checks, and inspections of systems are required and lowers the time and pressure requirements of these tests but maintains all safety requirements in current law.

The proposed two new rule adoptions will provide a new definition and require mandatory training for most of the industry personnel who have certificates of competency. The mandatory training will supplant much of the voluntary training that has been done by a majority of the permit holders but will require all permit holders to train their employees a given amount of time periodically. This training time must be documented to the commission in order to maintain certificates of competency for their employees. This training was suggested by the regulated industry and embraced by the commission.

The proposed changes and new adoptions comply with the statutory authority granted the commission under R.S.40:1846 and R.S.3:1354.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

A. ...

* * *

Leak Check—operation performed on a complete gas piping system and connected equipment prior to placing it into operation following initial installation and pressure testing or interruption of gas supply or out-of-gas situation or first time service of a new customer to verify that the system does not leak.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:

§105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application for a permit or registration with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII permits a formal application for a permit must be filed for each location. All other classes of permits and registrations require only one formal application for the permit or registration. These applications for permits or registrations will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits or registrations at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations, where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under

extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:

§107. Requirements

A. - A.1. ...

2. Formal application for a permit or registration must be submitted to the office of the director.

3. Must have on file in the office of the director, proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

3.a. - 8.b. ...

c. The following shall be mandatory training requirements in order to maintain a certificate of competency in Louisiana.

i. New Hires

(a). Certified Employee Training Program (CETP) shall be the basis of all new hire training, which is not grandfathered.

(b). In addition to the regular Liquefied Petroleum Gas Commission competency test which is required prior to beginning work unsupervised, all certificates of competency holders of Class 1 permit holders with certificates of competency with the following names, delivery truck driver, installation and service, and delivery truck driver/limited service must pass the CETP Basic Test within one year of their hire date. Up to two years provisional certificates of competency may be issued by the commission. Other commission certificates of competency, namely serviceman recreational vehicles, transport truck driver, motor fuel and carburetion installation, welding and metal working industry, manager exam, cylinder delivery truck driver, cylinder re-qualification, and all combined certificates containing the immediate before named certificates of competency are exempt from this provision.

(c). Training may be given by the individual companies or may be given by an outside firm and individual companies may use any method they choose to train their employees on the CETP Basic Program. This may include, but is not limited to, e-learning, CDs, manuals, classroom instruction or any combination thereof.

(d). The CETP Basis Test must be proctored by a licensed proctor.

(e). Tests will be available not less than two times each year in each commission inspector's area in a centralized location.

(f). All commission inspectors shall be licensed proctors with no costs being charged for their proctoring of tests.

(g). Proof of a passing grade (certification) must be sent to the Liquefied Petroleum Gas Commission by the employer before the second renewal period of the employee's certificate of competency. Failure to do so will require that the individual's certificate of competency be revoked.

(h). Individuals who have held a certificate of competency with the commission five years or longer are exempt from the CETP Basic new hire provision, however, they must meet the continuing education training provisions.

ii. Continuing Education

(a). Individuals with a commission certificate of competency in the following test names: transfer and cylinder filling operator, delivery truck driver, installation and service, welding and metal working industry, cylinder delivery truck driver, delivery truck driver/limited service, and all combined certificates containing any of the immediate before named certificates of competency shall have a minimum of two hours of approved continuing education every three years in order to maintain their certificates of competency.

(b). This training shall include training that is most tailored for the particular functions the employee does on a normal and routine basis. This may include CETP modular training classes, defensive driving classes, equipment certification classes, pipe sizing classes, leak check classes and other similar training pre-approved and assigned credit time by the Liquefied Petroleum Gas Commission.

(c). All training approved by the commission must be in objective format such as written, video with audio, or audio only. Each training class will be assigned credit time value for meeting time requirements of this Section.

(d). This training may be done in-house by the dealer, by out-side sources, or by commission inspectors.

(e). A Liquefied Petroleum Gas Commission inspector will be responsible for administering continuing education training tests in his area. These tests may be administered at centralized group locations or at dealer locations within the inspector's area. The inspector shall determine passing either through oral exam or written exam on the pre-approved subject matter.

iii. Effective Time of Provisions of §107.A.8.c

(a). Shall be upon effective date of enactment of this Section.

9. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, VII-E, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency must be changed to new name, except Class VI-X which does not require certificates of competency.

12. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:

§113. Classes of Permits and Registrations

A. - A.1. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. - f. ...

2. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers, or any other recreational vehicles.

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Louisiana manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer, using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative must be sent to the director of the Liquefied Petroleum Gas Commission

verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer or entity performing functions as a dealer must have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

2.e. - 3. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

3.b. - 4. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

4.b. - 5. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

5.b. - 6. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

6.b. - 7. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

7.b. - 8. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

8.b. - 9. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

9.b. - 10. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

10.b. - 11.a.

b. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

11.c. - 12. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

12.b. - 13. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and manufacturers and contractors liability.

b. - c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:464 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:

Subchapter F. Tank Trucks, Semi-Trailers and Trailers

§167. "Out-of-Gas Customers" or Interruption of Service Procedure

A. When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present and the container is serviced:

- a. shut off the container service valve;
- b. place a tag on the container and the residence, the building, or the equipment the container services indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume the liability for the system.

2. When "out-of-gas customer" is present and the container is serviced:

- a. shut off the container service valve;
- b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume liability for the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:467 (March 1998), LR 33:

Subchapter G. Systems Utilizing ASME and D.O.T. Containers

§171. Storage Capacity Requirements

A. The minimum capacity of above ground ASME storage containers shall be 100 gallon tank capacity for each 100,000 BTU appliance load. Tankless water heaters shall be rated at 50 percent of their input rating when calculating appliance load. Exception: D.O.T. Containers of 4 lbs. though 100 lbs. capacity are exempt from this requirement when connected to small portable appliances or outdoor cooking appliances with input ratings of 100,000 btu/hr. or less. Other exceptions to this rule must be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 33:

§173. Regulator Installation

A. A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping systems that serve 1/2 psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997. Exception: Not applicable to D.O.T. containers connected to small portable appliances and outdoor cooking appliances with input ratings of 100,000 btu/hr. or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 33:

§175. Pressure Tests, Leak Checks and Inspections Required

A. Pressure Tests

1. Shall be performed on all new piping systems and on piping systems that has been modified or had new piping added.

2. The length of time of the pressure test shall be not less than 1/2 hour for each 500 cubic feet of pipe volume or fraction thereof, except when pressure testing less than 10 cubic feet of pipe volume or a single family dwelling, the duration of the test may be reduced to 10 minutes.

3. The test pressure of the Pressure Test shall be 1 1/2 times the proposed operating pressure of the system but in no case less than 3 psig.

4. There shall be no gain or loss in pressure during the test. If leakage is indicated, the system shall be repaired and a new pressure test performed before placing in service.

5. The pressure source shall be isolated before the test.

6. No underground piping shall be covered until after inspection and the pressure test are made.

7. Pressure tests shall be documented in the dealer's files or filed with office of the director of the commission.

B. Leak Checks

1. Low Pressure Leak Checks

a. Shall be used on systems that receive gas at pressures of 1/2 psig or less.

b. Shall be performed the first time a tank, piping system and appliances are connected for use.

c. Shall be performed in any suspected leak situation.

d. Shall be performed the first-time service of a new customer.

e. Shall be performed in all out-of-gas and interruption of service situations. A High Pressure Leak Check will be permitted in lieu of the Low Pressure Leak Check if the dealer has documented in his files a Low Pressure Leak Check within the past twelve months for that customer or has filed such documentation with the office of the director within the past twelve months for that customer.

f. The length of time for this test shall be 3 minutes.

g. The test pressure for this test shall be 9 inches + or - 1/2 inch of water column or equivalent.

h. Low Pressure Leak Checks shall be documented in the dealer's files or filed with the office of the director of the commission.

i. This leak check shall include all regulators, including appliance regulators and control valves in the system. Accordingly each individual equipment shutoff valve should be supplying pressure to its appliance for this leak check. This leak check will prove the integrity of the 100 percent pilot shutoff of each gas valve so equipped, so the manual gas cock of each gas valve incorporating a 100 percent pilot shutoff should be in the "on" position. Pilots not incorporating a 100 percent pilot shutoff valve and all manual gas valves not incorporating safety shutoff systems are to be placed in the "off" position prior to this leak check.

j. When leakage is indicated, repairs must be made and a new leak check performed before placing the system back into service.

k. The following protocol shall be used for performing this leak check. Insert a water manometer or equivalent gauge into the system downstream of the final stage regulator, pressurizing the system with either fuel gas or another approved test medium to full operating pressure, close pressure service valve, observe gauge reading, lockup, should be between 10-14 inches of water column or equivalent, then release enough test medium through a range burner or other suitable means to drop the system pressure to 9 inches + or -1/2 inch in water column or equivalent. This ensures that all regulators are unlocked and the entire system is communicating to the gauging device. There shall be no loss or gain in pressure for a period of three minutes.

2. High Pressure Leak Checks

a. This leak check can be used on a system that receives gas at 1/2 psig or less, when a Low Pressure Leak Check has been performed and documented within the past twelve months by the dealer for that system.

b. This leak check can be used on systems that receive gas at pressures greater than 1/2 psig but less than tank pressure.

c. The length of time for this leak check is 3 minutes.

d. The test pressure for this leak check is 10 pounds below tank pressure.

e. These tests shall be documented in the dealer's files or filed with the office of the director.

f. When leakage is indicated, repairs shall be made and a new leak check performed before placing the system into service.

g. The following protocol shall be used for this leak check. By inserting a pressure gauge between the container gas shutoff valve and the first stage regulator in the system, admitting full container pressure to the system and then closing the container shutoff valve. Enough gas should then be released to lower the pressure reading by 10 psi. System should then be allowed to stand for 3 minutes without an increase or decrease in the pressure gauge reading. This method will indicate if there is an open line, open valve, a standing pilot open or leak anywhere in the system and can be used only under the conditions stated in §175.B.2.a of this Section.

3. In out-of-gas or interruption of service situations and a leak check can not be performed by the dealer, the procedure in §167 of this Code shall be used or the container can not be serviced.

C. Inspections

1. Inspections shall be performed any time a pressure test, a high pressure leak check, or a low pressure leak check is performed. Exception: if the dealer has documented in his files an inspection of the system within the past 12 months for that system or has filed such documentation with the office of the director within the past 12 months for that system, no inspection is required.

2. Inspection shall include installation workmanship, all visible piping materials, connectors, appliances and other materials to ensure all materials, connectors, valves and appliances are approved for liquefied petroleum gas use.

3. Inspection shall include proper appliance installation and proper flame performance characteristics for the appliances.

4. Any materials, connectors, valves, appliances, or installation workmanship not in compliance with the codes shall be repaired, replaced, or disconnected.

5. Documentation that the inspection was performed shall be made by the dealer and retained in his files or filed with the office of the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 24:468 (March 1998), LR 24:2312 (December 1998), LR 29:2510 (November 2003), LR 33:

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

NOTE: This Chapter applies specifically to the sale, storage, handling, and transportation of anhydrous ammonia over Louisiana highways and the sale, construction and use of anhydrous ammonia containers and equipment.

Subchapter A. New Dealers

§1505. Applications

A. Any person, firm, or corporation desiring to enter the anhydrous ammonia business in the state of Louisiana must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 33:

§1507. Requirements

A. - A.1. ...

2. Formal application for a permit must be submitted to the office of the director.

3. Must have on file in the office of the director proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation, or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

4. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission. All certificates of competency must be changed to new name.

12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:

§1513. Classes of Permits

A. The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits:

1. Class A1. Holders of these permits may enter any phase of the anhydrous ammonia business.

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have

elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

1.d. - 2. ...

2.a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

2.d. - 3. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the

commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

3.d. - 4....

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and automobile liability.

4.d. - 5. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

5.b. - c. ...

d. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 automobile liability.

5.e. - 6. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees,

qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request.

b. - c. ...

d. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

e. - j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:

The commission will hold a public hearing April 19, 2007, 7919 Independence Blvd., Baton Rouge, LA, at 8:30 a.m. in regard to these changes and adoptions.

Written comments will be accepted through April 12, 2007 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **General Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units. The proposed rule changes will affect forty-three rules by clarifying their intent but will not change in a substantial way any of the current rules.

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 will be costs to the regulated community for training, testing, and continuing education, which is estimated to be \$54,793 in the first fiscal year (FY 07-08) and \$36,153 each fiscal year thereafter. There will be no economic benefit to any other person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Charles M. Fuller
Director
0703#085

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Third Party Providers (LAC 55:VI.905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.26(1) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to enact the following Rule which will establish Title 55:VI.905 of the Louisiana Administrative Code.

**Title 55
PUBLIC SAFETY**

Part VI. Uniform Construction Code

Chapter 9. Temporary Exemption to Certification Requirement

§905. Third Party Providers

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate for registration without certification by a recognized code organization for their specialty work only.

1. For purposes of this Section, specialty work shall be designated as follows:

- a. architects—building;
- b. civil engineers—building;
- c. electrical engineers—electrical;
- d. mechanical engineer—plumbing, fuel gas, and mechanical.

2. This provisional certificate shall expire on December 31, 2007. Thereafter, any third party provider renewing this Certification of Registration shall satisfy the certification requirement(s) as set forth in §703.

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

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

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Curt McCarty at 7979 Independence Boulevard, Suite 106, Baton Rouge, LA 70806. Comments will be accepted through close of business April 10, 2007.

Jill P. Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Third Party Providers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule will not result in an increase in costs or savings to local governmental units for those local governments that currently utilize code enforcement nor those that are trying to implement a code enforcement office. Generally any fees charged by a third party provider are borne by the contractor/builder and may pass through the jurisdiction. The proposed rule does not add any additional expenditures apart from or in addition to those that will result from the enactment of Act 12 of the 2005 First Extraordinary Session. Pursuant to that Act, the Department of Public Safety and Corrections has employed four (4) additional positions needed as staff for the Uniform Construction Code Council. The annual cost of these positions and associated expenses are estimated to be \$322,478 in FY 08, \$331,361 in FY 09, and \$340,601 in FY 10.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state governmental units as the local government may impose necessary fees to implement building code enforcement pursuant to La R.S. 40:1730.32, to offset costs for implementing inspections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No commercial or residential building may be constructed, altered or repaired until plans have been reviewed and the structure inspected for compliance with the Louisiana Uniform Construction Code. This rule is being adopted to further expand the number of individuals who are qualified, on a provisional basis, to perform code enforcement. There will be additional benefits to affected persons imposed by these rules, in that if they meet the qualifications of this rule, they will receive a fee for their services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed rule applies to all qualified third party providers who meet the prerequisites.

Jill P. Boudreaux
Undersecretary
0703#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income: Withholding Tax (LAC 61:I.1511)

Under authority of R.S. 47:112, R.S. 47:164, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1511 to address withholding of income tax at the source.

R.S. 47:164(D) provides that the collector may require persons having control, receipt, custody, disposal, or payment of amounts paid or payable to any person to deduct and withhold income tax payable from such person and to report and pay the tax to the collector. This proposed regulation will specify the persons who must withhold income tax, the rules that apply to such persons, and certain payments for which withholding at the source is required.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1511. Withholding Tax at the Source

A. General Rules of Withholding

1. Requirement to Withhold Payments. Beginning with the calendar year 2008, a withholding agent must withhold and deposit tax at the applicable rate on the payment of an amount subject to withholding made to a payee.

2. Withholding Agent. For purposes of this Section, the term "withholding agent" means any person engaged in a trade or business or any activity entered into for profit that has the control, receipt, custody, disposal, or payment of an item of income subject to withholding. Any person who meets the definition of a withholding agent is required to deposit any tax withheld under R.S. 47:164 and this Section and to file withholding tax returns, except as provided in this Section. When more than one person qualifies as a withholding agent with respect to a single payment, only one tax is required to be withheld and deposited.

3. Failure to Withhold. If a withholding agent fails to withhold and deposit any tax as required under this Section, the secretary may seek payment of the tax from any person that is a withholding agent with respect to the amount required to be withheld. A withholding agent is not excused from the withholding requirement if another withholding agent fails to withhold and deposit the amount due.

4. Penalties for Failure to Withhold. A withholding agent is personally liable for the amounts required to be withheld under R.S. 47:164 and this Section. A withholding agent failing to properly withhold, remit, and file shall be subject to interest and penalties including those provided in R.S. 47:1601, 47:1602, 47:1604, 47:1604.1, and 47:1604.2.

5. Withholding Tax Return, Receipts for Payees, and Annual Reconciliation

a. A withholding agent must file with the secretary a calendar quarterly return in a form prescribed by the secretary together with the amount of tax withheld. Returns

and payments are due on or before the last day of the month following the close of the reporting period.

b. A withholding agent must furnish to the payee, in duplicate, prior to January 31 of the succeeding year, a written receipt in a form prescribed by the secretary. The receipt must set forth the name, address, and Louisiana account number of the payee and the withholding agent, the type of income subject to withholding, the amount of the income, and the amount of tax that has been withheld.

c. On or before the first business day following February 27 for the preceding calendar year, a withholding agent must file with the secretary an annual reconciliation return, in a form prescribed by the secretary, to which must be attached copies of the receipts required by this Paragraph to be furnished to the payees.

6. Withholding Agent not Liable to Payee. A withholding agent is indemnified against the claims and demands of any person for the amount of any tax it deducts and withholds in accordance with this Section and the provisions of R.S. 47:112 and R.S. 47:164. A withholding agent that withholds based on a reasonable belief that withholding is required is treated for purposes of this Paragraph as having withheld tax in accordance with the provisions of R.S. 47:112 and R.S. 47:164. This Paragraph does not apply to relieve a withholding agent from tax liability for failure to withhold.

7. Examples. The following examples illustrate the rules of this Paragraph:

Example 1. Tenant leases an office building located in this state from lessor for use in tenant's business. The terms of the lease require tenant to pay monthly rental of \$20,000 to lessor. Lessor, a nonresident of this state, hires manager to collect all rents received from tenants of the office building. Tenant and manager are withholding agents with respect to the rental payments paid for tenant's use of the office building. Only one withholding amount of \$400 (2 percent of \$20,000) is required on each \$20,000 rental payment. If tenant and manager fail to withhold and deposit tax on the rental payments, the Department of Revenue may seek payment from either tenant or manager.

Example 2. Lessee is an individual who leases an apartment from Lessor, a nonresident of this state, for lessee's personal use. Under the terms of the lease, lessee is required to pay \$600 per month in rentals to lessor. Because the rental payment is not made in connection with the conduct of a trade or business or an activity entered into for profit by lessee, lessee is not a withholding agent. Thus, lessee is not required to withhold any amount when lessee makes monthly rental payments.

B. Certain Payments for Which Withholding at the Source is Required

1. Non-Employee Compensation

a. A withholding agent must withhold and deposit income tax on payments of non-employee compensation paid to resident or nonresident persons or entities. Income tax must be withheld at the rate of 2 percent on payments to licensed contractors for construction, repair, or improvements to real property and at the rate of 4.2 percent on all other non-employee compensation.

b. For purposes of this Section, the term *non-employee compensation* means any amounts required by the United States Internal Revenue Service to be reported as non-employee compensation on federal form 1099-MISC

subject to the following modification in Subparagraph c of this Paragraph.

c. Payments to a corporation will be considered non-employee compensation if the same payment made to a natural person would be considered non-employee compensation.

d. The first \$1,000 of the total payments to a payee during a calendar year shall be exempt from withholding under this Section.

2. Rents. A withholding agent must withhold and deposit income tax at a rate of 2 percent on payments to nonresident persons or entities of rents from immovable or corporeal movable property located in the state. A nonresident entity is any entity that does not have an office or other fixed place of business in the state. A withholding agent may rely on a written statement received from the payee that the payee is a resident unless the withholding agent has actual knowledge or reason to know that the statement is incorrect. A withholding agent is considered to have reason to know that a payee's statement of residence is incorrect if its knowledge of relevant facts or statements contained in the statement or other documentation is such that a reasonably prudent person in the position of the withholding agent would question the claim of resident status made.

3. Natural Resource Royalties. A withholding agent must withhold and deposit income tax at a rate of 4.2 percent on payments of natural resource royalties to nonresident persons or entities of royalties from property located in the state. A nonresident entity is any entity that does not have an office or other fixed place of business in the state. A withholding agent may rely on a written statement received from the payee that the payee is a resident unless the withholding agent has actual knowledge or reason to know that the statement is incorrect. A withholding agent is considered to have reason to know that a payee's statement of residence is incorrect if its knowledge of relevant facts or statements contained in the statement or other documentation is such that a reasonably prudent person in the position of the withholding agent would question the claim of resident status made.

4. Rights to Use Intellectual Property, Intangibles, or Trademarks in the State. A withholding agent must withhold and deposit income tax at a rate of 4.2 percent on payments of royalties or similar revenues to resident or nonresident persons or entities for the right to use in the state patents, trademarks, tradenames, copyrights, secret processes, and similar intangibles.

a. For purposes of this Section, the term *withholding agent* includes persons that license the right to perform songs and musical works created and owned by songwriters, composers, lyricists, and music publishers or collects royalties on behalf of others including but not limited to the performing rights societies of the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music Incorporated (BMI), and the Society of European Stage Authors and Composers (SESAC).

b. These withholding agents must withhold and deposit income tax on the gross amount to be distributed to owners of intangibles as a result of licensing these rights in Louisiana. However, these withholding agents may credit

any amount of tax previously withheld on payments made to them.

C. Requirements for Payees

1. Payee. For purposes of this Section the term *payee* means any person entitled to receive any item of income subject to withholding.

2. Payee's Obligation to Provide Information to Withholding Agent. Prior to the receipt of any payment of income subject to withholding under this Section, a payee must furnish to a withholding agent the payee's full and correct name, address, and Louisiana Account Number.

D. Tax-Exempt Organizations

1. Exemption from Withholding Where Payee is a Tax Exempt Organization. No withholding is required under R.S. 47:164(D) and this Section on amounts paid to an organization for which the Internal Revenue Service has issued a favorable determination letter that the organization is exempt from tax or an organization described in R.S. 47:287.501(B).

2. Organization's Claim of Exemption from Withholding. For an organization to claim an exemption from withholding based on its status as an organization exempt from federal income tax or an organization described in R.S. 47:287.501(B), it must furnish the withholding agent a statement described in Paragraph 4 of this Subsection.

3. Reliance on Organization's Claim of Exemption. A withholding agent may rely on a claim of exemption under this Subsection only if, prior to the payment, the withholding agent can reliably associate the payment with a valid statement described in Paragraph 4 of this Subsection.

4. Claim of Exemption from Tax. A statement under this Paragraph is valid only if it includes the federal taxpayer identifying number of the organization whose name appears on the statement and it certifies that the Internal Revenue Service has issued a favorable determination letter that the organization is exempt from tax and the date of the Internal Revenue Service Letter or certifies that the organization is an entity described in R.S. 47:287.501(B).

E. Amount Withheld Treated as Tax Paid by the Payee

1. Payee as the Taxpayer. The payee is the person ultimately liable for income tax on payments subject to withholding. Where a withholding agent has failed to withhold or has failed to withhold the entire amount of tax due on amounts subject to withholding, the payee must file a Louisiana income tax return and pay all income tax due for the taxable year of the payee in which the payment is includible in the payee's income under the payee's method of accounting.

2. Over Withholding. If any withholding agent withholds more income tax than the amount of Louisiana income tax for which the payee is liable, the payee may seek a refund of tax by filing a Louisiana income tax return for the taxable year in which there has been over withholding.

F. Payments subject to withholding under other provisions of Louisiana law or other applications of R.S. 47:164 are not subject to withholding under this Section.

G. Exception from Requirement to Withhold for Small Businesses.

1. Withholding not Required for Businesses with Less than \$1,000,000 from All Sources in Annual Gross Receipts. A trade or business that has less than \$1,000,000 from all

sources in gross receipts for the prior taxable year and is not party to uncompleted contracts under which it is entitled to receive \$1,000,000 or more over the lives of the contracts is not required to withhold under this Section.

a. Gross receipts does not include salaries or wages earned by an employee.

b. *Prior Taxable Year*—the taxable year ending in the prior calendar year.

2. Aggregation of Gross Receipts from Activities of Related Persons. For purposes of determining whether a business has less than \$1,000,000 in gross receipts for the prior taxable year, gross receipts include gross receipts of a person and all entities which are controlled entities with respect to such person.

3. Controlled Entity. For purposes of this Subsection, the term *controlled entity* means with respect to any person:

a. a corporation more than 50 percent of the value of the outstanding stock of which is owned (directly or indirectly) by or for such person;

b. a partnership more than 50 percent of the capital interest or profits interest in which is owned (directly or indirectly) by or for such person;

c. two or more corporations in which the same persons own (directly or indirectly) more than 50 percent of the value of the stock of such corporations;

d. two or more partnerships in which the same persons own (directly or indirectly) more than 50 percent of the capital interest or profits interest in such partnerships;

e. a corporation and a partnership if the same persons own (directly or indirectly) more than 50 percent of the value of the stock of the corporation and (directly or indirectly) more than 50 percent of the capital interest or profits interest in the partnership; and

f. a trust and a beneficiary of the trust.

4. Partnership. For purposes of this Subsection, the term "partnership" includes any entity classified as a partnership or disregarded as a separate entity from its owner for income tax purposes.

5. Constructive Ownership of Stock or Interests in a Partnership. For purposes of determining whether an entity is a controlled entity, the following rules shall apply.

a. From Partnerships and Estates. Stock or a partnership interest owned (directly or indirectly) by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

b. From Trusts

i. Stock or a partnership interest owned (directly or indirectly) by or for a trust (other than an employee's trust described in Section 401(a) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

ii. Stock or a partnership interest owned (directly or indirectly) by or for any portion of a trust of which a person is considered the owner under Subpart E of Part I of Subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

c. From Corporations. Stock or a partnership interest owned (directly or indirectly) by or for any corporation shall be considered as owned by the

corporation's shareholders in that proportion which the value of the stock which such person so owns bears to the value of all the stock in the corporation.

d. To Partnerships and Estates. Stock or a partnership interest owned (directly or indirectly) by or for a partner or beneficiary of an estate shall be considered as owned by the partnership or estate.

e. To Trusts

i. Stock or a partnership interest owned (directly or indirectly) by or for a beneficiary of a trust (other than an employee's trust described in Section 401(a) of the Internal Revenue Code and exempt from tax under Section 501(a) of the Internal Revenue Code) shall be considered as owned by the trust unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of the beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of trust property.

ii. Stock or a partnership interest owned (directly or indirectly) by or for a person who is considered the owner of any portion of a trust under Subpart E of Part I of Subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

f. To Corporations. Stock or a partnership interest owned (directly or indirectly) by or for any person owning stock in a corporation shall be considered as owned by the corporation.

g. Spouse. An individual shall be considered as owning stock or a partnership interest owned (directly or indirectly) by the individual's spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance).

h. Operating Rules

i. In General. Except as provided in this Subparagraph, stock or a partnership interest constructively owned by a person by reason of Subparagraphs a, b, c, d, e, f, or g, shall, for purposes of applying Subparagraphs a, b, c, d, e, f, or g, be considered as actually owned by such person.

ii. Partnerships, Estates, Trusts, and Corporations. Stock or a partnership interest constructively owned by a partnership, estate, trust, or corporation by reason of the application of Subparagraphs d, e, or f shall not be considered as owned by it for purposes of applying Subparagraphs a, b, or c in order to make another the constructive owner of such stock or partnership interest.

i. Example. The following example illustrates the application of Subparagraph h.

Example. Individual A owns all of the interests in LLC #1. LLC #1 owns a house held by the LLC for rental. During the taxable year, LLC #1 collects \$240,000 in gross rent from renting the house. LLC #1 pays Company X \$3,000 for tree removal services. A also owns all of the interests in LLC #2. LLC #2 owns three condominiums and collects \$360,000 in gross rent from leasing the condominiums during the taxable year. A's spouse owns all of the interests in LLC #3. LLC #3 owns an apartment building and collects \$500,000 in gross rent from the apartment building during the taxable year. Under Subparagraph g, A is deemed to own all of the interests in LLC #3 that are owned by A's spouse. Under Subparagraph d., LLC #1 is considered as owning all of the interests owned directly and indirectly by A in LLC #2 and LLC #3. Thus, for

purposes of determining whether LLC #1 must withhold tax on the \$3,000 of payments to Company X, LLC #1 is treated as having gross receipts of \$1,100,000 (\$240,000 of LLC #1's gross receipts + \$360,000 of LLC # 2's gross receipts + \$500,000 of LLC #3's gross receipts). Accordingly, LLC #1 must withhold tax of \$60 (2 percent of \$3,000) on the \$3,000 paid by LLC #1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112, R.S. 47:164, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

Family Impact Statement

The proposed adoption of LAC 61:I.1511, regarding withholding of income tax at the source, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

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 submitted no later than 4:30 p.m., Tuesday, April 24, 2007. A public hearing will be held on Wednesday, April 25, 2007, at 1:30 p.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Income: Withholding Tax

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed regulation will specify the persons who must withhold income tax, the rules that apply to such persons, and certain payments for which withholding at the source is required. The implementation cost is approximately \$31,720 in FY 07/08 and \$51,440 in FY 08/09 for system modification.

The implementation of this proposed regulation will have no impact upon any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed regulation will increase compliance with the individual and corporate income tax statutes. The regulation will also help avoid attacks on the state's ability to collect taxes on royalties and other payments for use of intangible assets in the state. The changes will result in an indeterminable increase in tax revenues. It is effective beginning with the calendar year 2008.

There will no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Beginning with the calendar year 2008, individuals or businesses with more than a million dollars per year in gross receipts, meeting the definition of withholding agent, will be affected. The costs would be those to extend a wage withholding system to cover these non-wage payments. Reporting and payments to the Department are required to be made electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment in either the public or private sectors.

Cynthia Bridges
Secretary
0703#044

Robert E. Hosse
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Rehabilitation Services

Personal Assistance Services Program (LAC 67:VII.Chapter 11)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), is revising Chapter 11, Personal Care Attendant Policy Manual. Revisions to the policy manual are to provide more flexibility in the program with regard to eligibility and service hours, and to revise the name of the Personal Care Assistance Program to *State Personal Assistance Services Program*.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 11. State Personal Assistance Services Program

§1101. Mission

A. General Statement. The Legislature of Louisiana recognizes the right of people with significant physical disabilities to lead independent and productive lives and further recognizes that persons with significant disabilities require personal assistance to meet tasks of daily living and, in many cases to avoid costly institutionalization. The creation of the State Personal Assistance Services Program, hereafter referred to as the SPAS Program, is to provide state personal assistance services to persons with significant disabilities in order to support and enhance their employability and/or to avoid inappropriate and unnecessary institutionalization. The mission of the SPAS Program is to provide for an orderly sequence of services to those persons who are determined eligible for the program.

B. Program Administration. The Department of Social Services, through Louisiana Rehabilitation Services (LRS), is responsible for the administration of the SPAS Program.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the SPAS Program.

D. Exceptions. The secretary or secretary's designee shall have the sole responsibility for any exceptions to this policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1436 (November 1993), amended LR 33:

§1103. Enabling Legislation

A. Louisiana Revised Statutes

1. Act 653, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to PCA services for individuals with significant disabilities.

2. Act 617 of the 2006 Legislative Session amending R.S. 46:2116, 2116.1(2),(3)(intro para), (3)(e) and (5), 2116.2(A) and (B)(1), (2), (3) and (4), (C)(intro para) and (C)(1) and (2), 2116.3(A), 2116.5(A) and (D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:

§1105. Definitions

A. The following terms, when used in this manual, shall have the meaning, unless the context clearly indicates otherwise.

Consumer-Directed—the consumer/recipient of personal assistance services, as provided by the SPAS Program, will direct, supervise, hire and discharge his/her personal attendant.

Contractor/Fiscal Agent—service provider(s)

Department—the Department of Social Services

Evaluation Team—the individuals who determine the eligibility of individuals with significant disabilities for state personal assistance services and shall be designated by the Director of Louisiana Rehabilitation Services.

Individual with Significant Disabilities—an individual with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with non-medical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, transferring, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

PA—personal assistance

Secretary—the Secretary of the Department of Social Services

State Personal Assistance Services (SPAS) Program—services which are required by individuals with significant disabilities between 18 and 60 years of age to achieve greater physical independence and which include but are not limited to services related to:

- a. routine bodily functions, such as bowel or bladder care;
- b. dressing;
- c. preparation and consumption of food;
- d. housecleaning and laundry;
- e. moving in and out of bed; transferring;
- f. routine bathing;
- g. ambulation;
- h. any other similar activity of daily living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:

§1107. General Requirements

A. - A.2. ...

B. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff involved in the SPAS Program shall comply with all state and federal laws, including Department of Social Services, LRS policies and procedures and Civil Service rules and regulations as applicable.

C. Cost-Effective Service Provision. State personal assistance services shall be provided in a cost effective manner without supplanting any existing personal assistance services.

D. Case File Documentation. All SPAS Program contractors/fiscal agents must maintain a case file for each SPAS Program consumer/recipient. The case file shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. - F. ...

G. Hiring/Firing/Supervising. State personal assistance services as provided by the SPAS Program are to be consumer-directed at all times. The consumers of the SPAS Program shall direct, supervise, hire and discharge his/her personal assistance service provider in accordance with the fiscal agent's process. The personal assistance service consumer/recipient will report to the fiscal agent/contractor all new hire/discharge actions within three working days of the occurrence in accordance with the fiscal agent's process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1437 (November 1993), amended LR 33:

§1109. Confidentiality

A. General Statement. All personal information in the possession of the fiscal agent shall be used only for purposes directly connected with the administration of the program.

B. Notification to Consumer/Recipients. Individuals asked to supply information for the fiscal agent shall be informed of the need to collect confidential information and the policies governing its use, release, and access, including:

1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his/her case;
2. the principal purpose for which the fiscal agent intends to use or release the requested data;
3. whether they may refuse or are legally required to supply the requested data;
4. any known consequence arising from not providing requested information will be deemed ineligible for the program;
5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information

released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following condition. The consumer/recipient must be advised of this condition:

1. - 3. ...

D. Consumer/Recipient Access to Data. When requested in writing by the consumer/recipient or his representative, consumers/recipients or applicants have the right to see and obtain in a timely manner copies of any information that the fiscal agent maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the consumer/recipient's physical or mental health;

2. medical, psychological, or other information which may be harmful to the consumer/recipient.

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the consumer/recipient's representative, or a physician or a licensed or certified psychologist.

3. ...

E. Informed Consent. Informed consent means that the consumer/recipient has signed an authorization to release information, which:

1. - 6. ...

F. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner.

1. With the written informed consent of the consumer/recipient, the court will be given full cooperation.

2. Without the written informed consent of the consumer/recipient, when a fiscal agent is subpoenaed for a deposition or receives any other request for information regarding a consumer/recipient, he should:

a. honor the subpoena;

b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

c. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in fiscal agency's possession;

iii. fiscal agent personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:

§1111. Applicant and Consumer/Recipient Appeal Rights

A. Any individual who is aggrieved by a decision with regard to a request for provision of personal assistance services may appeal said decision within 30 days from the date of the letter informing them of the denial decision taken on the SPAS Program application or reduction in services by requesting an informal administrative review. This request must be made in writing to Louisiana Rehabilitation Services, P.O. Box 91297, Baton Rouge, LA 70821-9297.

The findings of the informal administrative review must be determined within 30 days from the receipt of the written request. If the individual is dissatisfied with the finding of this informal administrative review, within 10 days from the date of the informal administrative review decision, the request for a fair hearing must be made in writing to Louisiana Rehabilitation Services, P. O. Box 91297, Baton Rouge, LA 70821-9297. The fair hearing must be held within 30 days of receipt of the request. The impartial hearing officer will make a decision based on the provisions of the Louisiana Rehabilitation Services SPAS Policy Manual and the law and provide to the applicant or consumer, or if appropriate, the representative, and the Director of LRS a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing.

B. Services shall remain unchanged during the appeal process until a final decision is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1438 (November 1993), LR 33:

§1113. Eligibility and Ineligibility Decisions

A. Nondiscrimination and Nonexclusion. The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. A person can be determined eligible for services as set forth in R.S. 46:2116.2 if that individual meets all of the following criteria:

1. is an individual with significant disabilities; and

2. is between the ages of 18 and 60. An individual who begins to receive services between the ages of 18 and 60 shall continue to receive services after age 60, provided that all other eligibility requirements are met; and

3. needs personal assistance services from this program to prevent or remove the consumer/recipient from inappropriate placement in an institutional setting or enhance the consumer/recipient's employability; and

4. provides verification of the disability from the treating physician; and

5. is capable of hiring, firing, and supervising the persons who provide personal assistance services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1115. Economic Need

A. In determining an individual's financial need for services, Louisiana Rehabilitation Services will use a system based upon the current federal poverty guidelines. The economic need status of each consumer/recipient for the SPAS Program shall be considered in the initial determination of eligibility for services and at least annually thereafter. The consumer/recipient must provide verification of income.

B. The total monthly income of the SPAS applicant and/or spouse shall be considered in determining the amount of available income in the determination of eligibility for services. Current income received on a regular basis must be considered regardless of its source. Sources can include

wages, fees, commissions, retainers, rent, interest, dividends, payment for service in cash or kind, benefits by way of pensions, compensation from insurance payments, fellowships, contributions from family or other individuals (including "free" room and board), public assistance payments, alimony and/or payments by roomers/boarders.

C. In determining the amount of available income to the consumer/recipient and/or spouse, the following are exceptions to be used:

1. court-ordered child support and/or alimony (use exact amount);

2. medical expenses, not covered by insurance, which are paid on a monthly basis, as documented by medical statements and/or canceled checks. Examples of monthly expenses are:

- a. purchase of durable medical equipment;
- b. repairs to durable medical equipment;
- c. medication (not covered by insurance);
- d. surgical supplies (not covered by insurance);
- e. physician's bills (not covered by insurance);
- f. hospitalizations (not covered by insurance);
- g. unreimbursed personal assistance services paid

by consumer/recipient;

h. payments withheld from wages for:

- i. taxes;
- ii. retirement;
- iii. medical and/or life insurance premiums;
- i. other unusual obligations to include any

emergency needs, or any disability related expenses. Expenditure is to be documented as to total amount owed, for what, and amount of monthly payment.

D. Economic need will be applied using income minus allowed expenses cited above, if applicable.

E. Surplus. The monthly surplus must be applied toward the cost of services each month for the duration of planned services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 33:

§1117. Plan for State Personal Assistance Services

A. A state personal assistance services plan is to be developed between the consumer/recipient and the fiscal agent to determine the number of personal assistance hours needed by the consumer/recipient per week. A SPAS plan shall be initiated annually or more often, if indicated. The SPAS plan and all updated plans shall be contained in the consumer/recipient's case record.

B. Consumer/Recipient Participation. The consumer/recipient is to participate fully in the development of the SPAS plan, including all changes and amendments. Consumer/recipient's signature is required for the personal assistance plan and any amendments.

C. Minimum content of the personal assistance plan:

1. identification of specific services to be delivered;
2. the frequency of service(s) with flexibility;
3. the beginning date and service review dates.

D. Amendment of the SPAS Plan. When the consumer/recipient or fiscal agent identifies a need for a change to the original SPAS plan, the consumer/recipient and the fiscal agent shall amend the plan to address the consumer/recipient's need(s). The amended plan shall be

submitted to the evaluation team if such changes are markedly different from the original plan.

E. Annual State Personal Assistance Services Plan Review. Every 12 months a review of the SPAS plan is mandatory and shall be reflected on the amended plan. A review can be done before 12 months, if indicated. In all cases, the consumer/recipient shall be involved in any review and/or changes to his/her personal assistance plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1119. Financial

A. Prior Authorization. If an emergency situation exists where personal assistance services is needed to begin prior to the fiscal agent's receipt of written acceptance of consumer/recipient's application for SPAS Program, LRS Program Coordinator for the SPAS Program can provide authorization for services to begin. The fiscal agent must provide documentation in the consumer/recipient's case record confirming verification of the emergency and confirming authorization received from program coordinator. The program coordinator follows up such authorization in writing within five days to the appropriate fiscal agent following such verbal authorization.

B. The consumer/recipient of SPAS will invoice the contractor/fiscal agent bi-monthly in arrears for personal assistance services purchased and include copies of time sheets as verification of the services being provided. The invoice shall contain the following:

1. dates of services;
2. number of hours of personal assistance services per day;
3. rate of pay;
4. signature of personal assistance provider;
5. signature of consumer/recipient of the SPAS Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1121. Contractor/Fiscal Agent Responsibilities

A. The fiscal agent shall keep a waiting list of individuals wanting to apply for the SPAS Program.

B. The fiscal agent shall take a pre-application on consumer/recipients who will be placed on the waiting list for services and shall use criteria developed by Louisiana Rehabilitation Services in assigning a priority category for services.

C. When funds are available; the fiscal agent shall send the pre-application and application on the prioritized individual to the LRS Program Coordinator to forward to the evaluation team for determination or redetermination of eligibility.

D. The fiscal agent shall maintain a case record on each consumer/recipient or pre-application. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the ineligibility letter, personal assistance plan and all amendments to this plan, documentation from medical and/or other appropriate sources, proof of income, and any other additional material

which is a necessary part of the application and/or reconsideration for the SPAS Program.

E. The fiscal agent shall perform reconsideration at least annually on all SPAS Program recipients including a determination of economic need for services. If there is a change in circumstances, a revised personal assistance plan must also accompany the reconsideration which is to be sent to the LRS Program Coordinator who will forward to the evaluation team.

F. The fiscal agent shall make available personal assistance management training to all individuals receiving services under this program. Documentation of training including dates, name of trainer and names of individuals trained should be included in the case record.

G. The fiscal agent shall advise the applicant/consumer/recipient of the evaluation team's decision within five working days from receipt of the team's decision if found eligible for the SPAS Program.

H. The fiscal agent shall maintain copies of the time sheets on the attendants in order to document the number of days and hours worked. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the fiscal agent.

I. The fiscal agent shall investigate information brought to the fiscal agent's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of SPAS Program funds, and any other violation of the policy stated herein. This information shall be provided to the LRS Program Coordinator for disposition. If the information provided is substantiated, this shall be reason for denial of services.

J. The fiscal agent shall provide the consumer/recipient with a copy of the SPAS Program Policy Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:

§1123. Evaluation Team Responsibilities

A. The evaluation team shall determine the eligibility of the person with a significant disability for the SPAS Program.

B. The evaluation team will re-evaluate the consumer/recipient of the SPAS Program through annual reviews of the reconsideration and personal assistance plan if applicable to determine the continued need for SPAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:

§1125. Responsibilities of LRS in the Eligibility

Decision

A. The Director of Louisiana Rehabilitation Services shall designate the evaluation team who determines the eligibility of persons with significant disabilities for State Personal Assistance Services.

B. The Director of Louisiana Rehabilitation Services shall set the criteria for determining prioritization for serving individuals on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:

§1127. Violations, Penalties, and Reasons for Closure

A. The following may result in termination of services or other penalties:

1. the individual no longer meets eligibility criteria;
2. the individual falsified information (time sheets, signed personal assistance provider's name to check and/or time sheets, etc.);
3. the individual failed to meet the contractual agreement with the fiscal agent's requirements;
4. the individual is unable to be contacted and/or whereabouts unknown for 90 days or more and no response after an attempted home visit and certified letter;
5. any other reason which is contradictory to policy and procedures for the SPAS Program.

B. Definitions

Fraud—use of trickery or deceit to receive benefits. For *fraud* to exist:

a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of SPAS Program funds. The burden of proof that fraud exists is on the fiscal agent;

b. the misrepresentation must have been made knowingly and with deceitful intent.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the SPAS Program or SPAS policy and/or procedures. Also, a consumer/recipient who repeatedly fails to comply with the policies and/or procedures of the SPAS Program would be in violation of §1127.

C. *Warning*. The contractor/fiscal agent should issue a "warning" to consumer/recipients who commit a violation of policy, such as failure to comply with terms of the service plan between the consumer/recipient and fiscal agent. The fiscal agent will determine if the violation was intentional. If the violation is not intentional, written notice of the violation and action to correct the violation is to be given to the consumer/recipient. A copy of the notice to the consumer/recipient is to be placed in the consumer/recipient's case record. Repeat of the violation should be brought to the attention of the LRS Program Coordinator for consideration of termination.

D. Recoupment

1. In lieu of termination, the contractor/fiscal agent can demand that a consumer/recipient refund the SPAS Program for all benefits received because of a violation as listed above.

2. If the contractor/fiscal agent rules that the consumer/recipient must repay the amount in question, the contractor/fiscal agent will determine the repayment schedule. Consumer/recipient can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the SPAS Program are shown. The contractor/fiscal agent shall maintain close monitoring of the consumer/recipient until such time the

contractor/fiscal agent determines consumer/recipient is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well; however, the consumer/recipient will not be eligible for further services.

E. Termination. The contractor/fiscal agent may terminate an individual who violates the policy and/or procedures of the SPAS Program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1251 (November 1995), amended LR 33:

§1129. Procedures for Termination and/or Appeals

A. When a consumer/recipient is terminated from this program:

1. the contractor/fiscal agent will send a termination letter to the consumer/recipient that explains the reason and right to an appeal;

2. the contractor/fiscal agent should provide the consumer/recipient with a copy of "Applicant and Consumer/Recipient Appeal Rights" contained in the SPAS Program Policy Manual;

3. if the consumer/recipient appeals, he/she will continue to receive services until the appeals process is completed;

4. the consumer/recipient will be notified when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21:1252 (November 1995), LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule could positively impact family stability by improving the quality of personal assistance care provided to a disabled family member.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule could improve family functioning as it will allow an increase in the number of hours that can be paid for personal assistant to be provided to a disabled family member.

4. What effect will this Rule have on family earnings and family budget? This Rule will have no effect on the family's earnings. However, it may assist the family in budgeting, as the Rule will increase the number of hours that can be paid to a personal assistant.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Public hearings will be conducted April 25, 2007, beginning at 9 a.m. at following locations: Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 6620 Riverside Drive, Suite 101.

Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-219-2225 or 800-737-2958, or 800-256-1523 for voice and TDD.

Interested persons may submit written comments on the proposed changes until 4:30 p.m. April 30, 2007, to James Wallace, Director, Louisiana Rehabilitation Services at the address below. Copies of the entire text of the revised policy manual may be obtained at Louisiana Rehabilitation Services, 627 N. Fourth Street, 2nd Floor, Baton Rouge, LA, or at each of its eight regional offices, and at the Office of the State Register, 1051 North Third Street, First Floor, Baton Rouge, LA.

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Personal Assistance Services Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of this proposed rule will result in an estimated increased cost to the State of \$99,208 (State General Fund) for FY 06/07, FY 07/08, and FY 08/09. It is anticipated that \$1,200 (State General Fund) will be expended in FY 06/07 for the cost of publishing the rule. The funding to implement this rule change for FY 06/07 is appropriated in the agency's base level budget, and the agency will operate within that budget.

The purpose for this rule change is to revise Chapter 11 of the Personal Care Assistance Program Policy Manual per Act 617 of the 2006 Regular Legislative Session. The revisions will provide more flexibility in the program with regard to eligibility and service hours and will revise the name of the Personal Care Assistance Program to "State Personal Assistance Services Program".

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will not impact revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals receiving State Personal Assistance Services will directly benefit from this rule change because the limitation on minimum and maximum service hours are being removed, thereby allowing a client to receive more service hours. The rule will also allow the agency to increase the number of clients being served from 21 to 24. In addition, the rule changes the eligibility requirements by increasing the age limit from 55 to 60, which allows those persons not eligible for services under the present age limit to receive services. Also, contractors providing personal assistance services will benefit as their rate of pay will increase from \$8.00 per hour to \$9.00 per hour.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no impact on competition and employment as a result of this rule change.

James E. Wallace
Director
0703#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Real Estate**

Appraisal Handbook for Fee Appraisers
(LAC 70:XVII.Chapter 5)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend a Rule entitled "Appraisal Handbook for Fee Appraisers", in accordance with the provisions of R.S. 48:441 et seq.

Title 70

TRANSPORTATION

Part XVII. Real Estate

Chapter 5. Appraisal Handbook for Fee Appraisers

§501. Purpose

A. A vital and very basic requirement of a right-of-way operation is the procurement of real estate appraisals, prepared by a competent and knowledgeable appraiser, which are complete and well documented.

B. Of no less importance is the need for appraisal reviews by a skilled and knowledgeable reviewer who is thorough, practical and complete.

C. The purpose of this rule is to provide fee appraisers and fee review appraisers with a handy reference for information on procedures, available materials and department requirements for real estate appraisal reports with the intention of standardizing procedures to insure uniform practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§503. Overview of the Purpose of the Appraisal and Appraisal Requirements

A. The laws of Louisiana provide that compensation must be paid for the value of real property or rights taken. The value of the real property or rights taken must be based on the premise of the highest and best use or the most profitable, legal and likely use for which a property may be utilized. The opinion of such use may be based on the highest and most profitable continuous use for which the property is adapted or likely to be used for a reasonable future time. However, elements affecting value which depend upon events or a combination of events which, while possible, are not reasonably probable, should be excluded from consideration. Also, if the intended use is dependent upon an uncertain act of another person, the intention cannot be considered.

B. The appraiser should perform an analysis of the market demand giving consideration to the highest and best use. Where a property is composed of more than a single

highest and best use, the appraiser must type, value and support each portion separately, i.e., front land/rear land highest and best uses. Where different uses and values of property are being acquired, each use and corresponding value must be stated separately thereby complying with the state laws and compensating for the full value of the partial acquisitions. Based on the highest and best use, the appraiser must set forth a reasonable and factual explanation indicating his/her support, reasoning and documented conclusions.

C. All market data, comparable sales, forms, etc., which are referred to within the report and are pertinent to the fair market value of the property being appraised, shall be collected and cited for the project and ownership for which the appraisals are being written. Simply referring to data used for other projects or appraisals is not acceptable.

D. All recognized appraisal procedures and approaches to value: the cost approach, the market approach and the income approach, which apply to the property under appraisal, are to be considered by the appraiser and utilized if found to be applicable. If an approach is found not applicable to the property being appraised, there shall be included a concise and detailed reasoning as to its shortcomings. The appraiser shall explain the reason(s) in the correlation of value as to why one or more approaches are more applicable to his/her estimate of market value and/or why the other approach or approaches are less applicable to the property being appraised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:

§505. Scope of Work

A. The LDOTD, acquiring real property, has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem.

B. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

C. The LDOTD has the responsibility to assure that the appraisals it obtains are:

1. relevant to its program needs;
2. reflect established and commonly accepted Federal and federally assisted program appraisal practice, and
3. as a minimum, complies with the definitions of "appraisal" in 49 CFR §24.2(a)(3).

D. They must also meet the five following requirements:

1. an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including:
 - a. items identified as personal property;
 - b. a statement of the known and observed encumbrances, if any;
 - c. title information;
 - d. location;
 - e. zoning;
 - f. present use;
 - g. analysis of highest and best use; and
 - h. at least a five-year sales history of the property;

2. all relevant and reliable approaches to value consistent with established federal and federally assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value;

3. a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;

4. a statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate;

5. the effective date of valuation;

6. date of appraisal;

7. signature; and

8. certification of the appraiser.

E. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised (if it is fair market value, include its applicable definition), and the assumptions and limiting conditions affecting the appraisal. The term *scope of work* defines the general parameters of the appraisal. It reflects the needs of the LDOTD and the requirements of federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an LDOTD official who is competent to both represent the department's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a) (1) through (5) and address them as appropriate. Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property as well as those identified as personal property. Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where a department determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§507. Application for Approval as Fee Appraiser

A. Application must be submitted to the Real Estate Administrator prior to inclusion of said appraiser on the LDOTD Approved Panel of Fee Appraisers. The form asks several general questions concerning the appraiser's personal and appraisal background in order to gain insight into the appraiser's experience, qualifications and training. If qualified, the appraiser may complete that section of the application for inclusion within said application. Upon completion of the application and acceptance by the

Appraisal Office, the Assistant Real Estate Administrator will recommend to the Real Estate Administrator that the appraiser be placed on the Approved Panel of Fee Appraisers. Upon approval, the Assistant Real Estate Administrator will notify the appraiser of his/her approval and request that the appraiser read and sign one of two copies of the Agreement for Appraisal Services and return a single copy to the Appraisal Office for processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§509. Qualifications of Fee Appraisers

A. Upon the appraiser's initial request for a Fee Appraiser Application Packet, the Assistant Real Estate Administrator will notify the appraiser of the receipt of the request and provide the necessary forms to be completed. Those forms will include a letter stating the minimum requirements to be considered for employment by the LDOTD Appraisal Office. If the appraiser meets the qualification requirements of the LDOTD and is approved for employment, he/she will be included on the Approved Panel of Fee Appraisers. The minimum requirements for acceptance of Fee Appraisers on the LDOTD's Approved Panel of Fee Appraisers are as follows.

1. The appraiser must be a Certified Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law.

2. The appraiser must follow the appraisal standards as set forth by the Uniform Standard of Professional Appraisal Practice (USPAP).

3. The appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§511. Conduct of Appraiser

A. Each fee appraiser is a representative of the Louisiana Department of Transportation and Development. It is important that he/she be courteous and considerate in dealing with the property owners or their representatives. This is particularly important since the appraiser may be the first LDOTD representative to make contact with the owners.

B. The appraiser shall include documentation to indicate the date and extent of his contact with the property owners. Should the appraiser fail to contact the owners, he/she shall document the efforts to locate the owners. It is recommended that contact be made initially by certified letter as a method of documentation. The appraiser should not express to the owners, owner's representatives or any occupants an opinion relating to the value he/she might establish for this or any other properties upon the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§513. Fee Review Appraiser Qualifications

A. Only those individuals on the Approved Panel of Fee Appraisers can be considered for fee review appraisal assignments. The minimum requirements for a fee review appraiser are as follows:

1. the appraiser must be Certified General Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law;
2. must have a minimum of four years full time experience in appraising real property for a condemning authority;
3. must have experience in appraising the types of properties within the scope of work for the project under consideration and/or any other requirements deemed relevant for the project under consideration;
4. the appraiser must follow the appraisal standards as set forth by the Uniform Standards of Professional Appraisal Practice (USPAP);
5. the appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions.

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§515. Agreement for Appraisal Services

A. The Agreement for Appraisal Services is a document which every fee appraiser employed by the LDOTD is required to sign. The agreement sets out the parameters within which the department and the appraiser will cooperate as well as sets forth the details and requirements that must be met within the appraisal report. The appraiser should be very familiar with all of the requirements contained within this agreement. The signed form, after its execution, will be placed in the appraiser's file and need not be re-signed with each contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§517. Contract for Appraisal Services

A. The Contract for Appraisal Services is the form utilized by LDOTD in obtaining the services of fee appraisers on a given project. The contract sets forth the requirements for each appraisal requested and sets a completion date by which the assignment must be submitted. The contract binds LDOTD and the fee appraiser until such time as the assignment is complete or the contract has been terminated. However, work on a contract should not begin until a "Letter of Authorization" is received instructing the appraiser to begin.

B. The appraiser should examine the agreement in detail and should be particularly aware of the time element set up within the contract. The LDOTD operates its construction program through a schedule of contract letting and the

appraiser's failure to meet the time requirement of the contract can have damaging effects upon the overall completion of a project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§519. Contract Extensions

A. It is the policy of LDOTD that contract completion dates shall not be extended past the original due date. However, while all due diligence should be taken to meet the contract requirements, it is sometimes necessary to extend a contract. Just cause must be documented by the appraiser and a letter of request presented to the LDOTD Appraisal Office with adequate lead time to process the request through the appropriate channels prior to the contract completion date. In the event a completion date is not met and an extension has not been granted, the contract will be considered voided. Payment cannot be made for outstanding appraisals. At the discretion of the Appraisal Office, it may become necessary to contract another appraiser to complete the project assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§521. Appraisal Formats

A. Appraisals are to be reported, in most cases, on Forms A, B or C. Please refer to the format illustrations included within the body of this handbook.

B. All formats will include, but are not limited to, the applicable pages listed within the individual formats; a Certificate of the Appraiser, comparable sales and maps, improvements, floor plans and/or plot plans, flood maps, zoning maps, provided right of way maps, statement of limiting conditions, any references made during the report, a copy of the owner's notification letter, property inspection documentation and the Estimate of Compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§523. Interest Being Appraised

A. The interest being appraised is full ownership, less mineral rights. Each appraisal will show an estimated value of the total interest held. No breakdown of individual interests, other than lease fee/leasehold interests, held in the ownership should be made except as specifically instructed by the LDOTD. However, servitude and/or similar encumbrances on properties being appraised should be investigated and reported within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§525. Highest and Best Use

A. In an assignment, it is required that the appraiser fully analyze the highest and best use of a parcel and include that analysis within the appraisal report as a detailed and concise narrative. There are locations where the highest and best use

is obvious. At other locations, evaluation for highest and best use renders limited possibilities. If that is the case and a detailed analysis is not warranted, a less detailed written analysis is acceptable.

B. In cases where it is necessary to estimate the highest and best use of an improved parcel, the focus is on the existing use as well as all potential alternate uses. To correctly accomplish the goal, the appraiser must analyze the highest and best use as improved and as vacant.

C. Often, the existing use will be the highest and best use and that conclusion may be clearly obvious to the appraiser. The discussion within the report need not be as detailed as with a different or changing highest and best use.

D. The support of the appraiser's opinion is most critical in the not so obvious situations when the appraiser may need to respond to inquiries by the reviewer appraiser or an attorney. Because the highest and best use determinations affect the value conclusion, an unsupported estimate of the highest and best use may lead to unnecessary and costly litigation for both the LDOTD and the property owners.

E. When the highest and best use is estimated to be different from the existing use, the appraiser is essentially concluding that the present improvements no longer provide an acceptable return of the investment for that purpose. This generally occurs when the value of land in an area, due to changing conditions, increases to such a degree that it approaches or exceeds the value as improved. In cases such as this, a detailed analysis and discussion will be required utilizing accepted appraisal techniques.

F. The appraiser must substantiate the existence of demand for the proposed use; that the physical features of the property would accommodate that use; that the use is compatible with zoning requirements or a reasonable probability exists for re-zoning and there are no restrictions that would preclude that use.

G. Another item for consideration within the highest and best use evaluation is the recognition and adherence to the "Consistent Use Theory". Basically, a property in transition to another use cannot be valued on the basis of one use for the land and another for the improvements. This may introduce the possibility of an interim use. Sometimes an improvement is not the proper improvement to maximize the value of the whole property. There may be some type of interim use of that improvement which may be utilized until such time as the land can be put to its highest and best use. This improvement may be valued by ascertaining the amount of temporary income derived during the interim period or a value based upon the use of the interim improvement for another highest and best use until a proper improvement can be justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§527. Land Valuation

A. For the determination of land values, a careful and thorough investigation of sales of nearby comparable lands is to be made. The report is to include sufficient information to show that the appraised values of land are adequate, reasonable and well supported by actual comparable sales. Any adjustments made to a comparable sale will be fully supported and soundly reasoned based upon facts gathered within the local real estate market of the project assignment.

In the case of a special use property or a limited local market, the appraiser may search for comparable data and utilize any data located outside of the actual market area of the subject project. These requirements apply to an after value appraisal as well.

B. When an appraiser is assigned to a project, he/she will be required to compile and submit all comparable sales data to the LDOTD Appraisal Office. This is generally referred to as the Master Binder. This Master Binder will be submitted by a prearranged date as set out in the Contract for Appraisal Services or verbally agreed upon between the Review Appraiser and the Fee Appraiser.

C. The LDOTD Appraisal Office may furnish market data forms to the appraiser upon request. These forms are to be used in all cases to report the market data information developed by the appraiser. The appraisers may develop their own forms but must include the information required within the LDOTD form.

D. It is not considered improper for an appraiser to obtain information about a sale from another appraiser provided the information is limited to factual information such as vendor, vendee, consideration, recordation, date of sale and legal description. The comparable information received from another appraiser should not include any analysis of the comparable sales, i.e., breakdown of land and improvements, analysis of a time factor or any other adjustment. The appraiser of record through verification or their own judgment must determine those items. This verification must be made with a party to the sale, i.e., seller, buyer, the closing agency, the broker handling the transaction and the verification of recordation which is the only avenue of verification not based upon statements of persons other than the appraiser (UASFLA Section B-4, page 38) (49CFR, Part 24, Subpart B, 24.103).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§529. Valuation of the Entire Tract

A. The value determined for an entire tract is to be the value before the acquisition of the required right-of-way absent of any influence of the proposed project construction. The estimated value shall be as of the date of the appraisal study unless the appraiser is otherwise instructed by the project review appraiser or within the Contract for Appraisal Services.

B. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, is to be disregarded in determining the compensation for the required property.

C. Under most circumstances, the value estimate is to include the entire tract, based upon the highest and best use, and is to include all items of real property unless instructed otherwise within the Contract for Appraisal Services. The appraiser may include only a portion of a whole property if, in the highest and best use determination, he/she finds that the portion of the ownership affected by the acquisition is a separate "Economic Use Tract"; the determination is

supported and clearly understandable; and the review appraiser concurs in the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§531. Valuation of the Remainder

A. The value estimate attributed to the remainder is a separate and singular appraisal problem. The appraiser is required to perform a complete appraisal of the remainder.

B. Reference may be made to factual data contained within the "before" appraisal as it pertains to the after appraisal. However, the Appraiser is to separately analyze and document the data to form his/her conclusions within the "after" appraisal.

C. The estimated value of the remainder is to be a realistic appraisal of value. It is required that the appraiser employ all three approaches when they are applicable to the appraisal problem. If and when an approach is not considered applicable, justification shall be provided.

D. The remainder value is not simply a value representing the difference between the value of an entire tract or use tract less the value of the required right-of-way, but is a well-supported and carefully analyzed value estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§533. Valuation of the Improvements

A. When buildings or other improvements are located partially or wholly within the proposed right-of-way, the appraisal is to be made on the basis that the LDOTD will purchase the improvements. In only a few rare situations will an appraisal be made on the basis of the purchase of a portion of a major improvement or the cost to relocate a major improvement on-site. In such situations, the appraisal report is to fully explain the justification for not buying the entire building. In assigning appraisals, the project Review appraiser will specify whether an improvement will be purchased or a cost-to-cure will be provided for the appraiser's use.

B. In the case of a severed building that is not specified as a whole acquisition, the appraiser shall include within the report the cost to restore the remaining improvement to its former utility and usefulness. A cost-to-cure does not necessarily alleviate other damages to an improvement or a remainder. Other damages may include a loss of utility or a change in access.

C. In some instances, an improvement is located substantially outside of the right-of-way with only a minor portion projecting into the required area and removal of the portion within the right-of-way would leave the major portion of the building reasonably suitable for use on the remaining site. When estimating damages under this scenario, the appraiser will be required to consider the more feasible of the two following possibilities:

1. the remainder of the improvements may possibly remain adjacent to the right-of-way line with a possible loss of value due to its position relative to the new right of way coupled with other possible damages as discussed above; or

2. the entire improvement may be moved to a more advantageous location on the remaining site. In this case, the

damage estimate would be based on the cost of moving the improvement and restoring it to a new location. These costs will not exceed the damages which would occur if the basis of the estimate were a cost to re-face a portion of the improvement located within the right-of-way nor will they exceed the cost to purchase the improvement as a whole.

D. The appraiser is to fully analyze each scenario and follow the path that is the most cost-effective in order to restore the owner to a position equal to that "before" the acquisition. However, it will rarely be requested that a "cut and re-face" or "move back" cure be used. These types of cures will be utilized in only very special cases where other, better accepted methods could not be utilized.

E. There may be within the proposed taking items that would be classified as part of the realty. These items may include machinery, fixtures, pumps, underground tanks, and water or air lines, pump islands, etc. These items may be the property of a lessor or a lessee. If the appraiser's assignment is to include these types of items, the items shall be valued based upon their contributory value to the whole property. If these items are determined to be a liability, then the value estimate should reflect that determination as well. The determination as to which items will be included within the report will be made by the project review appraiser with the input of the appraiser.

F. It is expected that appraisers employed by LDOTD will be qualified to estimate the cost of improvements generally encountered such as residences and appurtenant improvements. The issuance of a contract by LDOTD is sufficient evidence of the department's approval of the appraiser's expertise in such circumstances. However, in certain instances where high value improvements are to be acquired or affected, the LDOTD may obtain and furnish to the appraiser reproduction and/or replacement costs and/or cost-to-cure estimates by special agreement with a building contractor, professional engineer, registered surveyor, cost estimator or other specialist. In such cases, the use of special consultants will be provided for in a separate employment agreement in which the consultant is identified and provisions made for the consultant to be available for testimony in the event of condemnation proceedings. All required materials will be provided to the appraiser for use within the appraisal report, if the appraiser so chooses.

G. Unless specifically provided for in the Contract for Appraisal Services, the LDOTD will not pay additional amounts above the fee per parcel established for services to compensate for quotes or services of contractors or other specialists obtained by the appraiser. The fee of the appraiser is to compensate for providing a complete appraisal satisfactory to the purpose of the LDOTD. The appraisal report shall comply with the Agreement for Appraisal Services and the Contract for Appraisal Services as stated. Any findings of a consultant employed to aid in making an appraisal must be included and clearly identified within the appraisal report if accepted by the appraiser. If the findings of the consultant are not acceptable to the appraiser, he/she will include their own supported estimate or the justification for providing items which are not utilized.

H. A partial acquisition may result in damages to a remainder property that may be reduced or eliminated by construction of access roads, relocation of driveways or some other design modification. When the appraiser feels

justified in requesting a study to determine the feasibility of such modification, he/she may make a request to the Project Review Appraiser for such modification. When merited, the LDOTD will provide the appraiser with the engineering and construction costs to be weighed against damage items as they may be mitigated. This procedure is intended to assure a realistic estimate of damage based upon cost to cure estimates which may or may not be practical from an engineering standpoint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§535. Completeness of Appraisal and Appraisal Reports

A. The investigation is to be thorough and the appraisal report is to furnish adequate and reasonable information that fully explains and justifies determinations contained within the appraisal report.

B. The appraiser must complete all applicable appraisal criteria in accordance with the LDOTD requirements and USPAP and UASFLA as set forth in the Agreement for Appraisal Services. Any departure shall require full justification.

C. The fee appraisal work required by the LDOTD involves properties required for projects in which federal or state funds are utilized. Therefore, all reports must meet FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§537. Role of the Cost Consultant

A. Quite often it becomes necessary for the Appraisal Office to contract the services of individuals other than appraisal experts. More often than not those persons are cost consultants. These consultants are those who are trained and/or experienced in the construction industry with knowledge of and access to construction costs and related areas of expertise. The consultant may be asked to provide such items as reproduction and replacement costs, cost to cure items damaged by the required acquisition or costs for comparison purposes which would not be included within an appraisal report. The cost consultant is there to provide a service to the appraiser and LDOTD and should provide costs as requested and in conjunction with all other consultants that will utilize the estimate. The cost consultant is responsible to the project review appraiser as well as the appraiser(s) of record.

B. The cost consultant is to work hand in hand with the appraiser and review appraiser. Although he is the most qualified to judge construction costs, the appraiser is the person responsible for all values used within the appraisal report.

C. Just like the appraiser, the cost consultant is required to contact all property owners and allow them the opportunity to accompany the consultant during the property inspection. In the case of the cost consultant, it is absolutely necessary to inspect all improvements due to the nature of the assignment. Only in very rare situations would it be possible to complete a consultant assignment without, at

least, a rudimentary inspection of improvements. This would only be acceptable when an owner refuses entrance upon the subject site or within the subject improvements.

D. As mentioned earlier, the responsibility for the use of a cost estimate, whether replacement cost, reproduction cost, cost to cure or other cost assignment belongs to the appraiser. Therefore, it is absolutely necessary that the appraiser and the cost consultant work together. The cost consultant is responsible for the estimated costs where reproduction and replacement is concerned.

E. However, he and the appraiser must agree on the factual data such as the size of the improvement, location upon the site, minor improvements, etc. When a cost to cure is required, the cost consultant must provide a method of cure that is agreeable to both the appraiser and review appraiser in order for the assignment to be considered as acceptable and payment made. Therefore, the cost consultant and the appraiser(s) should inspect the subject property together, if possible, and at the least confer and compare factual data and proposed cures prior to submission of the contracted estimate for review. The provided reports shall contain a breakdown of the components required in a reproduction, replacement or cost to cure estimate and will quote a source of justification for said costs. Utilization of Marshall and Swift only is not acceptable. Therefore, when the costs provided are utilized by the appraiser, it is required that the cost consultant's report be included within the appraisal report.

F. The appraiser, as the one ultimately responsible for the costs quoted within his/her report will contact the review appraiser should a provided cost estimate not be suitable for inclusion within an appraisal report. However, the review appraiser should have made a determination prior to receipt of said report by the appraiser. The review appraiser will then contact the consultant and discuss the situation and the appraiser's concerns. Should it be found that revision is warranted, the cost consultant will be responsible for that revision. Payment for services rendered will be withheld until such time as acceptable revisions or corrections are submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§539. The Role of the Review Appraiser

A. The review appraiser, whether staff or consultant, has an important function and duty to his employer and is an essential element in the overall valuation procedure. The duties involved in the acceptable performance of his job include but are not limited to the following:

1. determines the scope of work for all fee consultants and/or staff utilized in the appraisal process. This includes appraisers, cost consultants, foresters, hydrologists, geologists, accountants, etc.;

2. provides contracts for all consultants based upon the determination of the scope of work;

3. supervises the appraisers and all other fee consultants employed for the duration of appraisal process;

4. insure that all reports utilized meet all applicable standards, policies, laws and regulations at both the state and federal levels;

5. verifies all data used in the appraisal reports with the appraisers providing the reports. This is to include inspecting subject properties and comparable sales;

6. substantiates that all factual data submitted by the appraisers is consistent. If not, the reviewer is to determine the correct data and have the discrepancies revised;

7. appraisal reports and/or other reports required for the appraisal process are approved only when it is determined the reports meet all laws, regulations, policies, procedures, etc. The review appraiser shall have all discrepancies or problems rectified prior to approving appraisal reports for negotiation. Reports that do not meet the qualifications shall not be approved and payment will not be forthcoming;

8. The review appraiser insures that value determinations are consistent based upon the criteria set forth to determine the market value of the properties being appraised. Inconsistencies shall always be corrected;

9. documentation of the review process shall be maintained within the project files;

10. the reviewer recommends the compensation due the property owner based upon the conforming reports provided. In the event the department utilizes a contract review appraiser, it will be understood the department shall approve the Estimate of Compensation;

11. review appraisers are also responsible for the inspection and approval of review assignments contracted to consultant review appraisers. This duty involves assuring the review is conducted in the manner stated above.

B. A qualified review appraiser shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the LDOTD to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be compensation), and, if also authorized to do so, develop and report the amount believed to be compensation.

C. If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of compensation, and it is determined by the acquiring LDOTD that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with §24.103 to support a recommended (or approved) value.

D. The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification

that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so the amount believed to be compensation for the acquisition.

E. In short, the review appraiser recommends compensation, clarifies and corrects appraisal deficiencies, corroborates the appraiser's conclusions, performs professional technical assistance to his employer, secures proper performance from the appraiser, documents the review performance, gives final organization approval regarding appraisal and valuation matters, operates in an autonomous position not subject to directed reviews, confers with management on valuation matters and is fully knowledgeable as to the requirements, problems and objectives of the organization he represents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§541. Establishment and Payment of Fees

A. Appraisal fees shall be established by the project review appraiser based upon a fee estimate compiled during on-site inspection of the subject project. Concurrence will be obtained from the appraiser prior to submission of a Contract for Appraisal Services. The fee schedule will be contained within the Contract for Appraisal Services and will delineate between the fee for individual reports and the total contract fee established for the subject project.

B. Invoices submitted by the appraiser shall consist of three copies or one if submitted electronically (e-mail). Each shall include the date, state project number, federal aid project number (if applicable), project title, route number and parish. Please note that the invoice must delineate between projects and parcels assigned to that particularly project. Also required within the invoice will be the contracted fee for each report submitted for disposition, a statement that payment has not been received for the submitted invoice and the appraiser's signature. A digital signature may be used for all forms submitted.

C. The LDOTD Appraisal Office will not process any invoice submitted by an appraiser for personal services rendered the LDOTD unless the fee has been previously established by written contract, approved by all necessary parties and authorization to proceed has been forwarded to the consultant. Invoices may not be dated or forwarded to LDOTD prior to the authorization date established within the Authorization to Proceed form letter forwarded to the appraiser by the LDOTD Real Estate Administrator.

D. In addition, no invoice will be paid prior to the project review appraiser's approval of the individual reports submitted, having found them to be satisfactory to the requirements of LDOTD as stated within the Contract for Appraisal Services and the Agreement for Appraisal Services. Any individual report found not to meet the necessary requirements as set forth shall be corrected by the appraiser to the satisfaction of the project review appraiser prior to payment of the agreed upon fee for that particular ownership. No payment will be made for reports submitted following the contracted assignment completion date. At that point, the contract is voided and a new contract must be approved and authorization received through the established channels prior to payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§543. Types of Appraisal Formats

A. Upon the receipt of approved right of way plans, the assigned project appraiser will make an on-site inspection and examination of each parcel on the project. Based upon that inspection, the review appraiser will determine which appraisal format shall be necessary for each parcel or parcels based upon the complexity of the appraisal problem. That determination will include:

1. the number of appraisals;
2. the format of appraisals;
3. the estimated fees;
4. the estimated appraisal contract completion date.

B. The Contract for Appraisal Services will set out the parcel number, fee and the format for each appraisal to be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§545. Form A

A. The form is designed as a complete, detailed appraisal of an ownership, including all land and improvements, using all applicable approaches. In effect, this is two separate appraisals, "before" the acquisition and "after" the acquisition, pertaining to partial acquisitions only. Each segment, before and after, is to be completed in detail and separate from the other. All approaches to value are to be utilized in detail when applicable. Any feasibility study shall be included within the report.

B. This form will include the following pages or reasonable facsimiles of them within the report. All pages from the title page to the required exhibits shall be included. At the discretion of the appraiser, additional pages may be included. The following pages required are:

1. Before Acquisition Analysis:
 - a. Title Page;
 - b. Table of Contents;
 - c. Letter of Transmittal;
 - d. Summary of Salient Facts and Conclusions;
 - e. Basis for Summary of Fair Market Value;
 - f. Title Data;
 - g. Discussion of the Appraisal Problem;
 - h. Photos of the Subject Property;
 - i. Neighborhood Data;
 - j. Site Data;
 - k. Statement of Highest and Best Use;
 - l. Comparable Land Sales and Listings Analysis;
 - m. Correlation and Indication of Land Value;
 - n. Improvements;
 - o. Floor Plan;
 - p. Cost Data Approach to Value;
 - q. Source and Justification of the Cost Approach;
 - r. Market Data Approach to Value;
 - s. Income Data Approach to Value;
 - t. Correlation of the Whole Property Value and Allocation of Value;
 - u. Required Right of Way;

2. After Acquisition Analysis:

- a. Site Data;
- b. Statement of Highest and Best Use;
- c. Comparable Land Sales and Listings Analysis;
- d. Correlation and Indication of Land Value;
- e. Improvements;
- f. Floor Plan;
- g. Cost Data Approach;
- h. Source and Justification of the Cost Approach;
- i. Market Data Approach to Value;
- j. Income Data Approach;
- k. Correlation of the After Value and Allocation of Value;
- l. Analysis of Other Considerations (Additional Compensation);
- m. Final Estimate of Value;
- n. Certificate of the Appraiser;
- o. Addenda:
 - i. Assumptions and Limiting Conditions;
 - ii. Vicinity, Strip and Remainder Maps;
 - iii. Property Inspection Report;
 - iv. Owner Notification Letter;
 - v. FIRM Maps;
 - vi. Comparable Sales and Maps
 - vii. Zoning Maps (if applicable);
 - viii. Estimate of Compensation;
 - ix. Others at the discretion of the Appraiser and/or Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:

§547. Form B

A. The form is designed as a complete, detailed appraisal of an entire ownership, including all land and improvements using all applicable approaches unless instructed to do otherwise by the project review appraiser. This format is utilized most often to value an ownership that will be totally within a required area.

B. The following pages shall be required within the form. Other pages may be included at the discretion of the appraiser:

1. Title Page;
2. Table of Contents;
3. Letter of Transmittal;
4. Summary of Salient Facts and Conclusions;
5. Basis for Summary of Fair Market Value;
6. Title Data;
7. Discussion of the Appraisal Problem;
8. Photos of the Subject Property;
9. Neighborhood Data;
10. Site Data;
11. Statement of Highest and Best Use;
12. Comparable Land Sales and Listings Analysis;
13. Correlation and Indication of Land Value;
14. Improvements;
15. Floor Plan;
16. Market Data Approach to Value;
17. Income Data Approach to Value;
18. Cost Data Approach to Value;
19. Source and Justification of the Cost Approach;

20. Correlation of the Whole Property Value and Allocation of Value;

21. Required Right of Way;

22. Analysis of Other Considerations (Additional Compensation);

23. Final Estimate of Value;

24. Certificate of the Appraiser;

25. Addenda:

a. Assumptions and Limiting Conditions;

b. Vicinity, Strip and Remainder Maps;

c. Property Inspection Report;

d. Owner Notification Letter;

e. FIRM Maps;

f. Comparable Sales and Maps;

g. Zoning Maps (if applicable);

h. Estimate of Compensation;

i. Others at the discretion of the Appraiser and/or

Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:

§549. Form C

A. The form is designed to be used only on simple acquisitions. The form does not require detailed discussions of the items listed, but the determinations made by the appraiser must be conclusive and based upon market support.

B. If during the appraisal assignment the appraiser finds that there are damages or benefits to the ownership by reason of the project, the appraiser is not to proceed with Form C but is to notify the project review appraiser. The review appraiser will then decide which form to utilize and will amend the appraisal contract to reflect those changes by format and fee schedule. Furthermore, when utilizing this form, it will be necessary for the appraiser to include the following statement within the body of the certificate:

"No damages or loss to the remainder of the Owner's property resulted from this partial acquisition, therefore, pursuant to LA. R.S. 48:453 B, no after appraisal is required."

C. The following pages are to be included within the report and may include others upon the discretion of the Appraiser:

1. Title Page;

2. Table of Contents;

3. Letter of Transmittal;

4. Summary of Salient Facts and Conclusions;

5. Basis for Summary of Fair Market Value;

6. Title Data;

7. Photos of the Subject Property;

8. Neighborhood Data;

9. Site Data;

10. Statement of Highest and Best Use;

11. Comparable Land Sales and Analysis;

12. Correlation of Land Value;

13. Required Right of Way;

14. Certificate of the Appraiser;

15. Addenda:

a. Assumptions and Limiting Conditions;

b. Vicinity, Strip and Remainder Maps;

c. Property Inspection Report;

d. Owner Notification Letter;

e. FIRM Maps;

f. Comparable Sales and Maps;

g. Zoning Maps (if applicable);

h. Estimate of Compensation;

i. Others at the discretion of the Appraiser and/or Review Appraiser.

D. All of the above-described forms are guides for submittal of acceptable reports. The appraiser may develop his/her own form, within reason. However, the form developed must include the information and detail required above and should be of the same basic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:

§551. Estimate of Compensation

A. The appraiser is to submit a Certificate of Estimate of Compensation as denoted by LDOTD. The certificate will state the estimated compensation due the owner for a particular acquisition. This form will be included within the addenda of the appraisal report for the use of LDOTD's Legal Division when filing suit, when necessary. Other copies of this form may be forwarded to the project review appraiser to be placed in the project file for later use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§553. Personal Property

A. The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§555. Signs

A. When estimating the market value of on-site advertising signs for businesses, whether owner occupied or not, the market value of the sign will be determined by the Appraiser (ex.: RCN – DEPR. = MV).

B. Off-site advertising signs (billboard) values are determined by the appraiser based upon the market value (ex.: RCN – DEPR. = MV). The review appraiser will then provide, with the help of a construction cost consultant, the replacement cost new of this type of sign to be included within the recommended offer as per LDOTD policy. If the sign can not be replaced; then, other means of valuation may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§557. Items Excluded from Appraisals

A. Typically, moving expenses of owners and tenants rightfully in possession of real estate are reimbursable in accordance with the Louisiana Relocation Assistance Law which provides for the reasonable expenses of moving personal property. The actual cost of moving expenses is provided by the relocation assistance officer for use of the property owners or tenants, and is not determined by the appraiser. Therefore, no moving expenses for personal

property should be included within the appraisal report under normal circumstances.

B. The following items should be excluded from the appraisal report:

1. moving expenses for personal property;
2. estimated costs of relocations; or
3. adjustments or repairs of such items as public utilities, service connections for water, sewer, mobile homes, additions, etc., which will be caused by the required acquisition unless those costs are included within the Contract for Appraisal Services as "cost-to-cure" items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:

§559. Control of Access

A. Within the Contract for Appraisal Services, the project review appraiser will instruct the appraiser which appraisal format to use in the valuation of ownership's affected by control of access. The appraiser, in most circumstances will analyze the effects of control of access after the acquisition in much the same way as any "before and after" appraisal problem. A full analysis with all due documentation as to findings shall be included within the report.

B. All due diligence will be taken in consideration of the possible or probable use of a remainder that is influenced by control of access. The Appraiser should acquaint himself fully with LDOTD's and the owner's rights concerning access control and the legal determination as to the compensability or non-compensability for instances where LDOTD exercises this control. The appraiser should consult with LDOTD through the review appraiser, project engineers, district managers, the legal division, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§561. Mineral Rights

A. The LDOTD and the state of Louisiana do not generally acquire mineral rights. The property owner will retain the mineral rights beneath the area conveyed to the state. While the owner will be prohibited from exploring or drilling for or mining for oil, gas or other minerals of any kind within the area acquired, the owner may employ directional drilling from adjacent lands to extract such minerals, if possible. In cases where solid minerals are affected, i.e., those other than oil and gas, the appraiser, with the concurrence of the review appraiser, is to provide values for the affected minerals.

B. In some situations or markets, it may be typical to transfer mineral rights. If that occurs, the appraiser is to analyze the value of the rights transferred through the use of market sales and make adjustments, if warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§563. Timber Value

A. For assignments in which timber-producing lands are involved, particularly in areas where timber is grown for commercial purposes, it will generally be necessary to value

the land and the timber separately. In some instances, it may become the responsibility of the appraiser to abstract the timber and land value from market sales of whole property timberland tracts. However, due to the specialized nature of timber appraisal, the LDOTD will most often secure the services of a registered forester to supply the value of timber upon a project or particular site. In those instances, the appraiser will provide the value of the raw land and include the value of the timber, as provided by the forester, within the report.

B. In situations where the appraiser determines that the highest and best use of a tract is a greater use than timberland, the value of the timber will nevertheless be included within the report as an improvement item. However, at the appraiser's and review appraiser's discretion, the contributory value to the "highest and best use" may be zero.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§565. Crop Value

A. Prior to appraisal assignments, a determination shall be made by LDOTD Real Estate Titles and Acquisition personnel stating whether there is sufficient time prior to the right-of-way acquisition to allow harvesting of crops planted within the required area. If there is adequate time, the Real Estate Titles and Acquisition personnel will not be required to consider the compensation for crops. If time is limited, the Real Estate Titles and Acquisition personnel will estimate the value of the crop, and that sum will be included in the approved offer. Typically, the appraiser will not be involved in estimating the value of crops unless specifically requested to do so by the project review appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:

§567. Lease Interests

A. The appraiser is to inquire into the leases of subject properties whenever that possibility exists. That inquiry most particularly applies to improvements owned by a lessee. A review of a lease will be made by the appraiser so as to familiarize himself/herself with the terms and conditions of the lease. Any findings or conclusions shall be included within the appraisal report.

B. The appraiser is to value the whole property and is to establish the value to be assigned to each interest in that ownership. The appraiser is to value all lease fee and leasehold interests and is to provide a breakdown of those values within the appraisal report to include the portion acquired and estimated damages, should they apply.

C. In situations where a lease is recorded, that information will be supplied the appraiser within the provided Title Research Report. Discovery of unrecorded leases are the responsibility of the appraiser. The appraiser shall inquire as to the existence of such leases and shall provide an opportunity for such disclosure to the property owner within the required Owner Notification Letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§569. Fencing Value

A. Front fencing owned by the property owner is to be bought or replaced if it is of contributory value to the land. Front farm/ranch fencing will normally be replaced or rebuilt by the project construction contractor on the owner's property in order to restore the enclosure.

B. Side (cross) fencing will be removed and will not be replaced. Compensation will be paid for said fencing. All fencing, whether front or side, is to be valued within the report and delineated by parcel and orientation.

C. Special purpose/ornamental fencing is to be compensated at cost new or replacement cost when it is feasible to replace. However, if the fence will not be replaced by the owner or cannot be replaced due to the acquisition, the depreciated cost or market value is to be utilized within the compensation estimate. This shall always apply to side fencing which, by its nature, cannot be replaced. If the right of way is acquired by expropriation, the value is deposited in the registry of the court. In either instance, the existing fence will be removed by the project construction contractor.

D. All fences constructed on controlled access highways for the purpose of controlling access will be built and maintained by LDOTD. Fences built along frontage roads or cross roads on controlled access facilities for the benefit of the property owner will be built off the highway right of way and will be maintained by the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§571. Construction and Drainage Servitudes

A. There are two types of servitudes commonly encountered by the appraiser that must be included in the valuation process of the appraisal. They are the "construction" servitude and the "drainage" servitude.

B. The construction servitude is a temporary servitude providing access for construction purposes to areas outside the required right of way. The compensation for this servitude is based upon the estimated unit land value multiplied by a rate set by the appraiser. That figure is then multiplied by the area within the servitude. The rate utilized is a rate of return that is consistent with investment return rates commonly accepted within the current local market. The appraiser is to apply the calculated estimate for a four year term based upon a yearly rental. That total rental is to be included within the estimate of the compensation.

C. The drainage servitude is a permanent servitude acquiring a number of rights. The acquisition partially includes right of entry and subsurface rights other than mineral rights. The ownership is greatly limited by the nature of the usage and compensation will be greater than that estimated for the construction servitude. The process of calculation is identical to that of the construction servitude, however, the rate utilized will be based on the permanent loss of rights. Generally, 80 percent to 90 percent rates will be used. Ultimately, the appraiser will decide upon the value of the rights taken and to what extent they will be permanently lost. This value will be included within the estimate of the compensation. In circumstances where a remaining area of an ownership is damaged due to a partial acquisition, estimated damages to any permanent servitude

will apply only to that portion of the Bundle of Rights that remain after the acquisition of the rights required of the servitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§573. Railroad Parcel Acquisition

A. LDOTD will pay the appraised market value of interest acquired from railroad companies for any additional right of way required from their right of way property.

B. Railroad parcels will be divided into two categories. One will be designated an RR parcel at railroad crossings. Any other takings from railroad properties will have a normal parcel identification of which we will offer the estimated market value for interest acquired. LDOTD will acquire the RR parcels as a right of way servitude with the railroad company retaining their rights for railroad passage at our proposed joint crossings. Designation and appraisal of the railroad acquisition at crossings as servitudes is to allow the compensation for only those rights acquired. Only those rights acquired should be compensated for within the appraisal.

C. The LDOTD Appraisal Office is responsible for establishing the value of the various types of railroad acquisitions. The appraisal of railroad properties is based on market value and the interest acquired from the railroad companies. The appraiser should take into consideration the following:

1. size and shape of the railroad ownership;
2. topography;
3. location;
4. adjoining usage;
5. value of the required area before construction versus value after construction; and
6. any adverse effect that the acquisition will have on the utility of the property.

D. These types of acquisitions from railroad properties will be appraised as follows.

1. At crossings, the LDOTD will obtain a bundle of rights similar to the rights which the railroad company will be retaining. In most cases, the appraisal of a right of way crossing should reflect a value range of zero to a maximum of 50 percent of fair market value. However, the actual percentage of value will be estimated by the appraiser. The type of construction at crossings could have a varying effect upon the percentage utilized. The different types of construction at crossings are as follows.

a. Grade crossings are those where railroad tracks and proposed roadways are at the same level. This type of construction could have the greatest effect upon the utility of the property.

b. Above grade construction or an overpass should have little effect on the utility. However, consideration should be given to pier placement and its adverse effects, if any, on the railroad property.

c. Below grade construction or an underpass is the third type of possible construction at crossings.

2. All other acquisitions from railroad right of way in excess of crossings shall be appraised and the estimated market value will be offered in relation to the interest that the LDOTD acquires. In most cases, the LDOTD will

appraise and offer 100 percent of market value. However, in the case of servitude acquisition, the LDOTD will offer compensation in accordance with the interest estimated to be acquired by the appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§575. Property Inspection with the Owner(s)

A. A reasonable effort shall be made to contact and meet with the owners or their designated representatives in order to afford them the opportunity to accompany the appraiser on inspection of the property being appraised. The appraiser is not obligated to meet the owner at any place other than the property being appraised or the nearest point of public access to the property being appraised.

B. Tasks for the Appraiser to Perform in Making Contact with the Owner(s)

1. Mail a form letter along with a stamped, addressed return envelope. All owners listed on provided title research reports are to be afforded an opportunity to meet. A copy will be forwarded to the District Real Estate Manager, the project review appraiser and included within the appraisal report. It is recommended that the letter to the owners be transmitted by certified mail.

2. Telephone contact is acceptable if it is followed by a detailed written report of owner contact including the name of the person(s) contacted, time of meeting and date. Copies must be sent to the District Real Estate Manager, project review appraiser, and included within the appraisal report.

C. The site inspection shall not be made until the following criteria are met:

1. a meeting is scheduled with the owner(s); or
2. the owner(s) replies that he/she/they do not wish to accompany the appraiser on the site inspection; or
3. three weeks have passed since the date of the notification letter mailing to the owner(s), there is no reply and the letter is not returned "undeliverable".

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§577. Owners Refusal to Permit Entry

A. There may be times when a property owner refuses to permit appraisers employed by LDOTD to enter the property for an on-site inspection, measurement, photography or interview. There is a standard procedure to follow if this should happen.

B. The appraiser should stay off of the property but shall make every effort to examine the property from as many vantage points as possible. The appraiser shall make a careful inspection of all available records including ASCS maps and aerial photographs, U.S. Geodetic Survey contour maps, tax records, building inspector records, etc. As many and varied photos should be taken as deemed prudent.

C. As a matter of procedure, the appraiser will notify the project review appraiser of the situation and clearly set forth that he/she was not permitted to enter upon the property and that the report is predicated upon certain assumptions. Those assumptions shall be noted. Also to be listed will be the sources of information used as a basis for those assumptions.

D. When the appraisal report is forwarded to the Appraisal Office for review, a determination will be made by the project review appraiser whether or not to pursue legal action to obtain access to the property. The project review appraiser will make every effort to inspect the property from any vantage point possible prior to forwarding a recommendation of action.

E. When the appraisal is approved and the recommended offer is furnished for processing, negotiation will be initiated on that basis. The Real Estate Titles and Acquisition Agent conducting the negotiations will make every reasonable effort to observe the property in question for the purpose of further verification of the appraiser's assumptions. If radical variation appears to exist, the Appraisal Office will be advised before continuing the negotiations. If the recommended offer is not accepted, eminent domain proceedings will be resorted to and entry by court order will be obtained at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

§579. Update of Appraisals

A. Occasionally, it may become necessary for the appraiser to update appraisals from the original date of valuation to the current date or to a specified date of acquisition. If this should become necessary, the project review appraiser will initiate a contract specifying the required date of valuation, the fee schedule and the completion date for the assignment. All contracts to update shall be as per a specific completion date so as to give ample time for the appraisals to be reviewed by the project review appraiser prior to negotiations.

B. All updated appraisals, where there are value changes by reason of time lapse, shall be supported by updated comparable sales data gathered within the project neighborhood. If sufficient sales data is not available within the subject neighborhood, the appraiser should investigate similar type properties in more removed areas as support for updated values.

C. Updated appraisals shall be submitted to the Appraisal Office for review and if warranted, a revised Estimate of Value will be issued by LDOTD for the purpose of negotiation and acquisition. When the appraiser is required to revise, supplement or otherwise update the appraisal report, no matter the format employed, a revised or updated "Certificate of Appraiser" and "Estimate of Compensation" shall be submitted with the revisions or updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed rule will have no known or foreseeable effect on the stability of the family;
2. the implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of

parents regarding the education and supervision of their children;

3. the implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1359.

Johnny B. Bradberry
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Appraisal Handbook for Fee Appraisers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs or savings to state or local governmental units to implement this rule change. It is being promulgated for the purpose of streamlining the guidelines for appraisal of property acquired by the Department. In addition, current law and practice will be reflected as a result of the amendment to this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendment to this rule should have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Other than clarification of existing rules for the fee appraisers employed by the Department, directly affected persons and non-governmental groups will not be impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change reflects a recent change in state law which requires appraisers and review appraisers to meet new and more stringent certification requirements. These new requirements may serve to disqualify some appraisers who may have previously qualified, as well as potentially reduce the pool of applicants available to the Department.

Johnny B. Bradberry
Secretary
0703#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Domestic Relations Orders (LAC 58.I:4131)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58.I:4131. The proposed Rule amendment affects participants in the Self-Directed Plan of DROP ("SDP") who have been directed by a court, through a Domestic Relations Order ("DRO"), to divide DROP funds with a former spouse. When LASERS receives a properly worded and accepted DRO, it divides DROP funds accordingly and sets up a second account in the name of the former spouse of the participant, which the former spouse controls. The Rule amendment is designed to minimize the possibility of market losses to those funds belonging to the former spouse in the period between movement into the SDP and transfer of the proper portion into the account of the former spouse. This Rule amendment complies with and is enabled by R.S. 11:451.4 and R.S. 11:515.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement
Chapter 41. Self-Directed Plan
§4131. Domestic Relations Orders**

A. In all instances wherein a person participating in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP. Until such time as the portion belonging to the former spouse is placed in a separate SDP account in that person's name, those funds shall remain in a conservative fixed income investment vehicle within the SDP such as a stable value fund.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:451.4 and 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 58.I:4131 is aimed at minimizing the possibility of market losses of SDP funds belonging to the former spouse of a participant until he or she has their own account. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 30, 2007, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Domestic Relations Orders

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
DROP participants in the Self Directed Plan ("SDP") and their former spouses who are parties in the issuance of a Domestic Relations Order ("DRO") will be directly affected. No non-governmental groups will be directly affected. It is not possible for LASERS to calculate associated costs or economic benefits from the rule amendment at this time.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule change.

Cindy Rougeou
Executive Director
0703#024

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Newly Elected Trustees
(LAC 58:I.301 and 501)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.301 and 501. The proposed Rule amendments affect newly elected trustees and will move the orientation for these new trustees from the board meeting in December to the following month of January.

These Rule amendments comply with and are enabled by R.S. 11:511 and 515.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 3. Election of Active Member Trustees**

§301. General Schedule of Elections

- A. ...
- B. The schedule for elections shall be as follows:
 1. - 7. ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

- A. ...
- B. The schedule for elections shall be as follows:
 1. - 7 ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:

Family Impact Statement

The proposed amendments of LAC 58:I.301 and 501 are designed simply to move the orientation for newly elected members of the LASERS board of trustees back one month. These regulations 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.

No preamble for this Rule is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., April 30, 2007, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Newly Elected Trustees

- 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 these rule changes.
- 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 these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule simply moves the date for orientation of newly elected members of the LASERS board of trustees back one month, from the December board meeting immediately following the election to the next month (January). Newly elected active and retired members of LASERS board of trustees will be directly affected. No non-governmental groups will be directly affected. LASERS expects no associated costs or economic benefits to result from the proposed rule amendments.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule changes.

Cindy Rougeou
Executive Director
0703#023

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

**Monthly Salaries and Contributions Report
(LAC 58:III.101)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) adopted the following Notice of Intent to amend LAC 58:III.101 regarding the submission requirements for monthly contribution reports and to implement submission requirements for contributions correction reports. These amendments and additions are all in accordance with authority granted the TRSL Board of Trustees in R.S. 11:873(2). The following provisions shall become effective July 1, 2007.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana
Chapter 1. General Provisions
§101. Mandatory Submission of Monthly Salaries and Contributions Reports and Contributions Correction Reports (Form 4B)**

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Board of Trustees,

by means of file transfer protocol, diskette, or by on-line web based reporting, the amounts of each employee's salary, and the amounts of deductions from the employee's salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol, diskette, and web based reporting formats must be in compliance with criteria established by Teachers' Retirement System of Louisiana as provided in the Employer Procedures Manual. All certified monthly salaries and contributions reports must be submitted by the 15th day of the month following the month covered by the report.

1. All employers with 25 or more employees being reported must submit monthly salaries and contributions reports by file transfer protocol or by diskette.

2. All employers reporting fewer than 25 employees must submit monthly salaries and contributions reports by file transfer protocol, diskette, or Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

B. Contributions Correction Reports (Form 4B)

1. All employers must submit Contributions Correction Reports (Form 4B) using Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 58:III.101 concerns the required method of reporting monthly salary, employee and employer contributions as well as the required method of correcting monthly salary, employee and employer 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 comment on the proposed Rule in writing until 4:30 p.m., May 4, 2007, to A. Stuart Cagle, Jr., Deputy Director, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70804-9123.

A. Stuart Cagle, Jr.
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Monthly Salaries
and Contributions Report**

**Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and
Agencies Thereunder**

**Chapter 3. Special Powers and Duties
Subchapter C. Hunter Education Program**

§312. Hunter Education Program Certification Policy

A. The Wildlife and Fisheries Commission shall be the sole authority for establishing minimum requirements for certification of student and volunteer instructors and for the overall administration of the Louisiana Hunter Education Program. The Louisiana Hunter Education Program shall meet the minimum performance guidelines for the basic hunter education course as set forth by the International Hunter Education Association Hunter Education Standards.

B. The Department of Wildlife and Fisheries shall maintain an electronic database of all students and active instructors who have successfully met the requirements for certification.

C. Requirements for hunter education student certification shall be as follows:

1. For the standard taught hunter education course:

a. attend a minimum of 10 hours of required instruction;

b. complete a written exam prepared by the Louisiana Hunter Education Program exhibiting the required proficiency;

c. demonstrate the ability to safely handle hunting firearms; and

d. upon successful completion of the requirements, students shall receive credentials that validate such;

e. provide the required information necessary to complete a student application form.

2. For the home study program:

a. complete the required computer course as set forth by the Louisiana Hunter Education Program;

b. attend a field day scheduled through the Louisiana Hunter Education Program;

c. complete a written exam prepared by the Louisiana Hunter Education Program;

d. demonstrate the ability to safely handle hunting firearms; and

e. upon successful completion of the requirements, students shall receive credentials that validate such;

f. provide the required information necessary to complete a student application form.

D. Requirements for bowhunter education certification shall be as follows:

1. successfully complete the required bowhunter education course as set forth by the Louisiana Hunter Education Program in accordance with the National Bowhunter Education Foundation;

2. provide the required information necessary to complete a student application form.

E. Minimum age for certification in all courses within the Louisiana Hunter Education Program shall be 10 years of age.

F. All persons ages 10 and 11 who are hunter education certified, while hunting in the state of Louisiana, are to be accompanied by and under the direct supervision of a person who is 18 years of age or older and has a valid hunting license or proof of successful completion of a hunter

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be no, or minimal implementation costs to state or local government units. Under this rule, nine (9) employers would be required to submit their Monthly Salaries and Contributions Report via file transfer protocol or diskette in an encrypted format. These nine (9) employers may be required to purchase encryption software, which runs about \$99 and potential programming cost, which can vary depending on the sophistication of the employers' payroll system.

Currently, Contributions Correction Reports (Form 4B) are accepted in hardcopy form, or via Teachers' Retirement System of Louisiana's on-line web based Inquiry System. All employers have the ability to access, or request access, to Teachers' Retirement System of Louisiana's on-line web based Inquiry System and can submit Contributions Correction Reports (Form 4B) via the on-line web based Inquiry System at no additional cost. By utilizing this system, they know that the correction has been received and processed.

By requiring employers to report electronically through one of these secure methods, Teachers' Retirement System of Louisiana is adding additional security to protect our members' information. This also has a significant impact in decreasing the workload of the Teachers' Retirement System staff as well as the staff of our reporting employers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No non-governmental groups or persons will be directly affected by this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

A. Stuart Cagle, Jr.
Deputy Director
0703#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hunter Education Certification (LAC 76:I.312)

The Wildlife and Fisheries Commission does hereby advertise their intent to establish regulations for mandatory hunter education certification.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

education course approved by the department in order for that certification to be valid. Direct supervision means that the person being supervised shall be within normal audible voice proximity and in direct line of sight of the supervising adult at all times.

G. Requirements for volunteer instructor certification shall be as follows:

1. complete a minimum of 12 hours of classroom and field instructions;
2. pass a written exam prepared by the Louisiana Hunter Education Program;
3. demonstrate the ability to lead students through exercises that exhibit the safe handling of hunting firearms; and
4. upon successful completion of instructor training, candidates shall be certified for an initial two year period. Recertification shall be contingent on continued participation in the Louisiana Hunter Education Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:699.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to John E. Sturgis, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than Thursday, May 3, 2007.

Earl P. King, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hunter Education Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings and no increase or decrease in workload or paperwork as a result of implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Though never officially adopted by the Commission, the current hunter education program has operated under this policy for years. Therefore, no additional costs, workload, paperwork or economic benefits to directly affected persons or non-governmental groups will be incurred.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

Wynette Kees
Deputy Undersecretary
0703#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Lease Moratorium (LAC 76:VII.505)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend LAC 76:VII.505, which provides for a moratorium on the issuance of oyster leases. Said Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. Applications pending at the time of the March 07, 2002 moratorium may be processed. This includes all pending applications that have been held, along with all fees paid, unless the applicant requested cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the department; and any lease ultimately issued shall only issue to persons placed in possession of the application by Judgment of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 29:374 (March 2003), LR 33:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connect with

the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B). Interested persons may submit comments relative to the proposed Rule to Heather Warner-Finley, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to May 3, 2007.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Oyster Lease Moratorium**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State revenue collections from leasing water bottom acreage for the cultivation of oysters are anticipated to increase by approximately \$104,622 over the next two fiscal years.

Additionally, local and state revenue collections from various tax sources are anticipated to increase slightly from expenditures incurred and income derived from producing marketable oysters on these leased water bottoms.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will remove the moratorium on all pending oyster lease applications received prior to the implementation of the current moratorium on March 7, 2002. There are an estimated 537 pending water bottom lease applications from approximately 240 entities. These entities will be directly affected from the proposed rule change when their application(s) are processed. They will be able to cultivate oysters on the leased acres and derive income from the sale of marketable oysters harvested from the leased acres.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have little or no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0703#035

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Calcasieu Parish Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan Development Section, will submit a proposed revision to the ozone maintenance plan for Calcasieu Parish. This revision to the State Implementation Plan (SIP) is mandated under Section 110(a)(1) requirements of the 1990 Clean Air Act Amendments (CAAA).

According to EPA guidance issued May 20, 2005, areas that are designated attainment for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and are designated attainment for the 1-hour ozone NAAQS with an approved maintenance plan must submit a revision to the SIP.

A public hearing will be held at 1:30 p.m. on April 25, 2007, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., May 2, 2007, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for Calcasieu Parish may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA. The document is available on the Internet at www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

Herman Robinson, CPM
Executive Counsel

0703#022

POTPOURRI

Department of Health and Hospitals Board of Medical Examiners

Public Hearing—Substantive Changes to Proposed Rule;
Collaborative Drug Therapy Management
(LAC 46:XLV.7403 and 7423)

A Notice of Intent concerning the above referenced proposed Rules was published on November 20, 2006 in the *Louisiana Register* (See LR 32:2125-2133), relative to

collaborative drug therapy management between physicians and pharmacists (CDTM). Written comments were invited, received and considered. Certain of those comments suggested substantive changes for sake of consistency with similar proposed Rules noticed by the Louisiana Board of Pharmacy (LBP) (See LR 32:2133-2139). In consideration of such comments the board proposes to amend certain portions of the proposed Rules to more closely parallel those of the LBP by expanding the diseases or conditions subject to CDTM to include dyslipidemia and to rearrange the order of diseases and conditions subject to CDTM to reflect this addition (§7403, Definition of Disease Specific Drug Therapy); and by deleting the prohibition against the use of CDTM for research, clinical or investigational trials, as well as for drugs not identified by the manufacturer for the treatment of a disease or condition subject to CDTM [§7423(F)(6), (10)] and to rearrange the order of items not subject to CDTM to reflect these deletions. Accordingly, the board proposes to amend the proposed Sections as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 3. Practice

Chapter 74. Collaborative Drug Therapy Management

Subchapter A. General Provisions

§7403. Definitions

A. ...

* * *

Disease Specific Drug Therapy—a specific drug or drugs prescribed by a physician for a specific patient of such physician generally accepted within the standard of care for treatment of one of the following diseases or conditions:

a. - c. ...

d. treatment and prevention of dyslipidemia;

e. smoking cessation therapy;

f. administration of disease specific vaccines to patients 16 years of age and older; and

g. such other drugs, diseases or conditions as may be subsequently recommended by the advisory committee and approved by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:

Subchapter E. Standards of Practice

§7423. Authority, Responsibility and Limitations of Collaborative Drug Therapy Management

A. - E. ...

F. The scope of the collaborative drug therapy management shall not include:

1. - 5. ...

6. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the written protocol;

7. the management of controlled substances or drugs of concern; or

8. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:

As such changes may be considered substantive by parties affected by the proposed Rule, notice is hereby given in accordance with the Administrative Procedure Act, specifically R.S. 49:968(H)(2), that a public hearing on the substantive changes will be held by the Board on Friday, April 20, 2007, at 10:00 a.m. at the Louisiana State Board of Medical Examiners' Office, 630 Camp Street, New Orleans, LA 70130. All interested persons are invited to attend and present data, views, comments, or arguments orally. All interested persons are invited to submit written comments concerning the proposed substantive changes no later than April 20, 2007, at 10 a.m., to Rita Arceneaux, Executive Assistant, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA, 70130).

Robert L. Marier, M.D.
Executive Director

0703#055

POTPOURRI

Department of Health and Hospitals Board of Pharmacy

Public Hearing—Substantive Changes to Proposed Rule; Collaborative Drug Therapy Management (LAC 46:LIII.523)

The board published a Notice of Intent to promulgate §523, Collaborative Drug Therapy Management in the November 20, 2006 edition of the *Louisiana Register* (LR 33:2135-2139). The notice solicited comments and testimony. As a result of its analysis of the comments and testimony received, the board proposes to amend certain portions of the proposed Rule. Within Subsection A, the board proposes to amend the definition of the term *Disease Specific Drug Therapy* by modifying the description of the treatment of asthma and deleting the references to hypertension and obesity. Further, we propose to define four additional terms. Within Subsection D, the board proposes to establish minimum educational qualifications for pharmacists collaborating in the management of anti-coagulant drug therapy. Further, we propose to establish certain restrictions for collaborative drug therapy management agreements. Finally, the board proposes to replace the current provision relative to immunization programs at the Office of Public Health in the Department of Health and Hospitals with a different provision recognizing the ability of that office to promulgate their own rules on the subject of immunizations.

Taken together, all of these proposed amendments will closely align the proposed Rule with the proposed Rule on the same topic as published by the Louisiana State Board of

Medical Examiners in the November 2006 edition of the *Louisiana Register* (LR 32:2125-2133). The alignment of these Rules will permit the development and implementation of collaborative drug therapy management agreements between physicians and pharmacists. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

§523. Collaborative Drug Therapy Management

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

* * *

Disease Specific Drug Therapy—a specific drug or drugs prescribed by a physician for a specific patient of such physician generally accepted within the standard of care for treatment of one of the following diseases or conditions:

- a. treatment and prevention of arterial and venous clot propagation and disease, i.e., anti-coagulant therapy;
- b. treatment and prevention of diabetes;
- c. adjustment of medication administered by inhalant for treatment of asthma;
- d. treatment and prevention of dyslipidemia;
- e. smoking cessation therapy;
- f. administration of disease specific vaccines to patients 16 years of age or older; and
- g. such other drugs, diseases or conditions as may be subsequently recommended by the advisory committee and approved by the board.

Drug—

- a. a any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or animals;
- b. any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or
- c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

* * *

Pharmacist—an individual currently licensed by the board to engage in the practice of pharmacy in the state.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the Louisiana State Board of Medical Examiners.

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his patient.

* * *

- B. - C. ...
- D. Standards of Practice

1. Authority, Responsibility, and Limitations of Collaborative Drug Therapy Management

a. - d. ...

e. Only a pharmacist who holds the academic degree of Doctor of Pharmacy, which degree provided specific training in the area of anti-coagulant drug therapy, shall engage in collaborative drug therapy management in such particular area of practice covered by a collaborative drug therapy management agreement. The board may, in its discretion, grant an exception to this limitation on a case-by-case basis and permit a pharmacist to engage in anti-coagulant drug therapy management with a pharmacist who does not possess the academic degree required by this Section upon the affirmative recommendation and advice of the advisory committee that the pharmacist possesses the equivalent or other acceptable advanced training in the area of practice covered by the agreement.

f. The scope of the collaborative drug therapy management shall not include:

i. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease specific written protocol;

ii. drug therapy management of more than one specific disease or condition. Administration of a vaccine or smoking cessation therapy are excepted from this provision;

iii. drug therapy management of any patient by more than one registered physician and one pharmacist;

iv. any patient under the age of 18 years of age. Administration of a vaccine or smoking cessation therapy are excepted from this provision;

v. pregnant or nursing mothers;

vi. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the written protocol;

vii. the management of controlled substances or drugs of concern; or

viii. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

2. - 4.c. ...

5. Administration of Vaccines

a. - b. ...

c. This Section shall not prevent or restrict the Louisiana Department of Health and Hospitals, Office of Public Health, or any other governmental entity of this state, from administering vaccines under the authority of other laws of this state.

D.6. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1164(37)(b)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the board gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Friday, April 20, 2007 at the office of the Louisiana State Board of Medical Examiners, which is located at 630 Camp Street in New Orleans, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of

Pharmacy, 5615 Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Friday, April 20, 2007.

Malcolm J. Broussard
Executive Director

0703#046

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
United Gas Pub Serv Co	Wildcat	M	Saunders	3	14508
Excel Energy Co., Inc.	Swim Lake	M	Alma F Jones	2	227738
Assoc Oil & Gas Expl Inc etal	Wildcat	L	Dorothy A Pizani et al	1	111039
Forman Petroleum Corporation	Lafitte	L	D A Pizani	1	150430
Meng Oper. & Expl. Co.	Vidalia	M	Vua; Shields	1	204933

James H. Welsh
Commissioner

0703#047

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Reported Underwater Obstructions

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 9 claims in the amount of \$30,279.95 were received for payment during the period February 1, 2007 - February 28, 2007.

There were 9 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2809.230	9106.830	Terrebonne
2908.228	8926.075	Plaquemines
2909.125	9038.035	Terrebonne
2918.549	8947.480	Plaquemines
2934.280	9209.440	Vermilion
2939.865	8922.096	St. Bernard
2949.419	9320.819	Cameron
2950.506	8941.378	St. Bernard
3007.796	8947.613	Orleans

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0703#043

POTPOURRI

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

Bird Dog Training Areas: (LAC 76:V.321)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission are giving notice that they are seeking to incorporate changes to the Notice of Intent

relative to the proposed rule regarding Bird Dog Training Areas, LAC 76:V.321, which was originally published in the December 20, 2006 issue of the *Louisiana Register* (pages 2487 and 2488). Changes to the proposed involve allowing use of pen raised mallards for training dogs on certain wildlife management areas and providing an option for these areas to remain open during the either-sex deer and turkey seasons. Copies of the proposed changes can be viewed by contacting Mr. Fred Kimmel, 225-765-2355. Interested persons may submit their written comments on the proposed changes to Mr. Dave Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898 no later than 4:30 p.m., April 17, 2007.

Earl P. King, Jr.
Chairman

0703#033

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