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Executive Orders

EXECUTIVE ORDER KBB 06-01

Emergency Procedures for Repairing, Renovating,
or Replacing State Owned Buildings Damaged by
Hurricane Katrina or Rita

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, issued on August 26, 2005, and extended by Proclamation Nos. 54 KBB 2005, 61 KBB 2005, 68 KBB 2005, and 75 KBB 2005; and Proclamation No. 53 KBB 2005, issued on September 20, 2005, and extended by Proclamation Nos. 60 KBB 2005, 67 KBB 2005 and 74 KBB 2005;

WHEREAS, Hurricanes Katrina and Rita have caused unprecedented and extensive damage to property owned by the state of Louisiana;

WHEREAS, it is imperative to the financial stability of the state that restoration and recovery efforts be conducted in an orderly fashion;

WHEREAS, decisions about priorities for repair and rebuilding should be made at the highest levels of state government with consideration given to overall state priorities and resources; and

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

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: That all executive branch agencies which experienced damages to facilities and buildings from Hurricanes Katrina and/or Rita shall submit to the Division of Administration, Office of Facility Planning and Control, a detailed inventory of the damaged facilities and buildings and the estimated dollar amount of the damage. In the submitted inventory, agencies should indicate their suggestions for priorities of repair and rebuilding.

SECTION 2: The Office of Facility Planning and Control shall prepare a statewide inventory of damaged facilities and buildings and make recommendations to the commissioner of administration for priorities in repair and rebuilding.

SECTION 3: The commissioner of administration shall develop for submission to the governor recommendations for such priorities in repair and rebuilding. Such priorities shall be developed in consultation with the Louisiana State Legislature.

SECTION 4: State agencies shall not institute repairs or rebuilding, other than temporary repairs or debris removal

as defined by the Federal Emergency Management Agency as Categories A or B work, until the commissioner of administration, or his designee, approves and authorizes such repairs or rebuilding.

SECTION 5: The Office of Facility Planning and Control shall serve as the applicant for public assistance to the Federal Emergency Management Agency for all permanent repairs to damaged state facilities and buildings necessitated by Hurricanes Katrina and/or Rita.

SECTION 6: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of January, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR

Al Ater
Secretary of State
0602#091

EXECUTIVE ORDER KBB 06-02

Rescheduling the Qualifying, Proposition, Primary,
and General Elections in the Parish of Orleans

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

WHEREAS, on September 12, 2005, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state certified to the governor that as a result of Hurricane Katrina a state of emergency exists in the parish of Orleans and made the recommendation to postpone and delay the special proposition elections for Kingswood Subdivision Improvement District, the Twinbrook Security District, and the Touro Bouligny Security District scheduled for November 12, 2005;

WHEREAS, Executive Order No. KBB 2005-36 was issued on September 14, 2005, postponing and delaying the special proposition elections scheduled for November 12, 2005, in the parish of Orleans, based on the certification of the secretary of state;

WHEREAS, on December 2, 2005, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state certified to the governor that as a result of Hurricane Katrina

a state of emergency exists in the parish of Orleans and made the recommendation that the qualifying period scheduled for December 14, 2005 through December 16, 2005, the proposition election and primary elections scheduled to be held on Saturday, February 4, 2006, and the general elections scheduled to be held on Saturday, March 4, 2006, be postponed and delayed;

WHEREAS, Executive Order No. KBB 2005-96 was issued on December 9, 2005, postponing and delaying the qualifying period scheduled for December 14, 2005 through December 16, 2005, and the proposition election and primary elections scheduled to be held on February 4, 2006, and the general elections scheduled to be held on March 4, 2006, in the parish of Orleans, based on the certification of the secretary of state;

WHEREAS, on January 23, 2006, the secretary of state made a written recommendation to the governor that the special proposition elections for Kingswood Subdivision Improvement District, Twinbrook Security District, and Touro Bouligny Security District scheduled for November 12, 2005, may be rescheduled for May 20, 2006; the qualifying period scheduled for December 14, 2005 through December 16, 2005, may be rescheduled for March 1, 2006 through March 3, 2006, the Orleans Parish municipal primary elections and the proposition election for Lakeview Crime Prevention District scheduled to be held on February 4, 2006, may be rescheduled for April 22, 2006, and the Orleans Parish municipal general elections scheduled for March 4, 2006, may be rescheduled for May 20, 2006;

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

SECTION 1: In accordance with the procedures set forth in R.S. 18:401.1, and on the written recommendation of the secretary of state, the special proposition elections scheduled for November 12, 2005, shall be rescheduled for May 20, 2006; the qualifying period scheduled for December 14, 2005 through December 16, 2005, shall be rescheduled for March 1, 2006 through March 3, 2006, the proposition election and primary elections scheduled to be held on February 4, 2006, shall be rescheduled for April 22, 2006, and the general elections scheduled to be held on March 4, 2006, shall be rescheduled for May 20, 2006, in the parish of Orleans. Notice of the rescheduling of the November 12, 2005 proposition elections, the December 14, 2005 through December 16, 2005 qualifying period, the February 4, 2006 proposition and primary elections, and the March 4, 2006 general elections shall be given in accordance with R.S. 18:401.1(C).

SECTION 2 Notwithstanding any other provision of law, if any polling place in the parish of Orleans is determined destroyed, inaccessible, or unsafe for the qualifying period rescheduled for March 1, 2006 through March 3, 2006, the proposition and primary elections rescheduled for Saturday, April 22, 2006, and the proposition and general elections rescheduled for May 20, 2006, as soon as practicable, the parish clerk of court in conjunction with the local parish governing authority shall designate alternate emergency polling places. Notice of the location of the alternate emergency polling places shall be

advertised, published and/or broadcast by all reasonable available means of communication.

SECTION 3: This Order is effective upon signature.

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 24th day of January, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0602#092

EXECUTIVE ORDER KBB 06-03

Rescheduling Primary Elections and General Elections in the Parish of Jefferson

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

WHEREAS, on September 12, 2005, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state certified to the governor that as a result of Hurricane Katrina a state of emergency exists in the parish of Jefferson and recommends postponing and delaying the October 15, 2005 special primary elections in the parish of Jefferson for Judge, Court of Appeal, 5th Circuit, 1st District, Division B; Member of School Board, District 4; and Councilman, District 2, city of Kenner, and the November 12, 2005 special general elections in the parish of Jefferson for Judge, Court of Appeal, 5th Circuit, 1st District, Division B; Member of School Board, District 4; and Councilman, District 2, city of Kenner;

WHEREAS, Executive Order No. KBB 2005-36 was issued on September 14, 2005, postponing and delaying the special primary elections scheduled for October 15, 2005, and the special general elections scheduled for November 12, 2005, in the parish of Jefferson, based on the certification of the secretary of state;

WHEREAS, on January 12, 2006, the secretary of state made a written recommendation to the governor that the special primary elections scheduled for October 15, 2005 may be rescheduled for April 1, 2006, and the special general elections scheduled for November 12, 2005 may be rescheduled for April 29, 2006;

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

SECTION 1: In accordance with the procedures set forth in R.S. 18:401.1, and on the written recommendation

of the secretary of state, the October 15, 2005 special primary elections in the parish of Jefferson for Judge, Court of Appeal, 5th Circuit, 1st District, Division B; Member of School Board, District 4; and Councilman, District 2, city of Kenner are rescheduled for Saturday, April 1, 2006; the November 12, 2005 special general elections in the parish of Jefferson for Judge, Court of Appeal, 5th Circuit, 1st District, Division B; Member of School Board, District 4; and Councilman, District 2, city of Kenner are rescheduled for Saturday, April 29, 2006. Notice of the rescheduling of the October 15, 2005 special primary elections and the November 12, 2005 special general elections shall be given in accordance with R.S. 18:401.1(C).

SECTION 2: Notwithstanding any other provision of law, if any polling place in the parish of Jefferson is determined destroyed, inaccessible, or unsafe for the October 15, 2005 special primary elections rescheduled for Saturday, April 1, 2006, and the November 12, 2005 special general elections rescheduled for April 29, 2005, as soon as practicable, the parish clerk of court in conjunction with the local parish governing authority shall designate alternate emergency polling places. Notice of the location of the alternate emergency polling places shall be advertised, published and/or broadcast by all reasonable available means of communication.

SECTION 3: This Order is effective upon signature.

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 24th day of January, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0602#093

EXECUTIVE ORDER KBB 06-04

Statewide Interoperable Communication System Executive Committee

WHEREAS, the state of Louisiana presently operates a statewide analog wireless communication system which was installed in 1996 for voice communication and is presently used by approximately seventy (70) agencies with ten thousand (10,000) subscribed users;

WHEREAS, since September 11, 2001, interoperability of voice, data, and imagery communications with emergency service agencies is of paramount importance, and the current communication system expansion is severely limited;

WHEREAS, the necessity of reliable communications and interoperability for first responders was demonstrated in the aftermath of Hurricanes Katrina and Rita; and

WHEREAS, the citizens of the state of Louisiana will best be served by a statewide interoperable communication system executive committee which shall

develop an inter-disciplinary approach among all levels of government to provide reliable communications for the entire emergency response community within the state;

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

SECTION 1: The Statewide Interoperable Communication System Executive Committee (hereafter "Committee") is hereby established within the executive department, Office of the Governor.

SECTION 2: The duties of the Committee shall include, but are not limited to, the following:

A. Design, construct, administer, and maintain a statewide shared voice, data, and imagery communication system;

B. Develop and approve system design, system testing, and implementation plan;

C. Establish policies and secure funds for the system operation, administration, and maintenance;

D. Establish policies for acquisition, allocation, and management of system resources and future use of the voice, data, and imagery capabilities;

E. Establish policies for system admission and use of the voice, data, and imagery capabilities; and

F. Enter into legal contracts consistent with the purposes of this Order.

SECTION 3: The Committee shall also establish subcommittees to advise the Committee on specific issues. The Committee shall review the recommendations of the subcommittees.

SECTION 4: The Committee shall submit a written comprehensive report to the governor, by March 1 of each year, which addresses the issues set forth in Section 2 of this Order.

SECTION 5:

A. The Committee shall be composed of five (5) ex-officio voting members, selected as follows:

1. The commissioner of the Division of Administration, or the commissioner's designee;

2. The adjutant general of the Office of Homeland Security and Emergency Preparedness, or the adjutant general's designee;

3. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services, or the deputy secretary's designee;

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

5. The secretary of the Department of Health and Hospitals, or the secretary's designee.

B. The Committee shall also be composed of ten (10) members who shall be appointed by, and serve at the pleasure of the governor, selected as follows:

1. The executive secretary of the Louisiana Public Service Commission, or the executive secretary's designee;

2. One (1) representative of the Louisiana Sheriff's Association selected from a list of three (3) nominees submitted by the Louisiana Sheriff's Association;

3. One (1) representative of the Louisiana Fire Chiefs Association selected from a list of three (3) nominees submitted by the Louisiana Fire Chiefs Association;

EXECUTIVE ORDER KBB 06-05

**Declaration of Public Health Emergency for
Control and Disposition of Human Remains**

4. One (1) representative of the Louisiana Police Chiefs Association selected from a list of three (3) nominees submitted by the Louisiana Police Chiefs Association;

5. The chair of the Parish Homeland Security and Emergency Preparedness Directors Committee, or the chair's designee;

6. One (1) representative of the Louisiana House of Representatives Committee on Administration of Criminal Justice;

7. One (1) representative of the Louisiana State Senate Judiciary B Committee;

8. One (1) representative of the Louisiana House of Representatives Special Committee on Louisiana Homeland Security;

9. One (1) representative of the Louisiana State Senate Select Committee on Homeland Security; and

10. One (1) representative of the Louisiana Broadband Advisory Council, selected from a list of three (3) nominees submitted by the Louisiana Broadband Advisory Council.

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

SECTION 7: The Committee shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 8: Committee members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Committee. However, such Committee members shall be entitled to reasonable and necessary travel expenses consistent with travel allowances for state classified employees as provided in the latest Policy and Procedure Memorandum (PPM 49) and approved by the chair, if funding becomes available.

SECTION 9: Support staff, facilities, and resources for the Committee shall be provided by departments and/or agencies which form the membership of the Committee.

SECTION 10: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Committee in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of January, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0602#094

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, extended by Proclamation Nos. 54 KBB 2005, 61 KBB 2005, 68 KBB 2005, 75 KBB 2005, and 10 KBB 2006; and Proclamation No. 53 KBB 2005, extended by Proclamation Nos. 60 KBB 2005, 67 KBB 2005, 74 KBB 2005, and 9 KBB 2006;

WHEREAS, Hurricanes Katrina and Rita struck the state of Louisiana causing severe flooding and damage to the southern part of the state which threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, as a consequence of the hurricanes and their aftermath, hundreds of people perished and many citizens suffered injuries and/or illnesses;

WHEREAS, in addition, hundreds of human remains have been disinterred by the flood and storm surges;

WHEREAS, R.S. 29:766(A) authorizes the governor to declare a state of public health emergency following consultation with the public health authority, and R.S. 29:769(D) authorizes the Office of Public Health in such times to exercise control over the disposition of human remains; and

WHEREAS, the secretary of the Department of Health and Hospitals and the state health officer have requested there be an appointment of an Office of Public Health, State Medical Examiner to exercise control over the disposition of human remains of people who died in or as a result of Hurricanes Katrina and Rita, and exercise control over identification and re-casketing of disinterred remains;

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

SECTION 1: Pursuant to Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:724, et seq., and more specifically R.S. 29:769(D), a state of public health emergency is hereby declared for the purpose of the control and disposition of human remains.

SECTION 2: The secretary of the Department of Health and Hospitals is hereby authorized to appoint an Office of Public Health, State Medical Examiner, to exercise control over the disposal of human remains of individuals who died in or as a result of Hurricanes Katrina and Rita.

SECTION 3: Such appointee is authorized and empowered to set up, operate, and control a regional morgue and autopsy facility in Carville, Louisiana, to receive, identify, and process human remains of those who died in or as a result of Hurricane Katrina, collected from the parishes affected by Hurricane Katrina, and throughout the state, for coroners who are unable or unwilling to handle the remains themselves, including but not limited to the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany,

and Washington. Such appointee shall coordinate and receive the cooperation of the coroners of the above parishes in the recovery, retrieval, identification, interment or cremation of hurricane related remains.

SECTION 4: Such appointee is authorized and empowered to order and obtain medical records, including hospital, nursing home, physicians, dental and other useful medical records of possible hurricane decedents to aid in their identification and in order to establish their cause of death.

SECTION 5: Such appointee is hereby authorized to sign death certificates, burial permits, and cremation permits for human remains whose death is related to Hurricane Katrina and Rita when the jurisdictional coroner is unidentified, unavailable, unable or unwilling to sign.

SECTION 6: Such appointee is further authorized to assist and coordinate the parishes of Orleans, Plaquemines, St. Bernard, St. Tammany, and Washington for Hurricane Katrina and the parishes of Calcasieu, Cameron, Iberia, St. Mary, Terrebonne, Vermilion for Hurricane Rita and any other parish who asks for assistance with identification and re-casketing disinterred human remains as a result of the flooding and storm surges from either hurricane.

SECTION 8: This Order is effective upon signature and shall be applicable from Sunday, January 1, 2006, through Friday, June 30, 2006, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of February, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0602#095

EXECUTIVE ORDER KBB 06-06

Commandeering Property for Repair of the 17th Street Canal

Editor's Note: Exhibit A, map of property commandeered, may also be viewed at the following website:
http://gov.louisiana.gov/assets/docs/Executive_Orders/6exec06CommandeerPropertyJeffersonParish.pdf.

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 54 KBB 2005, issued on September 22, 2005, extended the state of emergency until October 25, 2005; Proclamation No. 61 KBB 2005, issued on October 24, 2005, extended the state of emergency until November 24, 2005; Proclamation No. 68 KBB 2005, issued on November 17, 2005, extended the state of emergency until December 24, 2005; Proclamation No. 75 KBB 2005, issued on December 22, 2005, extended the state of emergency until January 23, 2006, and Proclamation No. 10 KBB 2006, issued on January 20, 2006, extended the state of emergency until February 22, 2006;

WHEREAS, Hurricane Katrina struck the state of Louisiana causing catastrophic flooding and damage to southeastern Louisiana, including the parish of Jefferson, the effects of which have threatened the safety, health, and security of the citizens of the parish of Jefferson, along with private property and public facilities;

WHEREAS, pursuant to R.S. 29:724(D)(4), the governor may commandeer any private property if necessary to cope with a disaster or emergency, subject to applicable requirements for compensation; and

WHEREAS, at the request of the U.S. Army Corps of Engineers, Jefferson Parish, and East Jefferson Levee District, and upon the recommendation of the Attorney General's Office, the Department of Transportation and Development, and the Division of Administration, State Land Office, the best interests of the citizens of the state would be served by the commandeering of certain property in the parish of Jefferson for the construction and repair of the 17th Street Canal, as further described below;

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

SECTION 1: The state of Louisiana hereby commandeers the use of certain property located in the parish of Jefferson, state of Louisiana, Section 121 and 122, Township 12 South, Range 11 East, and land extending north into Lake Pontchartrain, containing approximately 10.2 acres, as shown on the attached map (Exhibit A) entitled "Lake Pontchartrain and Vicinity, New Orleans Plan, Emergency Restoration, 17th Street Canal Interim Closure Structure, Exhibit A" and dated January, 2006.

SECTION 2: Said property shall be used for work that will include levee and floodwall construction and repair, constructing an interim gated closure structure north of the Hammond Highway Bridge, miscellaneous clearing and selective demolition of damaged flood control works, driving sheet pile, placement of the interim closure structure, integrated pumps, crushed stone backfill and rip-rap placement, including the right to deposit fill, spoil and waste material thereon, to move, store and remove equipment and supplies and erect and remove temporary structures on the land, to construct, repair, operate, patrol and to perform any other work necessary and incident to the construction of the Lake Pontchartrain Louisiana and Vicinity Hurricane Protection Project, 17th Street Outfall Canal Interim Closure Structure, and any appurtenances, together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving however, to the landowners, their heirs and assignees, all

such rights and privileges in said land as may be used without interfering with or abridging the rights hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

SECTION 3: The state of Louisiana has commandeered the real property interests for the property required by the Department of the Army as indicated on the attached map (Exhibit A). Said property is commandeered pursuant to R.S. 29:721, et seq. Said owners of the property so commandeered shall be identified and compensated in accordance with the terms of the Cooperation Agreement Between the United States of America and the Orleans Levee District for Rehabilitation of a Federal Hurricane/Shore Protection Project executed on October 21, 2005, as supplemented by Supplemental Agreement No. 1, dated January 27, 2006, and as further supplemented by Supplemental Agreement No. 2, dated January 27, 2006.

SECTION 4: The Division of Administration, State Land Office, shall take immediate steps to grant right of

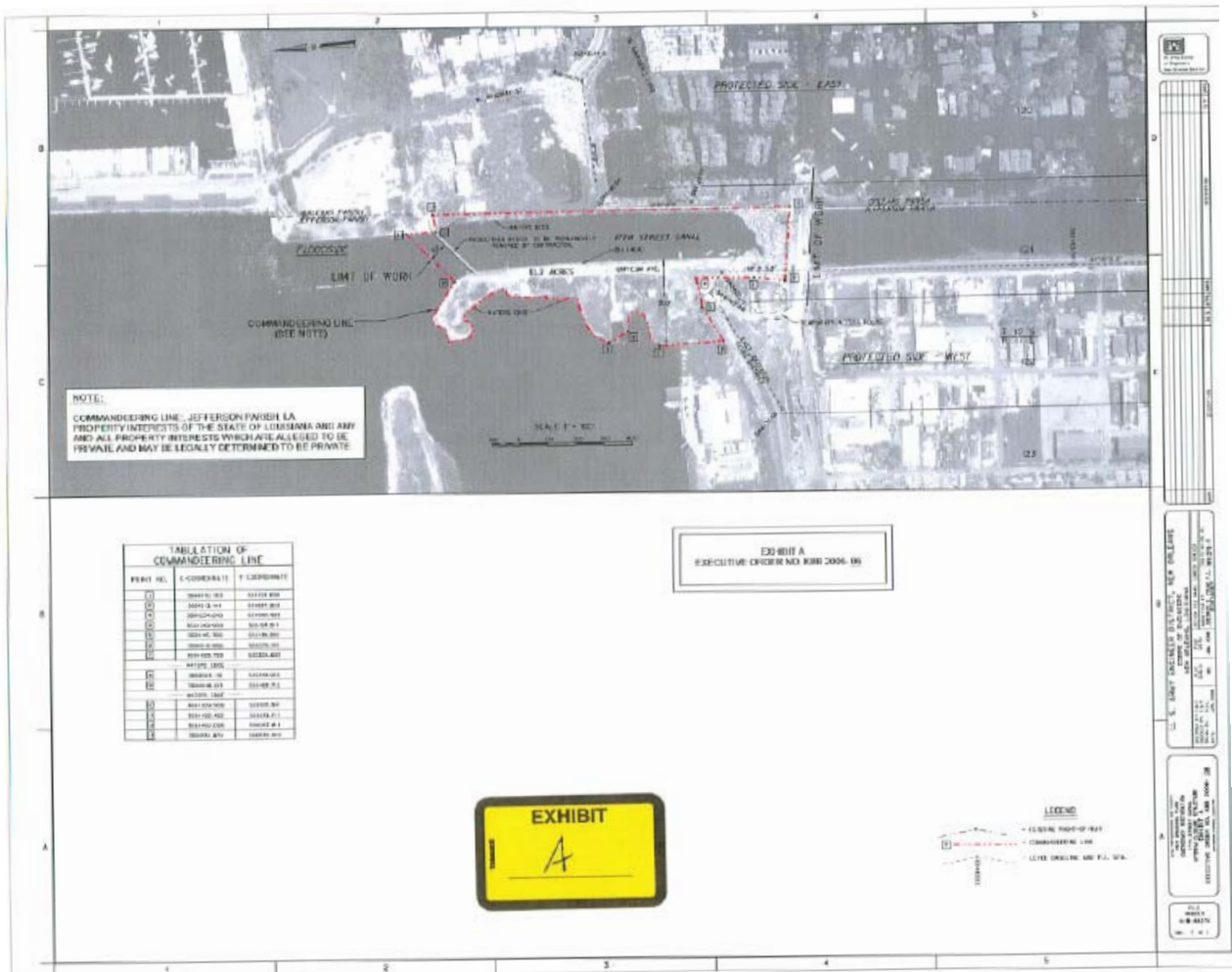
entry to the property commandeered for the above purposes pursuant to this Order.

SECTION 5: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of February, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0602#096



Emergency Rules

DECLARATION OF EMERGENCY

Department of Civil Service Civil Service Commission

Furlough Extension

At its meeting on January 11, 2006 the State Civil Service Commission adopted the following Rule, on an emergency basis:

17.8 Furlough Without Pay

* * *

(d) When the Commission or Director determines that extraordinary circumstances exist, they may approve an extension of furlough beyond 450 hours. If any employees are recalled during this extended furlough period, the employee with the most state service for a given job title shall be recalled first. If such position requires specific licensure or certification the employee with the most state service who meets those requirements shall be recalled first.

Following Hurricanes Katrina and Rita, agencies have needed to use the furlough without pay as a mechanism to remove employees from their payrolls until such time as a formal layoff plan could be submitted, approved and implemented. Current rules impose specific time limits on the number of hours an employee can be furloughed. We have found that these limits do not always allow adequate time to implement the formal layoff process, particularly with regard to notifications and displacement offers. The Emergency Rule addresses this matter until such time as a permanent Rule change can be implemented. We will present the permanent Rule change proposal to the Civil Service Commission at its March meeting.

Anne S. Soileau
Acting Director

0602#004

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary Legal Affairs Division

8-Hour Ambient Ozone Standard and Nonattainment New Source Review (LAC 33:III.111.504, 607, 711, 2201, and 2202)(AQ253E2)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby finds that imminent peril to the public welfare exists and declares that an emergency action is necessary to implement rules concerning the revised primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone and transitional provisions for

nonattainment new source review under the revised standard.

This is a renewal of Emergency Rule AQ253E1, which was effective on October 13, 2005, and published in the *Louisiana Register* on November 20, 2005. The department is drafting a rule to promulgate these regulation changes. In this renewal of the Emergency Rule, citation corrections have been made in LAC 33:III.504 to reflect rule changes that were promulgated in the December 20, 2005, issue of the Louisiana Register.

On April 30, 2004, EPA enacted 8-hour ozone NAAQS classifications, effective June 15, 2004 (69 FR 23858). The revised 8-hour NAAQS is more protective than the existing 1-hour ozone NAAQS. In order to transition from the existing 1-hour standard to the new 8-hour standard, EPA adopted a rule for implementation of the 8-hour ozone NAAQS-Phase 1 (the "Phase 1 Implementation Rule") on April 30, 2004 (69 FR 23951). In the Phase 1 Implementation Rule, EPA revoked the 1-hour standard in full, including the associated designations and classifications, effective on June 15, 2005.

Litigation by a number of stakeholders pending in the United States Court of Appeals for the District of Columbia Circuit challenged various aspects of the Phase 1 Implementation Rule, resulting in EPA's agreement to reconsider several portions of the Rule through renewed notice and public comment. EPA only recently made final decisions on reconsideration, thus clearing the way for effectiveness of the Phase 1 Implementation Rule (70 FR 30592, May 26, 2005). As a result, Louisiana is required to adopt the 8-hour revised standard and measures to implement such standard. This Emergency Rule is necessary to address two of the most immediate aspects of implementation: 1) revision of LAC 33:III.711 to replace the 1-hour primary ambient air quality standard with the 8-hour standard; and 2) revision of nonattainment new source review provisions for parishes that were reclassified from severe under the 1-hour standard to marginal under the 8-hour standard (parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge). Because such parishes are still in nonattainment, the department is adopting measures to ensure that these parishes continue to make progress toward attainment while still accommodating growth. Regulatory changes will also delete references to the 1-hour standard and substitute the 8-hour standard, and take other actions to transition to the 8-hour standard. The attainment date for the Baton Rouge area under the 8-hour standard is June 15, 2007. Failure to adopt this Rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare as the department would not have the authority to enforce the 8-hour standard.

This Emergency Rule is effective on February 10, 2006, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning AQ253E2, you may contact the Regulation Development Section at (225) 219-3550.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Ozone Exceedance—a daily maximum 8-hour average ozone measurement that is greater than the value of the standard.

* * *

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 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - A.1. ...

2. Except as specified in Subsection H of this Section, the potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L.Table 1 of this Section to determine whether the source is major.

3. Except as specified in Subsection H of this Section, the emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L.Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. ...

4. Except as specified in Subsection H of this Section, the net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L.Table 1 of this Section to determine whether a nonattainment new source review must be performed.

5. - 7. ...

8. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, and for which the nonattainment new source review (NNSR) permit was issued in accordance with Subsection D of the Section on or before

June 14, 2005, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_x increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, and for which the nonattainment new source review (NNSR) permit was issued in accordance with Subsection D of the Section on or before June 14, 2005, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_x increases.

B. - D.4. ...

5. Except as specified in Subsection H of this Section, emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L.Table 1 of this Section, in the area where the national ambient air quality standard for that pollutant is violated.

D.6. - F. ...

1. All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO_x credit to offset a VOC emission increase, is not allowed. Except as specified in Subsection H of this Section, offsets shall be required at the ratio specified in Subsection L.Table 1 of this Section.

F.2. - G. ...

H. Notwithstanding the parish's nonattainment status with respect to the 8-hour National Ambient Air Quality Standard (NAAQS) for ozone, the provisions of this Subsection shall apply to sources located in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

1. For an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x, consideration of the net emissions increase will be triggered for any project that would:

a. increase emissions of VOC or NO_x by 25 tons per year or more, without regard to any project decreases;

b. increase emissions of highly reactive VOC (HRVOC) listed below by 10 tons per year or more, without regard to any project decreases:

- i. acetaldehyde;
- ii. 1,3-butadiene;
- iii. butenes (all isomers);
- iv. ethylene;
- v. propylene;
- vi. toluene;
- vii. xylene (all isomers);
- viii. isoprene.

2. The following sources shall provide offsets for any net emissions increase:

a. a new stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x;

b. an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x with a significant net emissions increase of VOC, including HRVOC, or NO_x of 25 tons per year or more.

3. The minimum offset ratio for an offset required by Paragraph H.2 of this Section shall be 1.2 to 1.

4. This Subsection shall become effective June 15, 2005.

I. - L.Table 1, Footnote PM₁₀. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§607. Determination of Creditable Emission Reductions

A. - C. ...

1. If the design value for the nonattainment area is above the national ambient air quality standard (NAAQS) for ozone, the department shall compare the current total point-source emissions inventory for the modeled parishes to the base case inventory except that beginning with the 2005 emissions inventory, this comparison shall be made to the base line inventory.

2. - 4.a. ...

i. if the design value for the nonattainment area is above the NAAQS for ozone and the current total point-source inventory for the modeled parishes exceeds the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section, or emissions attributed to the stationary point source(s) in question in the base case or base line inventory, as appropriate; or

ii. if the design value for the nonattainment area is not above the NAAQS for ozone or the current total point-source inventory for the modeled parishes does not exceed the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section; and

C.4.b. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 7. Ambient Air Quality

§711. Tables 1, 1a, 2—Air Quality

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual geometric mean)
	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
Sulfur Dioxide (SO ₂)	80 µg/m ³	or 0.03 ppm (Annual arithmetic mean)
	365 µg/m ³	or 0.14 ppm (Maximum 24-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. - 2. ...

B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	50 µg/m ³	(Annual arithmetic mean)
	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
Sulfur Dioxide (SO ₂)	1,300 µg/m ³	(Maximum 3-hour concentration not to be exceeded more than once per year)
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

B.1. - C. Table 2. ...

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 14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.20. ...

D. Emission Factors

1. The following tables list NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

D.1. Table D-1A. - I.5. ...

J. Effective Dates

1. The owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or NO_x monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. The owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO_x reduction controls or a NO_x monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2241 (October 2005), LR 32:

§2202. Contingency Plan

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1170 (June 2004), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

Mike D. McDaniel, Ph.D.
Secretary

0602#035

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of the Commissioner**

Small Entrepreneurship (Hudson Initiative)—Procurement (LAC 19:VIII.Chapters 11 and 13)

The Division of Administration, Office the Commissioner of Administration, has exercised the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 19:VIII, Subpart 2, under the authority of R.S. 39:2007(F). This action is taken to ensure the welfare of the state by establishing rules governing procurements made as part of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), R.S. 39:2001 through 2008 and R.S. 51:931. This Emergency Rule will allow for coordination of state procurement with the February 20, 2006, implementation of Small Entrepreneurship certification procedures by the Department of Economic Development pursuant to LAC 19:VIII, Subpart 1.

Title 19

CORPORATIONS AND BUSINESS

Part VIII. Small Entrepreneurship (Hudson Initiative)

Subpart 2. Procurement

Chapter 11. General Provisions

§1101. Purpose

A. The State of Louisiana's Small Entrepreneurship (Hudson Initiative) Program, hereinafter called SE (HI), was created to provide additional opportunities for Louisiana-based small entrepreneurs, hereinafter called SE's, to participate in contracting and procurement with the State of Louisiana. By formalizing existing practices and implementing new procedures, the SE (HI) will allow the state of Louisiana to target more effectively certified SE participation and create opportunities relating to the state's contracting and procurement. Shown below are the key features of the SE (HI).

B.1. The SE (HI) is a goal-oriented program, encouraging state agencies to contract with certified SE's as well as encouraging contractors who receive contracts from the state to use good faith efforts to utilize certified SE's. The SE (HI) is a race and gender-neutral program. SE (HI) participation is restricted to Louisiana-based certified SE's in accordance with rules promulgated by the Louisiana Department of Economic Development.

a. The state will establish annual goals for certified SE participation in state procurement and public contracts. Contract goals will vary based on contracting and subcontracting opportunities, availability of certified SE's, and price competitiveness.

b. To participate, SE's must be certified by the Louisiana Department of Economic Development. Certification is based on a firm's gross revenues, number of

employees, and other criteria as specified by Act 440 of the 2005 Legislative Session.

c. The SE (HI) has guidelines for counting certified SE participation.

d. The SE (HI) incorporates several procedures to help implement the initiative.

2. These procedures are designed to maximize the initiative's success, including:

a. assisting certified SE's and contractors by providing information, practical advice, and support;

b. strongly encouraging joint ventures and/or alliances among certified SE's and larger firms;

c. assisting in developing a mentoring program for certified SE's with appropriate private sector businesses and individuals;

d. requiring bidders and proposers to provide written assurance of certified SE participation in their bids and proposals;

e. providing workshops and training sessions to acquaint certified SE's with state procurement and public contract proposal and bidding practices, including problems frequently encountered by certified SE's during the proposal/bid process and generally while doing work for the state;

f. maintaining an updated certified SE directory and source list(s) on the Internet to help identify qualified and available certified SE's; and

g. making the state's central procurement website (LaPac) available for agencies to indicate that a particular procurement has been designated for SE participation.

3. For designated contracts, the SE (HI) requires good-faith efforts by contractors to use certified SE's in contract performance. The SE (HI) has procedures in place to determine whether contractors are meeting this requirement of good-faith efforts. Contractors are required to document their efforts to obtain certified SE participation. A contract award may be denied or an existing contract may be terminated if the state becomes aware that the contractor in fact failed to use good-faith efforts. The state recognizes that availability, subcontracting capabilities, and price competitiveness are relevant factors in determining whether a contractor has used good-faith efforts to subcontract with certified SE's.

4. The state may impose sanctions on a contractor who fails to make good-faith efforts or on an SE that was found to be guilty of deception relating to certification. Sanctions may include a suspension from doing business with the state for up to 3 years. Procedures are in place to provide an opportunity for due process for any contractor or SE prior to the suspension.

5. The SE (HI) is race and gender neutral. The SE (HI) shall not be used to discriminate against any person, company, or group of persons or companies. It is the policy of the state to prohibit discrimination based on race, gender, religion, national or ethnic origin, age, disability, or sexual orientation. Contractors and/or certified SE's that violate the state's non-discrimination mandate in the operations of the SE (HI) will be subject to sanctions.

C. The state utilizes various purchasing methods to acquire goods and services, including requests for proposals (RFP), invitations to bid (ITB), and purchase orders. The state determines which purchasing method to use based upon

statutes and regulations applicable to the nature of the procurement.

1. The state will monitor the progress of the SE (HI), reviewing participation reports, community input, recommendations, and operational efficiency. Annual reports will be made to the House Committee on Appropriations and the Senate Committee on Finance addressing the number of contracts awarded to certified SE's, the number of contracts that included a good faith SE subcontracting plan, and the dollar value of SE contracts.

2. Nothing in the SE (HI) should be construed to give a proposer/bidder a property interest in an ITB, RFP, or contract prior to the state's award of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1103. Mission and Policy Statement

A. Act 440 of the 2005 legislative session enacted R.S. 39:2001, et seq. and R.S. 51:931, creating the Small Entrepreneurship (Hudson Initiative) Program for the State of Louisiana. As enacted, the SE (HI) is a goal-oriented program, encouraging the state to contract with certified SE's as well as encouraging the state's contractors to use good-faith efforts to utilize Louisiana-based certified SE's as subcontractors.

B. It is the mission of the state to promote trade and economic development. It is the state's policy to promote economic development and business opportunities for all sectors of our community. Certified SE's need to be given an opportunity to participate in a fair portion of the total purchases and contracts for property, services, and construction for the state. Therefore, the state establishes the SE (HI) to ensure opportunities for certified SE's to participate in the state's contracting and procurement opportunities and ultimately to enhance the stability of Louisiana's economy.

C. As a matter of policy, the state recognizes and requires competitive pricing, qualifications, and demonstrated competencies in the selection of contractors. The SE (HI) is designed to create opportunities, while requiring competitiveness and quality of work. As such, it allows the state to target more effectively and strive to increase certified SE participation in the state's contracting and procurement activities. In its operations, the SE (HI) will assist the state in its mission of promoting economic development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1105. Scope

A. These procedures apply to all state departments, prime contractors, subcontractors, and certified SE's involved with SE (HI) contracts. These procedures do not apply to agency expenditures for amortization of debt, debt service, depreciation, employee benefits, per diem, relocation expenses, salaries, postage, and transfer of charges. These procedures do not apply to contracts for sole source items, contracts with other governmental entities, and

those contracts that are prohibited by federal law from inclusion in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

Chapter 13. Procedures

§1301. Operational Procedures

A. The procedures herein are established to govern the program components of the SE (HI) including, without limitation, program compliance, specific implementation measures, purchasing methods, reporting of certified SE participation, imposition of sanctions, and dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1303. Objectives

A. The overall objectives for this program are:

1. to implement the policy of the SE (HI) to promote economic development and business opportunities for all sectors throughout the state;

2. to ensure opportunities for certified SE's to participate in all phases of the state's contracting activities;

3. to stimulate participation of Louisiana-based certified SE's with the state and create opportunities through the state's contracting and procurement;

4. to encourage certified SE's to seek work from prime contractors when qualified and work is available;

5. to formalize existing procurement and contracting practices and implement new procurement and contracting procedures to assist more effectively certified SE participation;

6. to carry out the mandate of the state as enacted by Act 440 of the 2005 Legislative Session;

7. to ensure nondiscriminatory practices in the use of certified SE's for state contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1307. Reserved.

§1309. Overall Annual SE (HI) Goals and Agency

Participation Levels

A. Overall Annual Goals. Overall annual goals for SE (HI) participation for the state will be set each year by the commissioner of administration as a percentage increase based on prior year activity.

B. Individual Agency Participation Levels. The commissioner of administration will provide guidance on how agencies will determine participation levels. The criteria used to set individual agency participation levels may include but not be limited to certified SE capacity, certified SE availability, nature of the contract, past experiences with SE (HI) participation, recognized industry composition, and subcontracting opportunities. No quotas or set-asides will be used in implementing the SE (HI).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1311. Purchasing Methods

A. The state utilizes various purchasing methods to acquire goods, services, major repairs and public works including requests for proposals (RFP), invitations to bid (ITB), and purchase orders. The procurement method to be used is based upon statutes and regulations applicable to the nature of the procurement.

B. Nothing in the SE (HI) should be construed to give a proposer/bidder a property interest in an ITB, RFP, or contract prior to the state's award of the contract.

C. Agencies will participate in the program by using any or all of the following procurement methods:

1. purchasing directly from a certified SE within the agency's discretionary procurement authority for goods, operating services, major repairs, construction and personal, professional and consulting services;

2. issuing an order to a certified SE (prime contractor or distributor) on statewide contract;

3. using an ITB process to award a contract either to a certified SE or to a bidder who can demonstrate a good faith plan to use certified SE's as subcontractors in performing the prime contract. To be responsive to the ITB the bidder must be either a certified SE or be able to demonstrate its good faith subcontracting plan.

a. Good Faith Subcontracting Plans in an Invitation to Bid

i. The ITB will require the bidder to certify that the bidder is either a certified SE or that the bidder has a good faith subcontracting plan.

ii. The following describes the process a non-certified SE bidder shall follow in order to comply with the requirement for a good faith subcontracting plan.

(a). The bidder has or will use the SE (HI) certification list maintained by the Department of Economic Development to provide notice of the potential subcontracting opportunities to three or more certified SE's capable of performing the subcontract. Notification must be provided to the certified SE's no less than five working days prior to the date of bid opening.

(b). Written notification is the preferred method to inform certified SE's. This written notification may be transmitted via fax and/or e-mail.

(c). Written notification must include:

(i). the scope of work;

(ii). information regarding the location to review plans and specifications (if applicable);

(iii). information about required qualifications and specifications;

(iv). bonding and insurance information and/or requirements (if applicable);

(v). contact person.

(d). The successful bidder must be able to provide written justification of the selection process if a certified SE was not selected.

b. Post audits may be conducted. In the event that there is a question as to whether the low bidder's good faith subcontracting plan was complied with, the prime contractor must be able to provide supporting documentation to

demonstrate its good faith subcontracting plan was actually followed (i.e., phone logs, fax transmittals, letters, e-mails). If it is at any time determined that the contractor did not in fact perform its good faith subcontracting plan, the contract award or the existing contract may be terminated.

4. using a request for proposals (RFP) process to award a contract to a certified SE or to a proposer demonstrating a good faith effort to use certified SE's as subcontractors;

a. If an agency decides to issue an RFP to satisfy its SE (HI) goal, the procurement process will include either of the following:

i. require that each proposer either be a certified SE, or have made a good faith subcontracting effort in order to be responsive; or

ii. reserve 10 percent of the total RFP evaluation points for otherwise responsive proposers who are themselves a certified SE or who have made a good faith effort to use one or more SE's in subcontracting.

b. In evaluating proposals, the evaluation committee will follow the scoring criteria set forth in the RFP. In its evaluation process, the evaluation committee will not give additional points for SE participation beyond the designated amount set forth in the RFP.

c. Good Faith Subcontracting in a Request for Proposal

i. Proposers alleging to have made a good faith subcontracting effort may be required in the RFP to verify their good faith subcontracting plan. A good faith effort can be evidenced by many things including those listed below.

(a). The proposer divided the contract work into reasonable lots or portions.

(b). The proposer used the SE (HI) certification list maintained by the Department of Economic Development to provide notice to three or more certified SE's of the potential subcontracting opportunities available in performance of the prime subcontract. Notification must have been provided to the certified SE's no less than five working days prior to the submission of the proposal.

(c). The notification from the proposer was in writing. This written notification may have been transmitted via fax and/or e-mail.

(d). The written notification gave the SE's complete information regarding the potential subcontract including such things as:

(i). the scope of work;

(ii). information regarding the location to review plans and specifications (if applicable);

(iii). information about required qualifications and specifications;

(iv). bonding and insurance information and/or requirements (if applicable);

(v). contact person.

ii. An RFP under Clause 4.a.i shall require all proposers who are not certified SE's to certify they made a good faith subcontracting effort in their proposals.

iii. An RFP under Clause 4.a.ii may require that proposals include a proposed schedule of certified SE participation that lists the names of potential certified SE subcontractors, a description of the work each would perform, and the dollar value of each proposed certified SE subcontract.

iv. An RFP under Clause 4.a.ii may require that proposers provide documentation to demonstrate their good faith subcontracting effort (i.e.: phone logs, fax transmittal logs, letters, e-mails) in order to receive any reserved points.

v. Proposers responding to RFP's under either Clauses 4.a.i or 4.a.ii may be asked to provide written justification of the subcontractor selection process if a certified SE is not used as a subcontractor.

d. If at any time the state determines that the contractor did not in fact make a good faith effort, the contract award or the existing contract may be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1313. Procedures for Counting Small Entrepreneurship Participation

A. The state may count towards its SE (HI) goals the total dollar value of the contract awarded to the certified SE, if the certified SE is the prime contractor.

B. The state may count the total dollar value of a contract that is subcontracted to a certified SE.

C. The state may count towards its SE (HI) goals the total dollar value of a contract awarded to a joint venture, of which a certified SE is a part. The joint venture must provide an affidavit stating the amount of work actually performed by the certified SE.

D. The state may count toward its SE (HI) goals the total dollar value of the contract if the RFP contemplated awarding ten percent of the total evaluation points to a proposer who demonstrated good faith efforts to use certified SE's as subcontractors, but was unsuccessful in doing so.

E. The state may count toward its SE (HI) goals the total dollar value of those contracts in which the contractor has provided a good faith subcontracting plan as part of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1315. Certification Procedures

A. Certification procedures are in accordance with rules and regulations promulgated by the Louisiana Department of Economic Development. (LAC 19:VII.Subpart A)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1317. Implementation Procedures

A. In an effort to maximize the SE (HI)'s success, the following procedures will be implemented to maximize opportunities for certified SE participation.

1. The Division of Administration and state departments/agencies are responsible for the direct operation and direct implementation of the SE (HI).

2. Each department/agency of the state shall choose an initiative coordinator. The person chosen to be initiative coordinator shall be the person serving as the undersecretary of the department or the business manager for an agency. The initiative coordinator or his designee shall be responsible for acting as a business advisor to work directly

with certified SE's and contractors to provide information, assistance, and support. The Division of Administration and state departments/agencies will undertake various tasks to make the program workable, including the following:

a. provide information to certified SE's on the state's organization and contractual needs and offer instructions on procurement policy, procedures, and general RFP/ITB requirements;

b. provide workshops and training sessions at least twice each year for certified SE's on challenges frequently encountered by certified SE's during bid/proposal process and generally when doing work for the state;

c. enhance the existing state's procurement and financial database to identify certified SE's for historical and reporting purposes;

d. hold pre-bid and pre-proposal seminars to explain bid and proposal requirements, including an explanation of the forms that must be submitted with the response or proposal;

e. conduct outreach activities;

f. conduct internal information workshops to inform and acquaint the state employees responsible for state procurement and public contracts with the goals and objective of the state's SE (HI) initiative and to sensitize them to the problems of SE's;

g. inform certified SE's of ITB's and RFP's related to their capabilities by placing notices on the state's central procurement website, LaPac.

3. The state will encourage the formation of joint ventures/alliances among certified SE's and larger firms to provide opportunities for certified SE's to gain experience.

4. The state will encourage a mentoring program between large businesses and certified SE's to share information and experiences.

5. In RFP's requiring the compliance of a good faith subcontracting plan the state may require proposers to submit information on their business relationships and arrangements with certified SE subcontractors at the time of proposal review. Agreements between a proposer and a certified SE subcontractor in which the certified SE subcontractor promises not to provide subcontracting quotations to other proposers shall be prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1319. Legal Remedies

A. Legal remedies will be in accordance with applicable procurement statutes including contract controversies, suspension and/or debarment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

§1321. Reporting Procedures

A. The commissioner of administration is charged with the preparation of an annual report on the progress of the SE (HI) in the most recently ended fiscal year. The commissioner must present the report to the House Committee on Appropriations and the Senate Committee on

Finance by the 15th day of January each year. Therefore, information for the commissioner's report regarding an agency's achievement of SE (HI) goals must be submitted to the commissioner no later than the first day of October each year. Each agency is required to report for the preceding fiscal year:

1. total number and dollar value of all contracts awarded in whole or in part to certified SE's;

2. number of contracts and the value of the contracts that included a good faith certified SE subcontracting plan;

3. number of actual agency staff that attended Division of Administration training for SE (HI) and the number of certified SE's that attended workshops and training sessions.

B. On-line forms for consistency in reporting will be provided on the commissioner's home page. A new "activity code" will be established in ISIS to track expenditures related to SE (HI). Agencies that do not use ISIS must develop their own mechanism to capture SE (HI) expenditures in order to provide reporting information to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2001 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 32:

Jerry Luke LeBlanc
Commissioner

0602#088

DECLARATION OF EMERGENCY

Office of the Governor Office of Financial Institutions

Louisiana Community Development Financial Institution
Program (LAC 10:XV.Chapter 17)

The Office of Financial Institutions, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953.(B), adopts the following Emergency Rules of the Louisiana Community Development Financial Institutions Act as authorized by R.S. 51:3089. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective January 29, 2006, and shall remain in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Office of Financial Institutions has found an immediate need to provide direction to Louisiana community development financial institutions who are seeking to participate in the Louisiana Community Development Financial Institution Act, which became effective July 12, 2005. Without these Emergency Rules the public welfare may be harmed as a result of the inability of Louisiana community development financial institutions to raise capital, to then invest in Louisiana entrepreneurial businesses operating in low income communities that are in need of capital for survival, expansion, new product development, or similar business purposes. The failure to adopt these rules may impede economic development in Louisiana.

Title 10

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

Part XV. Other Regulated Entities

**Chapter 17. Louisiana Community Development
Financial Institution Program**

§1701. Description of Program

A. These rules implement the Louisiana Community Development Financial Institution (LCDFI) Program pursuant to R.S. 51:3081 et seq. This program was created by Act 491 of the 2005 Louisiana Legislature to further community development, diminish poverty, provide assistance in the formation and expansion of businesses in economically distressed areas, which create jobs in the state by providing for the availability of venture capital financing to entrepreneurs, managers, inventors, and other individuals for the development and operation of Louisiana entrepreneurial businesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1702. Definitions

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

Affiliate and/or Affiliated Company—

a. the term *affiliate* is defined as follows:

i. when used with respect to a specified person or legal entity, *affiliate* means a person or legal entity controlling, controlled by or under common control with, another person or legal entity, directly or indirectly through one or more intermediaries;

ii. when used with respect to a Louisiana entrepreneurial business, *affiliate* means a legal entity that directly, or indirectly, through one or more intermediaries, *controls*, is *controlled* by, or is under common control with, a Louisiana entrepreneurial business;

Applicant—a Louisiana corporation organized under an incorporating statute which applies to the commissioner for certification as a LCDFI.

Application—a completed application as determined by the commissioner.

Associate of a LCDFI—

a. any of the following:

i. a person serving a LCDFI, or an entity that directly or indirectly controls a LCDFI, as any of the following: officer, director (including advisory, regional directors and directors emeritus), employee (provided such employee has significant management and policy responsibilities and powers, or is highly compensated in comparison with the other employees), agent, investment or other advisor, manager (in the case of a manager-managed limited liability company), managing member (in the case of a member-managed limited liability company), external accountant, or outside general/special counsel;

ii. a person directly or indirectly owning, controlling or holding with the power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the LCDFI;

iii. a current or former spouse, parent, child, sibling, father-in-law, mother-in-law, brother-in-law, sister-

in-law, son-in-law or daughter-in-law of any person described in §1702. *Associate of a LCDFI*.a.i or ii;

iv. a person individually or collectively controlled by or under common control, directly or indirectly, with any person described in §1702. *Associate of a LCDFI*.a.i, ii or iii;

v. a person that invests in the LCDFI and has received an income tax credit reduction under the LCDFI Act;

vi. an affiliate of any person described in §1702. *Associate of a LCDFI*.a.v; or

vii.(a). a person that, within six months before or at any time after the date that a LCDFI invests in the person, is controlled by a LCDFI or any of its affiliates;

(b). however, even though a LCDFI may not intend to control a business in which it invests, it may obtain short-term (less than one year) control over the Louisiana entrepreneurial business after its initial investment if such control is acquired as a means of protecting the LCDFI's investment resulting from a material breach of any financing agreement. Such control will not create an associate relationship under §1702. *Associate of a LCDFI*.a.vii.(a);

b. for the purposes of this definition, if any associate relationship described in §1702. *Associate of a LCDFI*.a.i-vi exists between a person and the LCDFI at any time within six months before or at any time after the date that the LCDFI makes its initial investment in such person, that associate relationship is considered to exist on the date of the investment.

Business Plan—a written narrative providing a general description of the proposed Louisiana community development financial institution (“LCDFI”) which should include, at a minimum, a description of the LCDFI's organizational structure; its location; the types of lending and financing it intends to offer and to whom; whether it intends to provide management assistance and if so, to what extent and to whom; and whether the LCDFI will operate as a profit or nonprofit corporation.

Capitalization—for purposes of initial certification, pursuant to R.S. 51:3086(B):

a. *Generally Accepted Accounting Principles (GAAP) Capital*—common stock, preferred stock, general partnership interests, limited partnership interests, surplus and any other equivalent ownership interest, all of which shall be exchanged for cash; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; less all organization costs;

b. *LESS*—the following, when any preferred or common stock, partnership interests, or other equivalent ownership interests are subject to redemption or repurchase by the LCDFI: preferred stock, common stock, partnership interests, limited partnership interests, and other equivalent ownership interests shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase	20 percent
Within 4 years from redemption or repurchase	40 percent
Within 3 years from redemption or repurchase	60 percent
Within 2 years from redemption or repurchase	80 percent
Within 1 year from redemption or repurchase	100 percent

c. Notwithstanding the foregoing, there will be no reduction for a withdrawal of capital within five years after certification, provided the withdrawal is contemplated by all governing documents and disclosed to all prospective investors and any such withdrawal is concurrently replaced by an equal amount of cash GAAP capital. Moreover, the amount contemplated to be withdrawn shall not be the basis for any income tax credit reduction.

Change of Control—for purposes of R.S. 51:3087(F) shall mean:

a. a change in beneficial ownership of 50 percent or more of the outstanding voting shares of the LCDFI; or

b. individuals who constitute the voting power of the Board of Directors, Board of Managers or other governing board of the LCDFI as of the later of the LCDFI's certification date or the date of the LCDFI's last notification under R.S. 51:3087(F) cease to comprise more than 50 percent of the voting power of such Board of Directors, Board of Managers, or other board; or

c. a change in the general partner or manager of the LCDFI or a *change of control* with respect to such general partner or manager; or

d. any merger or consolidation if a *change of control* has occurred based upon the surviving entity being considered to be a continuation of the LCDFI that was the party to the merger or consolidation transaction.

Control—

a. Solely for purposes of determining whether a Louisiana entrepreneurial business *controls*, is *controlled* by, or is under common *control* with another person, or if a person is an associate of a LCDFI, *control* means:

i. the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a legal entity by contract or otherwise; or

ii. to directly or indirectly own of record or beneficially hold with the power to vote, or hold proxies with discretionary authority to vote, 50 percent or more of the then outstanding voting securities issued by a legal entity, when such control is exercised with respect to a specified person or legal entity.

b. For all other purposes, *control*—

i. the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a legal entity by contract or otherwise; or

ii. to directly or indirectly own of record or beneficially hold with the power to vote, or hold proxies with discretionary authority to vote 25 percent or more of the then outstanding voting securities issued by a legal entity.

Date on Which an Investment Pool Transaction Closes—date that a LCDFI designates, and notifies the commissioner of such designated date, that it has received an investment of certified capital in an investment pool. For purposes of this definition, an investment pool transaction may not close prior to:

a. execution of all required documents and elimination of all material contingencies associated with the consummation of the transaction; and

b. the date that the LCDFI receives a cash investment of certified capital that is available for investment in Louisiana entrepreneurial businesses.

Employees—

a. Full-time and part-time employees and officers, converted to a full-time equivalent basis.

b. The term *employees* shall not include:

i. attorneys, accountants or advisors providing consulting or professional services to a Louisiana entrepreneurial business on a contract basis; or

ii. employees of any business that perform services (contractor) for a Louisiana entrepreneurial business.

For example: a contractor may enter into an agreement to perform services for a Louisiana entrepreneurial business. The contractor's employees that perform services under that agreement would not be employees under this definition.

Equity Features—includes [pursuant to R.S. 51:3084(5)(b)] the following:

a. *Royalty Right*—rights to receive a percent of gross or net revenues, either fixed or variable, whether providing for a minimum or maximum dollar amount per year or in total, for an indefinite or fixed period of time, and may be based upon revenues in excess of a base amount.

b. *Net Profit Interests*—rights to receive a percent of operating or net profits, either fixed or variable, whether providing for a minimum or maximum dollar amount per year or in total, for an indefinite or fixed period of time, and may be based upon operating or net profits in excess of a base amount.

c. *Warrants for Future Ownership*—options on the stock of the Louisiana entrepreneurial business. The Louisiana entrepreneurial business may repurchase a warrant (a "call") or the Louisiana entrepreneurial business may be required to sell a warrant (a "put") at some stated amount or an amount based on a pre-agreed upon formula.

d. *Equity Sale Participation Right*—conversion options of debt, to convert all or a portion of the debt to the corporate stock of the Louisiana entrepreneurial business, then to participate in the sale of the stock of the Louisiana entrepreneurial business.

e. *Equity Rights*—the receipt or creation of a significant equity interest in a Louisiana entrepreneurial business.

f. And such other conceptually similar rights and elements as the OFI may approve.

Financing Assistance Provided in Cash and The Investment of Cash—transaction, which in substance and in form, results in a disbursement of cash.

Examples of transactions excluded from this definition are: circular transactions as determined by the commissioner; capitalization of accrued principal, interest, royalty or other income; letters of credit; loan guarantees; prepaid debt; loan collection expenses or legal fees incurred by a LCDFI in protecting its collateral interest in an investment.

Institution Affiliated Party—a director, officer, employee, agent, controlling person, and other person participating in the affairs of the LCDFI.

Investment—

a. at all times, in order to perfect the tax credits earned as a result of an investment described in R.S. 51:3084(3) and (9), or R.S. 51:3085(A) and (B), the LCDFI

shall have at least 50 percent of the certified capital of each investment pool that is received in cash:

i. available to be invested in *qualified investments*;

ii. invested in qualified investments made subsequent to the date on which the investment pool transaction closes; or

iii. a combination of §1702.*Investment*.a.i and ii.

b.i. an *Investment* furthers economic development within Louisiana if the proceeds from an investment are used in a manner consistent with representations contained in the affidavit required to be obtained from the Louisiana entrepreneurial business prior to an investment in the business and the documented use of such proceeds promote Louisiana economic development. Proceeds shall be determined to promote Louisiana economic development if more than 90 percent of the proceeds derived from the investment are used by the Louisiana entrepreneurial business for two or more of the following purposes:

(a). to hire significantly more Louisiana employees;

(b). to directly purchase or lease furniture, fixtures, land or equipment that will be used in the Louisiana operations of the business or to construct or expand production or operating facilities located in Louisiana. This does not include the purchase of these assets as part of a company buyout;

(c). to purchase inventory for resale from Louisiana-based operations or outlets;

(d). to capitalize a business in order for the business to secure future debt financing to support the Louisiana operations of the business. Such future debt financing must be obtained within three months of the *qualified investment date*;

(e). to increase or preserve working capital and/or cash flows for Louisiana operations of the business. However, except as allowed in Subclause d above, this does not include those *investments* whereby the proceeds of the *investment* will be utilized to refinance existing debt of the business;

(f). to preserve or expand Louisiana corporate headquarters operations. *Preserve* means a company that is in danger of failing or contemplating a move out-of-state;

(g). to support research and development or technological development within Louisiana;

(h). to fund start-up businesses that will operate primarily in Louisiana; or

(i). to provide for an additional economic benefit not otherwise described above. However, before this purpose may be used as a basis for a determination that the *investment* furthers economic development within Louisiana, the LCDFI shall request in writing and the commissioner shall issue a written response to the LCDFI that, based upon relevant facts and circumstances, the proposed *investment* will further Louisiana economic purposes and result in a significant net benefit to the state. The commissioner's letter opinion shall be issued within 30 days of the request by the LCDFI, and shall be part of the annual review required to be performed by the office and billed according to provisions contained in §1710.A.1. However, upon written notification to the LCDFI, the 30-day review period can be extended by the commissioner if he determines that the initial

information submitted is insufficient or incomplete for such determination;

ii. an *investment* by a LCDFI in an interim construction project shall not be considered to further economic development within Louisiana unless the same LCDFI also provides the permanent financing.

Net Income—net income as defined under or consistent with Generally Accepted Accounting Principles.

Net Worth—net worth as defined under or consistent with Generally Accepted Accounting Principles.

Office—the Louisiana Office of Financial Institutions (OFI).

Participation Between LCDFIs—are loans or other investments in which one or more LCDFIs have an ownership interest. If a loan or investment is determined to meet the definition of a qualified investment, a LCDFI may only include its participation (ownership interest) as a qualified investment.

Permissible Investments—for purposes of R.S. 51:3087(G), cash deposited with a federally-insured financial institution; certificates of deposit in federally insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; money market mutual funds or mutual funds that only invest in *permissible investments* of a kind and maturity permitted by this definition; or any other *investments* approved in advance and in writing by the commissioner. All *permissible investments* which are included in the calculation under Subsection a.(i) of the definition of *Investment* in LAC 10:XV.102 shall have a maturity of two years or less or the terms of the investment instrument shall provide that the principal is repayable to the LCDFI within 10 days following demand by the LCDFI in connection with funding a qualified investment.

Person—a natural person or legal entity qualified to seek certification as a LCDFI.

Sophisticated Investor—any of the following:

a. an institutional investor such as a bank, savings and loan association or other depository institution insured by the Federal Deposit Insurance Corporation, registered investment company or insurance company;

b. a corporation with total assets in excess of \$5,000,000;

c. a natural person whose individual net worth, or joint net worth with that person's spouse at the time of his purchase, exceeds \$1,000,000; or

d. a natural person with an individual taxable income in excess of \$200,000 in each of two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year.

Total Certified Capital under Management for purposes of investment limits, pursuant to R.S. 51:3087(G):

a. *GAAP Capital*—common stock, preferred stock, general partnership interests, limited partnership interests, surplus and other equivalent ownership interests, all of

which shall be exchangeable for cash and which is available for investment in qualified investments; undivided profits or losses which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by all organization costs.

b. PLUS—Qualified Non-GAAP Capital: the portion of debentures, notes or any other quasi-equity/debt instruments with a maturity of not less than five years which is available for investment in qualified investments.

c. LESS—the following, when any GAAP capital or Qualified Non-GAAP capital is subject to redemption or repurchase by the LCDFI:

i. The GAAP Capital and Qualified Non-GAAP Capital subject to redemption or repurchase shall be multiplied by the following percentage reductions and deducted from capital.

Within 5 years from redemption or repurchase	20 percent
Within 4 years from redemption or repurchase	40 percent
Within 3 years from redemption or repurchase	60 percent
Within 2 years from redemption or repurchase	80 percent
Within 1 year from redemption or repurchase	100 percent

d. The portion of an investment that is guaranteed by the United States Small Business Administration or the United States Department of Agriculture's Business and Industry Guaranteed Loan Program shall be excluded from the amount of the investment when determining the investment limit pursuant to R.S. 51:3087(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1703. Applications

A. A company organized and existing under the laws of Louisiana, created for the purpose of making qualified investments, as required in R.S. 51:3081 et seq., shall make written application for certification to the commissioner on application forms provided by the office.

1. An application fee as prescribed by LAC 10:XV.1712 shall be submitted with the application. Checks should be payable to the Office of Financial Institutions.

2. This office reserves the right to return the application to the applicant if the fee submitted is incorrect. The application may be resubmitted with the correct fee. The application will not be considered officially received and accepted until the appropriate fee is submitted. Application fees are nonrefundable.

B. The forms for applying to become a LCDFI may be obtained from the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, and shall be filed at the same address. The time and date of filing shall be recorded at the time of filing in the office and shall not be construed to be the date of mailing.

C. Applications and all submissions of additional information reported to the office shall be delivered via United States mail, or private or commercial interstate carrier, properly addressed and postmarked, and signed by a duly authorized officer, manager, member or partner and shall be made pursuant to procedures established by the commissioner.

D. The commissioner shall cause all applications to be reviewed by the office and designate those he determines to be complete. In the event that an application is deemed to be incomplete in any respect, the applicants will be notified within 30 days of receipt. A previously incomplete application may be resubmitted, either in a partial manner or totally, which will establish a new time and date received for that application.

E. The submission of any false or misleading information in the application documents will be grounds for rejection of the application and denial of further consideration, as well as decertification, if such information discovered at a subsequent date would have resulted in the denial of such license. Whoever knowingly submits a false or misleading statement to a LCDFI and/or the office may be subject to civil and/or criminal sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1704. Certification Instructions and Guidelines

A. The application shall contain the following specific information:

1. name of applicant;
2. date of application;
3. address of applicant;
4. Louisiana corporate certification number and certified copies of the articles of incorporation and initial report filed with the Louisiana Secretary of State;
5. a federal tax identification number;
6. phone number, address and zip code;
7. a copy of any bylaws executed by the board of directors;
8. the designation of a correspondent, agent or person responsible for responding to questions relating to the application;
9. a resolution of the board of directors of the applicant corporation authorizing, empowering and directing an officer of the applicant corporation to apply for certification as a LCDFI, and to sign said application;
10. current (less than one year) financial statements for all incorporators and initial directors;
11. description of the LCDFI's business plan, in a narrative form, which shall include, at a minimum, the following:
 - a. a description of the LCDFI's statement of purpose and organization;
 - b. types of lending and financing it intends to offer and to whom;
 - c. whether it intends to provide management assistance, and if so, to what extent and to whom;
 - d. whether the LCDFI will be a profit or nonprofit corporation;
 - e. pro forma financial statements for the three consecutive years following the filing of the application, showing future earnings prospects;
 - f. a proposed net worth structure as required by R.S. 51:3086(B);
12. a list of all of current directors, officers and controlling persons;
13. biographical information concerning the proposed directors, officers and controlling persons, including

personal information, résumé of each person's education, their employment record and prior associations or position with other LCDFI's and in what capacity in or out of Louisiana;

14. Form granting the commissioner authority to obtain information from outside sources;

15. evidence that the applicant entity has been certified as a Community Development Financial Institution by the United States Department of the Treasury; and

16. other pertinent information as may be required by the commissioner in his sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1705. Conditions of Certification

A. All LCDFIs, through an act under private signature executed by the business, duly acknowledged pursuant to Louisiana law, shall certify and acknowledge all of the following conditions for certification as a Louisiana Community Development Financial Institution and shall certify and acknowledge that the statement is true and correct.

1. The LCDFI has an initial capitalization of not less than \$500,000. If any capitalization is repurchased or contemplated to be repurchased by the LCDFI within five years after certification, the LCDFI will concurrently replace any repurchased capital with cash capital, as defined under Generally Accepted Accounting Principles. Any contemplated repurchases shall be disclosed in all governing documents to all prospective investors. The amount repurchased shall not be the basis for any income tax credits.

2. At least 30 days prior to the sale or redemption of stock, partnership interests, other equivalent ownership interests or debentures constituting 10 percent or more of the then outstanding shares, partnership interests, other equivalent ownership interests or debentures, the LCDFI will provide a written notification to the office. Information, as determined by the commissioner, shall be submitted with the notification.

3. The board of directors/shareholders will not elect new or replace existing board members or declare dividends without prior written consent of the office during the first two years following certification as a LCDFI.

4. The LCDFI will immediately notify the office in writing when its total certified capital under management is not sufficient to enable the LCDFI to operate as a viable going concern.

5. The LCDFI will not engage in any activity which represents a material difference from the business activity described in its application without first obtaining prior written approval by the office.

6. The LCDFI will comply with the LCDFI Act and all applicable rules, regulations and policies that are currently in effect or enacted after the date of certification.

7. The LCDFI will adopt and follow OFI's valuation guidelines and record retention policies.

8. Any other conditions deemed relevant by the commissioner.

B.1. If a LCDFI contemplates any public or private securities offerings, prior to the certification of any tax benefits resulting from the certified capital raised through such offerings, the LCDFI shall have a securities attorney

provide a written opinion that the company is in compliance with Louisiana securities laws, federal securities laws, and the securities laws of any other states where the offerings have closed. Copies of all offering materials to be used in investor solicitations must be submitted to the office at least 30 calendar days prior to investor solicitation.

2. If a LCDFI seeks to certify capital pursuant to R.S. 51:3084(6)(b), the LCDFI shall submit to the commissioner documentation showing the proposed structure in sufficient detail to allow the office to determine that the proposed structure complies with all applicable laws and regulations. This information shall be submitted to the commissioner no later than 30 calendar days prior to a request for certification of capital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1706. Requirements for Continuance of Certification and Decertification

A. In calculating the percentage requirements for continued certification of an investment pool under Subsection A of R.S. 51:3087 and decertification of an investment pool under R.S. 51:3088:

1. The numerator for the investment pool shall be:

a. 100 percent of the sum of all qualified investments made on or after the investment date of the investment pool that are held for a minimum of one year; and

b. 50 percent of the sum of all qualified investments made on or after the investment date of the investment pool that are intended to be held less than one year.

2. For purposes of the calculation of the numerator:

a. no qualified investment may be counted more than once;

b. the date the investment of cash is made determines whether the one-year holding date is achieved. For multiple funding, each funding must be held for one year to receive 100 percent treatment. The calculation of the amount of time an investment is held will begin at the time of the investment of cash. Therefore, for multiple funding situations, only those cash investments that have been or are intended to be held for a minimum of one year are eligible for full credit as a qualified investment. All other advances will receive 50 percent credit.

3. The denominator shall be total certified capital of the investment pool.

B. Compliance with requirements for continuance of certification and voluntary or involuntary decertification (collectively referred to as compliance) of each investment pool will be determined on a first-in, first-out basis: a LCDFI's first investment pool will be evaluated for compliance before any succeeding pools. Only those qualified investments made after the investment date of each investment pool are considered in determining compliance for that particular investment pool. No qualified investments made prior to an investment pool's investment date may be used in determining that particular investment pool's compliance. However, if more than one investment pool operates simultaneously, a LCDFI may allocate its qualified investments to all open investment pools, provided such allocations are reasonable as determined by the commissioner.

C.1. Upon voluntary decertification, any investments which received 100 percent treatment and were counted as part of Subparagraph A.1.a above may not be sold for a minimum of one year from the date of funding provided that this requirement shall not apply to:

- a. a sale that is executed in connection with a sale of control of a Louisiana entrepreneurial business; or
- b. the sale of any investment that is publicly traded.

2. At the time of voluntary decertification, the LCDFI may deliver to the office a letter of credit in form and substance, and issued by a federally insured bank. The letter of credit:

- a. shall be payable to the office as beneficiary;
- b. shall be in a face amount equal to the aggregate value of investments required to be held following voluntary decertification in accordance with Paragraph C.1 above;
- c. shall provide that the letter of credit is forfeitable in full if the LCDFI fails to comply with the requirements of Paragraph C.1 above; and
- d. may provide for reduction of the face amount of the letter of credit as the holding periods of the investments which are required to be held pursuant to Paragraph C.1 above exceed one year, provided that the face amount of the letter of credit may never be less than the aggregate value of investments counted as part of Subparagraph A.1.a above which have not yet been held by the LCDFI a minimum of one year.

3. If the LCDFI provides a letter of credit in accordance with Paragraph C.2 above, the forfeiture of the letter of credit shall constitute an assessment against the LCDFI as the sole remedy for the failure of the LCDFI to comply with the requirements of Paragraph C.1 above; otherwise, the failure to comply with Paragraph C.1 above shall be considered a violation of R.S. 51:3087(E)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1707. Change of Control

A. In the event of a change of control of a LCDFI, the LCDFI shall provide written notification to the commissioner of the proposed transaction at least 30 days prior to the proposed change of control effective date. Unless additional information is required, the commissioner shall review the information submitted and shall issue either an approval or denial of the change of control within 30 days of the receipt of the notification.

B. Information to be included in the notification shall include:

1. a completed biographical and financial statement on each new owner, provided that any transfer to a person or entity who was a shareholder as of the later of the certification date for the LCDFI or the date of the LCDFI's last notification under R.S. 51:3087(F) for whom the Office of Financial Institutions has received a current Biographical and Financial Report and conducted a current background check shall be disregarded;

2. a copy of the proposed business plan of the new owners covering a three year period;

3. a discussion of the previous experience the proposed owner has in the field of venture capital financing;

4. a credit report on each new owner;

5. a listing of any changes to the board of directors and/or of the LCDFI;

6. a copy of any legal documents or agreements relating to the transfer, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1708. Information Required from Louisiana Entrepreneurial Businesses

A. Prior to making a qualified investment in a Louisiana entrepreneurial business, a LCDFI shall obtain, from an authorized representative of the business, a signed affidavit, the original of which shall be maintained by the LCDFI in its files. The affidavit shall contain all of the following:

1. full and conclusive legal proof of the representative's authority to act on behalf of the business;

For example: a board resolution or such other appropriate evidence of a grant of necessary authority.

2. a binding waiver of rights and consent agreement sufficient to allow the LCDFI, upon request to the business, full access to all information and documentation of the business which is in any way related to the LCDFI's investment in the business;

3. completed forms, certifications, powers of attorney, and any other documentation, as determined by the commissioner, sufficient to allow access by the LCDFI of any of the information and/or records of the business in the possession of any other business or entity, including but not limited to, financial institutions and state and federal governmental entities;

4. a statement certifying the intended use of the investment proceeds, and that the business will provide to the LCDFI documentation to support the use of proceeds;

5. a statement certifying that the business meets the qualifications of a "Louisiana Entrepreneurial Business" as defined by R.S. 51:2303(5); and

6. an act under private signature executed by the business, duly acknowledged pursuant to Louisiana law, certifying all of the above and foregoing as being true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1709. General Provisions

A. Books and Records

1. A LCDFI shall make and keep its records in conformity with Generally Accepted Accounting Principles.

2. A LCDFI shall make and keep all of its records at its main office as identified in its application for certification or at some other location authorized by prior written approval of the commissioner.

3. All books and records of a LCDFI shall be retained for a period of at least three years following decertification of the LCDFI in accordance with R.S. 51:3088.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1710. Directors and Officers

A. Election of Directors or Managers. At least 30 days prior to the election of any person as the director or manager

of a LCDFI, such LCDFI and such director or manager shall file with the commissioner a report containing the following information:

1. name, address and occupation of the proposed director or manager;

2. title of any office which the director or manager previously held with the LCDFI;

3. anticipated election date of the director or manager;

4. manner of election of the director or manager (that is, whether by the board or by the shareholders);

5. in case a director or manager is not an incumbent director or executive officer of the LCDFI, the LCDFI shall provide:

a. a personal financial statement and confidential résumé on a form prescribed by the commissioner, containing the information called for therein, as of a date within 90 days before the filing of the report and signed by the proposed director or manager;

B. Appointment of Executive Officers. At least 30 days prior to the appointment of any person as an executive officer of a LCDFI, such LCDFI and such executive officer(s) shall file with the commissioner a report containing the following information:

1. name and address of the executive officer;

2. title of the office to which the executive officer will be appointed;

3. a summary of the duties of the office to which the executive officer will be appointed;

4. Title of any office which the executive officer previously held with the LCDFI and title of any office (other than the office to which the executive officer was will be appointed) which the executive officer currently holds with the LCDFI;

5. The LCDFI shall provide a personal financial statement and confidential résumé on the form prescribed by the commissioner, containing the information called for therein, dated as of a date within 90 days before the filing of the report, and signed by the newly appointed executive officer.

C. Notification. Following approval by the Office, each LCDFI shall provide to the commissioner a written notice stating the effective date of the newly elected/appointed director, manager, or executive officer. Said notice must be received by the Office within 30 days of the stated effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1711. Income Tax Credits

A. Pursuant to R.S. 51:3084(6), an investment for the purposes of earning income tax credits means a transaction that, in substance and in form, is the investment of cash in exchange for either:

1. common stock, preferred stock, or an equivalent ownership interest in a LCDFI; or

2. a loan receivable or note receivable from a LCDFI which has a stated final maturity date of not less than five years from the origination date of the loan or note and is repaid in a manner which results in the loan or note being fully repaid or otherwise satisfied in equal amounts over the stated maturity of the loan or note.

B. In order to be eligible for any income tax credits, debentures, notes or any other quasi-equity/debt instruments shall have an original maturity date of not less than five years from the date of issuance. If an investment is in the form of stock, partnership interest, or any other equivalent ownership interest, such investment shall not be subject to redemption or repurchase within five years from the date of issuance. Except in the case where a LCDFI voluntarily decertifies and preserves all income tax credits, if debentures, notes or any other quasi-equity/ debt instruments or stock, partnership interests, or other equivalent ownership interests are redeemed or repurchased within five years from issuance, any income tax credits previously taken, to the extent applicable to the investment redeemed or repurchased, shall be repaid to the Department of Revenue and Taxation at the time of redemption, and any remaining tax credits shall be forfeited, pursuant to R.S. 51:3088. Amortization of a note over its stated maturity does not constitute a redemption or repurchase under this Chapter.

1. No LCDFI certified after December first of any year shall be entitled to receive an allocation pursuant to R.S. 51:3085 for the same calendar year in which it was certified.

2. By December 10th, the commissioner shall review all requests for allocation of income tax credits and notify the LCDFI of the amount of certified capital for which income tax credits are allowed to the investors in such institution. During this 10 day review period, no investor substitutions will be allowed.

3. If a LCDFI does not receive an investment of certified capital equaling the amount of the allocation made pursuant to R.S. 51:3085 within 10 days of its receipt of notice of such allocation, that portion of the allocation will be forfeited and reallocated to the remaining LCDFIs on a pro rata basis.

C. Conditions to sell or transfer income tax credits:

1. The transfer or sale of income tax credits, pursuant to R.S. 51:3085(A), will be restricted to transfers or sales between affiliates and sophisticated investors, collectively referred to as acquirers. Furthermore, even though a transfer or sale of credits may involve several entities, only one election may be made during any calendar quarter. Therefore, an investor in a LCDFI may only transfer or sell credits once during a calendar quarter and the entity that purchases or acquires the credits may not transfer credits obtained during the calendar quarter of purchase. In any subsequent calendar quarter, the purchaser or acquirer of the credits may make one election per calendar quarter, if needed.

2. Companies and/or individuals shall submit to the Louisiana Department of Revenue and Taxation in writing, a notification of any transfer or sale of income tax credits at least 30 days prior to the transfer or sale of such credits. The notification shall include the original investor's income tax credit balance prior to transfer, the projected remaining balance after transfer, all tax identification numbers for both transferor and acquirer, the date of transfer, and the amount transferred.

3. If income tax credits are transferred between affiliates or sophisticated investors (acquirers), the notification submitted to the Department of Revenue and Taxation must include a worksheet, which the transferor and

each acquirer shall also attach to their Louisiana corporate and/or individual income tax returns, which shall contain the following information for each corporation or individual involved:

- a. name of transferor and each acquirer;
- b. the gross Louisiana corporation or individual income tax liability of the transferor and each acquirer; and
- c. credits taken by the transferor and each acquirer under R.S. 51:3085(A) and (B).

4. The transfer or sale of income tax credits, pursuant to R.S. 51:3085(A), shall not affect the time schedule for taking such tax credits, as provided in R.S. 51:3085(A) and (C), respectively. Any income tax credits transferred or sold, which credits are subject to recapture pursuant to R.S. 51:3088, shall be the liability of the taxpayer that actually claimed the credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

§1712. Fees and Assessments

A. Pursuant to the authority granted under LSA-R.S. 51:3088(A) and 3089(4), the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the Louisiana Community Development Financial Institution Act, LSA-R.S. 51:3081 et seq.

1. Fees and Assessments

Description	Fee
a. Application for certification as a LCDFI.	\$2,000
b. Annual assessment fee of each LCDFI at a floating rate to be assessed no later than May 15th of each year, to be based on the total certified capital under management, as defined in LAC 10:XV.1702, as of the previous December 31st audited financial statements. Any amounts collected in excess of actual expenditures related to the administration of the Louisiana community development financial institution act by the Office of Financial Institutions shall be credited or refunded on a pro rata basis. Any shortages in assessments to cover actual operating expenses of OFI relating to the administration of the Louisiana community development financial institution act shall be added to the next variable assessment or billed on a pro rata basis.	Variable
c. Late fee for each calendar day that an assessment fee is late pursuant to the requirements of LAC 10:XV.1712(A)(2).	\$100 per day
d. Fee for request filed on December 1st of each year for certification of capital pursuant to LSA-R.S. 51:3085 in order obtain an allocation of certified capital.	\$1,000 Non-refundable
e. Fee for annual review of each LCDFI to determine the company's compliance with statutes and regulations.	\$50 per hour, per examiner, or \$500, whichever is greater.

2. Administration

a. The failure to timely submit a fee with the request for allocation as required in §1712.A.4 shall result in the denial of an allocation of certified capital.

b. The assessment described in §1712.A.2 shall be considered timely if received by the office on or before May

31st of each calendar year. If the office receives an assessment after May 31st, it shall not be deemed late if it was postmarked on or before May 31st.

c. Unless annual audited financial statements are submitted to the office by April 30th, annual unaudited financial statements shall be submitted no later than May 1st. These unaudited financial statements shall then be used to determine the assessment amount provided for in §1712.A.2. Accompanying these audited or unaudited financial statements shall be a detailed calculation of total certified capital under management as of December 31st.

d. If neither an audited nor unaudited financial statement has been received by this office by May 1st, the late fee described in §1712.A.3 shall be assessed beginning on June 1st until the assessment has been paid in full.

e. If any of the dates prescribed in §1712.B.2 and §1712.B.3 with the exception of the April 30th and the December 31st due date for audited financial statements, occurs on an official state holiday, a Saturday, or a Sunday, the next business day for the Office of Financial Institutions shall be the applicable due date.

f. The assessment for each Louisiana Community Development Financial Institution, as defined in LSA-R.S. 51:3084(9), and described in §1712.A.3 shall be based on the following formula:

i. The numerator will be the total certified capital under management of the LCDFI as of December 31st of the previous year;

ii. The denominator will be the total certified capital under management for all Louisiana community development financial institutions as of the previous December 31st.

3. Severability. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3081 et seq.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 32:

John Ducrest, CPA
Commissioner

0602#011

DECLARATION OF EMERGENCY

**Office of the Governor
Patient's Compensation Fund Oversight Board**

Qualified Health Care Provider Services
(LAC 37:III.115-123)

Emergency Rule 2 (LAC 37:III.115) was adopted by the Patient's Compensation Fund Oversight Board (Oversight Board) on September 28, 2005, pursuant to Executive Order No. KBB 2005-40, which directed the Oversight Board to adopt emergency rules regarding a temporary suspension of the payment of Patient's Compensation Fund (PCF or Fund) surcharges by qualified health care providers (QHCPs) who reside, practice or operate in disaster affected areas (affected QHCPs). The Oversight Board hereby reiterates, reaffirms

and readopts all of the sections and provisions set forth in original Emergency Rule 2 by reference as if set forth herein *in extenso*.

At the time that Emergency Rule 2 was adopted by the Oversight Board, Proclamation No. 54 KBB 2005 effectively extended the State of Emergency through October 25, 2005. At that time, it was not anticipated that the State of Emergency would be extended beyond December 31, 2005. In Paragraph A.3.a. of LAC 37:III.115, Emergency Rule 2 provided that PCF surcharges for certain specified affected QHCPs would be due and owing on the date that the State of Emergency was lifted, but that these affected QHCPs would be allowed a "grace" period until January 1, 2006 to pay the appropriate PCF surcharges (renewal surcharge to extend PCF coverage for another year or to purchase a PCF extended reporting endorsement).

On November 1, 2005, Louisiana Insurance Commissioner J. Robert Wooley amended Emergency Rule 19 of the Department of Insurance to provide for the systematic and methodical termination of the suspension of statutory, regulatory and policy provisions requiring the timely payment of insurance premiums for continuous insurance coverage. Under the amendment to Emergency Rule 19, all suspensions were terminated no later than December 31, 2005.

On January 20, 2006, Governor Kathleen Babineaux Blanco issued Proclamation Nos. 9 KBB 2006 and 10 KBB 2006 and extended the State of Emergency within the State of Louisiana caused by Hurricanes Katrina and Rita through February 22, 2006.

The Oversight Board has determined that Emergency Rule 2 has had the desired effect of providing emergency relief to affected QHCPs by providing additional time to pay the appropriate PCF surcharge (renewal or tail) to maintain enrollment in the fund. Additionally, the Oversight Board believes that the fund may be negatively impacted if Emergency Rule 2 is not terminated at some reasonable date in the near future.

Accordingly, the Oversight Board has determined that it is appropriate to establish a definitive date for all affected QHCPs to pay the appropriate PCF surcharge to maintain their enrollment in the Fund and to set a date for the systematic and methodical termination of Emergency Rule 2. As such, Emergency Rule 2 is hereby amended to provide for a definitive date for all affected QHCPs to pay the appropriate PCF surcharge and to set a termination date for Emergency Rule 2. This Declaration of Emergency is made effective February 6, 2006.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 1. General Provisions

§115. Qualified Health Care Provider Services

Emergency Rule 2

A.1. Emergency Rule 2 shall only apply to QHCPs:

a. who resided in or who maintained operation(s) and/or practice(s) located in one or more of the following 14 parishes as of August 26, 2005 or in one or more of any parish(es) identified by Louisiana Insurance Commissioner J. Robert Wooley in an amendment to Emergency Rule 15 or any subsequent emergency rule regarding insurance matters affecting certain insureds in Louisiana caused by Hurricane

Rita: Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington; and

b. whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 26, 2005 but prior to the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath.

2. For purposes of this Emergency Rule, QHCPs who meet all of the above criteria shall be referred to herein as "affected QHCPs" The provisions of this Emergency Rule 2 shall not apply to any health care provider not previously enrolled in the PCF prior to August 26, 2005.

3. The Oversight Board's Rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for affected QHCPs during the effective periods set forth in this Emergency Rule. Except as provided for in Section 2.5, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath.

a. PCF surcharges for all affected QHCPs (including self-insured QHCPs and those who are insured by an insurance company or by a trust fund), whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 26, 2005 but prior to the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath (suspension period), shall be due and owing on the date the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath, is lifted. However, all affected QHCPs shall be allowed a "grace" period until January 1, 2006 to pay the appropriate PCF surcharge (to extend PCF coverage for another year or to purchase a PCF extended reporting endorsement) to the insurer, agent, trust fund or directly to the PCF (in the case of self-insured affected QHCPs). Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be remitted to the PCF consistent with the MMA and the Oversight Board's applicable rules.

5. A cancellation of PCF qualification shall not occur prior to the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath, unless upon the documented written request or written concurrence of the affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency

Rule 2 shall be construed to exempt or excuse an affected QHCP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period.

7. Emergency Rule 2 shall not relieve an affected QHCP from compliance with the MMA and the applicable Oversight Board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of Emergency Rule 2 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the affected QHCPs and the citizens of Louisiana.

8. Emergency Rule 1, issued on September 19, 2005, is hereby rescinded and terminated.

9. Emergency Rule 2 became effective on the date of its adoption by the Oversight Board, September 28, 2005, and shall continue in full force and effect for the duration of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3) and Executive Order No. KBB 05-26.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§117. Affirmation of Emergency Rule 2 and Amendment

A. Emergency Rule 2 was previously adopted by the Oversight Board on September 28, 2005. Emergency Rule 2 is hereby amended to provide for a definitive date for all affected QHCPs to pay the appropriate PCF surcharges to maintain their enrollment in the fund and to set forth a termination date for Emergency Rule 2. All provisions of Emergency Rule 2 not amended herein shall remain in full force and effect until terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§119. Cancellation of PCF Qualification

A. The Oversight Board's Rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for affected QHCPs until March 1, 2006. The cancellation or nonrenewal of PCF qualification for affected QHCPs for failure to timely pay the applicable PCF surcharge (renewal or tail surcharge) is hereby suspended until March 1, 2006.

B. PCF surcharges for all affected QHCPs (including self-insured QHCPs and those who are insured by an insurance company or by a trust fund), whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurred on or after August 26, 2005 but prior to or on January 29, 2006 (suspension period), shall be due, owing and payable on March 1, 2006. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the Oversight Board's previously promulgated rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§121. Termination; Survival

A. Emergency Rule 2 shall terminate at 12 a.m. (midnight) on March 1, 2006. However, Paragraphs A.6 through A.8 of §115 shall survive the termination of Emergency Rule 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§123. Severability Clause

A. If any section or provision of Emergency Rule 2, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 2, as originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

Lorraine LeBlanc
Executive Director

0602#046

DECLARATION OF EMERGENCY

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

Hospital Services—Inpatient Hospitals
Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)

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 a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan

how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Act 491 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center-Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau amended the June 20, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). The department subsequently promulgated an Emergency Rule to repeal and replace all rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In compliance with Act 182, the department amended the June 26, 2005 Emergency Rule governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 31, Number 7).

Act 323 of the 2005 Regular Session of the Louisiana Legislature amended R.S. 40:1300.143(3)(a)(xii), relative to the Rural Hospital Preservation Act, to provide an additional

definition of a rural hospital. An Emergency Rule was promulgated to amend the definition of a small rural hospital as contained in the June 26, 2005 Emergency Rule, in compliance with Act 323 (*Louisiana Register*, Volume 31, Number 9). The Bureau amended the June 26, 2005 Emergency Rule to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 25, 2005 Emergency Rule. This action is being taken to enhance federal revenue.

Effective February 23, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 26, 2005 Emergency Rule to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules 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

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §§305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits.

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only

hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for

patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. any hospital licensed by the state under R.S. 40:2100 et seq., but does not include:

- a. any hospital owned by the state;
- b. any hospital owned by the United States or any agency or department thereof;
- c. any hospital that generally seeks no reimbursement for its services;
- d. rural hospitals as defined in R.S. 40:1300.143; and

e. hospitals certified by Medicare as separately licensed long term acute care, rehabilitation or psychiatric hospitals; and

7. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital—a hospital that has an uninsured utilization rate in excess of the mean, plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. DSH payments to individual high uninsured hospitals shall be calculated as follows.

1. Inpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing inpatient

hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E; and/or

2. Outpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision in Subsection E below.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B.1-6.

E. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured

persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital—a qualifying hospital that is not included in §§305, 311, 313 or 315.

B. DSH payments to an individual other uninsured hospital shall be calculated as follows.

1. Private Other Uninsured. Hospitals shall be compensated for at least 75 percent of their uncompensated care as reported on the latest uncompensated care filing prior to May 31 of the previous fiscal year. Any hospital which has not filed previously or is not yet required by regulation to make an uncompensated care filing, or which is without a full year cost report, may file an estimate of its uncompensated costs within 45 days of the end of the quarter in which such care was provided. Any such hospital otherwise eligible for uncompensated care cost compensation shall be included in the payment to be made in the quarter in which the estimate is filed, subject to final adjustment as otherwise provided. Except as hereinafter provided, the uncompensated care payment shall be paid in equal quarterly installments due on the fifteenth day of the third month in each calendar quarter. The amount of the fourth quarter payments in any fiscal year for inpatient services, outpatient services, inpatient psychiatric services and disproportionate share hospital payments shall be reduced or increased proportionately as necessary to achieve the total annual cost to the state, including federal financial participation, of implementing this amended reimbursement methodology. Amounts due to individual hospitals shall be adjusted as necessary to reflect any differences between payments during the preceding 12 months to hospitals for estimates of uncompensated care and the amount actually due during the period based on uncompensated care filings by those hospitals.

2. Public Other Uninsured. Non-state public hospitals, except small rural hospitals, shall certify to the department of Health and Hospitals the state nonfederal share of expenditures for all of their Medicaid claims and shall provide a certification of incurred uncompensated care costs that constitute public expenditures that are eligible for financial participation under Title XIX of the Social Security Act. Both certifications shall be submitted in a form satisfactory to the department at the earliest possible date after July 1, but no later than October 1 of each fiscal year beginning July 1, 2005. The reimbursement methodology for the hospitals participating in the certification, except small rural hospitals, shall be 100 percent of their allowable costs.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§309. All Other Qualifying Hospitals Not Included In Any Other Group

A. Definition

All Other Qualifying Hospitals Not Included In Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §303.A.4.a-b.ii. and is not included in any other qualifying group.

B. DSH payments to individual other qualifying hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then

2. multiplying by \$248,267 which is the state appropriation for disproportionate share payments allocated for this pool of hospitals for SFY 2005–2006.

D. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated 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 32:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

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

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

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

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003 of its intent to reduce its number of hospital beds to no more than 60 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or

l. has no more than 40 hospital beds as of January 1, 2005, and is located:

i. in a municipality with a population of less than 3,100; and

ii. in a parish with a population of less than 15,800 as measured by the 2000 census.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following four pools.

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.2.i-k.

4. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.2.l.

C. Payment to hospitals included in §311.B.1-3 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. Payments to hospitals included in §311.B.4 shall be the lesser of the hospital's actual uncompensated care cost or \$250,000. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment is disbursed by the department for the state fiscal year. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §311.A.2. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient—specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§315. Repealed

A. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Interested persons may submit written comments to Jerry Phillips at the 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

0602#069

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Treatment of Loans, Mortgages,
Promissory Notes and Other Property Agreements

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference, including section I-1600 which addresses the treatment of resources in the eligibility determination process (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was amended to revise Medicaid policy in regard to the treatment of certain loans, mortgages, promissory notes, and property agreements (*Louisiana Register*, Volume 31, Number 8). The bureau now proposes to amend the August 20, 2005 Rule governing

the transfer of resources to further define and clarify the provisions governing the treatment of loans, mortgages, promissory notes, and other property agreements during the eligibility determination process. This action is being taken to avoid federal sanctions. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2005-2006.

Emergency Rule

Effective February 20, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2005 Rule governing the treatment of transfer of assets in the determination of Medicaid eligibility. This policy change applies to applications, renewals of eligibility or changes in situation for all individuals, except for those persons receiving Supplemental Security Income (SSI) or deemed to be receiving SSI.

Loans, Mortgages, Promissory Notes, and Property Agreements or Assignments

A. A loan, mortgage, promissory note, property agreement or property assignment is a countable resource and a potential transfer of assets regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein.

Instruments Containing Certain Provisions

A. Any loans, mortgages, promissory notes, property agreements or property assignments executed that contain any of the following provisions shall not be considered bona fide and shall be evaluated as a transfer of resources:

1. self-canceling clauses or clauses that forgive a portion of the principle;
2. payments that are not in equal amounts for the term of the loan (contain balloon payments or interest only payments) even if the principle is due within the holder's life expectancy;
3. repayment terms that exceed the holder's life expectancy; or
4. evidence exists that there is not a good faith agreement to repay the entire principle.

B. Pursuant to the rules and regulations, the department shall establish what constitutes a bona fide transaction for establishing Medicaid eligibility.

C. An opportunity to rebut the treatment of such instruments as countable resources or transfer of resources shall be provided to the applicant/recipient through the appeals process.

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

0602#067

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Erectile Dysfunction Drug Coverage

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 repealed the May 20, 1999 and March 20, 2005 Rules governing the coverage of erectile dysfunction drugs and terminated coverage of these drugs under the Medicaid Program (*Louisiana Register*, Volume 31, Number 11). Section 104 of Public Law 109-91 as enacted on October 20, 2005 by the 109th United States Congress, eliminated Medicaid coverage of erectile dysfunction drugs except for the treatment of conditions other than sexual or erectile dysfunction for which the drugs have been approved by the Food and Drug Administration.

In compliance with the directives of Section 104 of Public Law 109-91 and regulations established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the bureau proposes to amend the November 20, 2005 Rule.

This action is being taken to avoid federal sanctions. Although the bureau is unable to determine the utilization rate of erectile dysfunction drugs for the treatment of conditions other than sexual or erectile dysfunction, minimal utilization is anticipated. It is estimated that the increase in expenditures due to implementation of this Emergency Rule will be nominal for state fiscal year 2005-2006.

Emergency Rule

Effective February 20, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall not cover and reimburse prescription drugs for the treatment of sexual or erectile dysfunction under the Medicaid Program. Erectile dysfunction drugs shall be covered for the treatment of conditions other than sexual or erectile dysfunction for which the drugs have been approved by the Food and Drug Administration.

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, 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

0602#068

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—Reimbursement Reduction
(LAC 50:XXI.14101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14101 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 16 of the 2005 Regular Session, Executive Order KBB 05-82 and Act 67 of the 2005 First Extraordinary Session (Supplemental Appropriations Act). This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgated a Rule implementing a new home and community based services waiver called the New Opportunities Waiver (NOW) which is designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The New Opportunities Waiver replaced the Mental Retardation/Developmental Disabilities (MR/DD) Waiver upon completion of the transition of all MR/DD participants to NOW.

The Governor's Executive Order KBB 05-82 directed the departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations through Act 16 of the 2005 Regular Session of the Louisiana Legislature, to reduce the expenditure of funds appropriated to the budget units by Act 16. Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed Executive Order KBB 05-82, further authorized and directed the commissioner of administration to reduce the state General Fund (direct) appropriations contained in Act 16 for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department proposes to reduce the reimbursement rates for Individual and Family Support-Day Services and Supported Independent Living Services under the NOW waiver. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the

Medicaid Program by approximately \$7,878,258 for state fiscal year 2005-2006.

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

Effective for dates of service on or after February 3, 2006, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the June 20, 2004 Rule governing reimbursement methodology for the New Opportunities Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. - E.1. ...

F. Effective for dates of service on or after February 3, 2006, the reimbursement rate for Individualized and Family Support-Day services shall be \$3.12 per quarter hour.

G. Effective for dates of service on or after February 3, 2006, the per diem reimbursement rate for Residential Habilitation-Supported Independent Living services shall be \$15 per day.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

Implementation of this Emergency Rule is subject to 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. 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

0602#009

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
Restoration of Reimbursement Reduction
(LAC 50:XXI.14101)

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.

Act 67 of the 2005 First Extraordinary Session of the Louisiana Legislature, which ratified and confirmed the Governor's Executive Order KBB 05-82, authorized and directed the commissioner of administration to reduce the state General Fund (direct) appropriations for designated agencies, including the Department of Health and Hospitals. In compliance with the directives of Act 67, the department reduced the reimbursement rates for Individual and Family Support-Day Services and Supported Independent Living Services rendered in the New Opportunities Waiver which is designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 32, Number 2).

Section 11 of Act 67 directed the department to restore the reductions in Medicaid reimbursement methodologies if the federal government increased some component of federal financial participation in Louisiana's Medicaid Program to 100 percent for at least some part of Fiscal Year 2005-2006. The Deficit Reduction Act of 2005, signed into law by the President on February 8, 2006, increased the federal financial participation in the Medicaid Program. The department is subsequently proposing to repeal the February 3, 2006 Emergency Rule which reduced the reimbursement rates for Individual and Family Support-Day Services and Supported Independent Living Services rendered in the New Opportunities Waiver. This action is being taken to comply with the directive set forth in Section 11 of Act 67.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. - E.1. ...

F. Repealed.

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:

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

0602#066

DECLARATION OF EMERGENCY

**Department of Justice
Office of the Attorney General
Public Protection Division**

Database Security Breach Notification (LAC 16:III.701)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) which allows the Attorney General to use emergency procedures to establish Rules, and under the authority of R.S. 51:3071 through 3077 the Attorney General hereby declares that an emergency action is necessary to implement Rules regarding reporting of database security breached to the Department of Justice so that the provisions of this statute may take effect.

This Emergency Rules is effective January 23, 2006 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 16

CONSUMER AFFAIRS

Part III. Consumer Protection

Chapter 7. Database Security Breach Notification

§701. Written Notification

A. Should notice to Louisiana citizens be required pursuant to R.S. 51:3074, the person or agency shall provide written notice detailing the breach of security of the system to the Consumer Protection Section of the Attorney General's Office.

B. Notice to the Attorney General shall be received within ten days of distribution of notice to Louisiana citizens. Notice shall be mailed to:

Louisiana Department of Justice
Office of the Attorney General
Consumer Protection Section
1885 North 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, Public Protection Division LR 32:

Isabel B. Wingerter
Director

0602#003

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

Health Insurance Credit for Contractors of Public Works
(LAC 61:I.1195)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish Rules, R.S. 47:295 and R.S. 47:1511, which allow the department to make reasonable rules and regulations, the secretary of revenue hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective February 20, 2006, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final rule, whichever comes first.

This Emergency Rule is necessary to allow the secretary to administer the health insurance credit for contractors of public works for the 2005 and succeeding tax year. R.S. 47:287.759 as enacted by Act 504 of the 2005 Regular Session of the Legislature allows for a three million dollar statewide credit for contractors of public works who offer health insurance to their employees. Because the credit is capped at three million dollars statewide, the Department of Revenue is compelled to set a procedure for the administration of the credit. This credit and the procedure for its implementation must be available for taxpayers while preparing and filing their 2005 Louisiana income tax returns.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Income: Corporation Income Tax

**§1195. Health Insurance Credit for Contractors of
Public Works**

A. Louisiana Revised Statutes 47:287.759 allows for a tax credit against corporation income tax to contractors and subcontractors constructing a public work who offer health insurance to their employees and their dependents.

1. The amount of the credit is 2 percent of the total amount of the contract for the public work less any amounts paid to a subcontractor for a portion of the work performed by the subcontractor.

2. The total tax credit for all taxpayers is limited to \$3 million per calendar year.

3. At least 85 percent of the full-time employees must be offered health insurance. Contractors and subcontractors must pay 75 percent of the total premium for the health insurance of employees who choose to participate and at least 50 percent for each participating dependent of such employees.

4. Employees do not include independent contractors.

B. Definitions

Dependents—spouse and those persons who would qualify as dependents on the employee's federal income tax return.

Earnings—gross wages of the employee not including fringe benefits.

Health Insurance—coverage for basic hospital care, and coverage for physician care, as well as coverage for health care.

Public Work—a building, physical improvement, or other fixed construction owned by the state or a political subdivision of the state.

C. Procedure for Allocation of the Health Insurance Credit

1. The department will determine if the \$3 million cap on the health insurance credit has been exceeded after all possible extensions to file have passed for all taxpayers.

2. If the \$3 million cap on the health insurance credit is not exceeded and all applicable extensions to file returns have expired, contractors and subcontractors who earn the health insurance credit will be allowed the full amount of the credit properly claimed on their tax return with appropriate interest.

3. However, if more than \$3 million is claimed statewide, the department will allocate the credit on a pro rata basis in proportion to the amount of health insurance credit properly claimed on each employer's timely filed tax return. The allocation will be made after the filing deadline inclusive of all applicable extension periods.

a. Contractors and subcontractors claiming the health insurance credit and an overall refund of overpayment for the taxable year should file their return with the department.

i. The department will reduce the taxpayer's total refund of overpayment by the amount of the health insurance credit claimed on the tax return.

ii. An initial refund of overpayment, the amount of which is exclusive of the health insurance credit amount, will be sent to the taxpayer with a letter stating that the taxpayer's claimed health insurance credit will be held in abeyance until after the extended filing deadline and subsequently will be refunded with appropriate interest.

iii. The health insurance credit will be processed and refunded proportionately after the last extension for filing deadline.

iv. If the health insurance credit is reduced as provided by §1195.C.3 and the taxpayer owes additional money to the department, an assessment will be sent exclusive of penalties and interest if paid within 60 days.

(a). If the additional amount owed is paid within the 60-day period, the interest will be abated pursuant to R.S. 47:1601. Payment of the additional amount owed

within the 60-day period will be considered to be a request for waiver of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

(b). If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

b. Contractors and subcontractors who claim the health insurance credit and still owe additional taxes for the taxable year, should file their return with the department and remit payment with the return.

i. If the taxpayer's health insurance credit is reduced as provided by §1195.C.3, the taxpayer will receive an assessment for the difference without being subject to penalties and interest if paid within 60 days.

ii. If the additional amount owed is paid within the 60-day period, the interest will be abated pursuant to R.S. 47:1601. Payment of the additional amount owed within the 60-day period will be considered to be a request for waiver of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

iii. If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

c. Contractors and subcontractors who claim the health insurance credit that reduce their tax liability to zero for a taxable year should file their return with the department.

i. If the taxpayer's health insurance credit is reduced as provided by §1195.C.3 such that the taxpayer owes additional tax, the taxpayer will receive an assessment for the taxes owed exclusive of interest and penalties if paid within 60 days.

ii. If the additional amount owed is paid within the 60-day period, the interest is abated pursuant to R.S. 47:1601. Payment of the additional amount owed within the 60-day period will be considered to be a request for waiver of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

iii. If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

D. Information that must be submitted with the return in order to properly claim the credit:

1. statement that health insurance has been offered to at least 85 percent of the employees;

2. copy of the health insurance coverage plan from the insurance company;

3. number of full-time employees working for the contractor or subcontractor; and

4. amount of the contract for public work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.759, R. S. 47:1601, R.S. 47:1603, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:

Cynthia Bridges
Secretary

0602#049

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Taxable Transactions for Hotel Services (LAC 61:I.4301)

The Department of Revenue, Office of the Secretary, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) accordingly amends and adopts LAC 61:I.4301.C.*Hotel*, to determine sales tax imposition on the taxable service of furnishing the accommodations of sleeping rooms, cottages or cabins. The Emergency Rule shall be effective February 1, 2006, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

The Department of Revenue, Office of the Secretary, hereby finds that imminent peril to the public welfare exists, and an Emergency Rule is necessary to ensure proper and immediate collection of taxes under R.S. 47:301(14) due to the state of Louisiana and local taxing jurisdictions at a time when state and local collections have been devastated by catastrophic events. The Emergency Rule is promulgated in the best interest of the state, local governments, and the citizens of the state of Louisiana. The purpose of the Emergency Rule is to provide direction and guidance to the hotel industry, travelers, and citizens for proper application of law, and to enable proper collection as required by law.

The Emergency Rule will apply to all state and local sales and use tax imposed by the state of Louisiana and the Louisiana Tourism Promotion District pursuant to R.S. 47:301 et seq. The authority for local taxing jurisdictions to collect special occupancy taxes where authorized is not affected by this Emergency Rule.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4301. Uniform State and Local Sales Tax Definitions

A. ...

B. Words, terms and phrases defined in R.S. 47:301(1) through R.S. 47:301(27), inclusive, have the meaning ascribed to them therein and as further provided in §4301.C.

C. ...

Hotel—

a. The term *hotel* has been defined under R.S. 47:301(6) to be somewhat more restrictive than normally construed relative to the size of the establishment. Those establishments engaged in the business of furnishing sleeping rooms, cottages or cabins to transient guests that consist of six such accommodations at a single business location meet the statutory definition. If an establishment has fewer than six sleeping rooms, cottages or cabins at a single business location for transient guests, the establishment is not a *hotel* for purposes of *state* and *local sales or use tax*. The statutory definition of *hotel* excludes facilities with fewer than the specified number of accommodations from collection of *state* and *local sales or use tax*.

b.i. In determining whether an establishment furnishes hotel services to transient guests, it is determined that a guest who transacts for the services of a hotel, regardless of the length of time that the hotel services are used, is considered a transient guest and the transaction is subject to sales tax. Where a hotel provides permanent residences to permanent occupants, the transaction is not subject to *state* and *local sales or use tax*. For the transaction to be considered a rental as a permanent residence to permanent occupants, the physical properties of the space must provide the basic elements of a home, including full-sized and integrated kitchen appliances and facilities. Additionally, the occupant must use the facilities of the hotel as a home with the intent to permanently remain. When all conditions of the above two standards are met, the occupant may be considered non-transient for the purposes of the *state* and *local sales or use tax*. A lease with a hotel for a period of not less than one year will be considered as evidence in support of permanent residency status, when the area rented contained the required physical properties of the hotel accommodations at the beginning of the lease. Proof that hotel rental contained the requisite physical properties of the hotel accommodations within a unit continuously rented by one person or family for a period greater than one year will be considered as evidence in support of permanent residency status. The department may require additional evidentiary support of claims of non-transient status.

ii. For the purposes of *state* and *local sales and use tax* collections under R.S. 47:301 et seq. a guest of a hotel is a natural person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 32:

Cynthia Bridges
Secretary

0602#051

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

Neglect of Newborn Identified as Affected by Illegal Use of a Controlled Dangerous Substance (LAC 67:V.1510)

The Department of Social Services, Office of Community Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:V Subpart 3, Child Protection Services, Chapter 15, Conducting Investigation in Families, §1510, Neglect of Newborn Identified as Affected by Illegal Use of a Controlled Dangerous Substance, effective March 1, 2006.

This Emergency Rule shall remain in effect for a period of 120 days.

Emergency action is necessary in this matter due to imminent peril to the public health, safety and well being of newborns identified by a health care provider within 30 days of birth as affected by the illegal use of a controlled dangerous substance or withdrawal symptoms resulting from prenatal illegal drug exposure caused by the parent. In compliance with the Children's Code Article 603 (14) as amended by Act 338 of the Legislature of Louisiana Regular Session 2005, the Office of Community Services worked in conjunction with the medical community and other interested parties. The federal Child Abuse Prevention and Treatment Act amended in 2003 requires states to develop policies and procedures to address the needs of infants identified as being affected by illegal exposure to substances in utero. Approximately \$12,311,387 in federal funding is jeopardized until the state legislation is implemented to address the needs of infants affected by the illegal exposure to substances in utero.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 3. Child Protection Services

Chapter 15. Conducting Investigation in Families

§1510. Neglect of Newborn Identified as Affected by Illegal Use of a Controlled Dangerous Substance

A. The Department of Social Services, Office of Community Services will accept a report for investigation of child neglect under the following circumstances:

1. when a newborn is identified by a health care provider as affected by the illegal use of a controlled dangerous substance or withdrawal symptoms resulting from illegal drug exposure caused by the parent; and,

2. provided that such a report is made within 30 days of the newborn's birth by a health care provider involved in the delivery or care of the newborn.

B. For purposes of this rule "controlled dangerous substances" are those designated pursuant to the provisions of R.S. 40:961 et seq.

C. For the purpose of this rule "health care provider" are those persons designated as "health practitioner" by Children's Code Article 603 (13)(a) and "Mental health/social service practitioner" by the Children's Code Article 603 (13)(b), if employed by a hospital or other institution or agency licensed to provide health care that includes the delivery or care of the newborn.

D. For the purpose of this rule "affected by" means a newborn that has been identified by a health care provider involved in the delivery or care of such newborn within 30 days of birth as affected by including, but not limited to, a diagnosis of Neonatal Abstinence Addiction or a condition associated with in utero exposure which may include the following symptoms: pre-maturity (gestation less than 37 weeks); low birth weight (less than 5 pounds, 8 ounces in term newborn); increased weight loss during early neonatal period; microcephaly symptoms (head circumference of less than 32 centimeters in term newborn); neurobehavioral symptoms (the most common consequence, not specific to any one drug, and may not be immediately discernible), examples are: irritability, high pitched cry, poor response to stimulation, over response to stimulation, increased or

decreased muscle tone, restlessness, sleepiness, poor feeding; neurological (vascular accidents, strokes, seizures); maternal-infant interaction impaired; failure to thrive; or limb reduction (vascular accidents due to drug exposure, especially cocaine or methamphetamine).

E. The method for identification may be one of the following:

1. results of a blood, urine or meconium test of a newborn and/or a blood or urine test of the mother indicate the presence of illegal use of a controlled dangerous substance along with specific information about the adverse effects to the newborn;

2. a diagnosis by an attending physician or an assessment by a health care practitioner that the newborn has demonstrated withdrawal symptoms from an illegal use of a controlled dangerous substance caused by the parent;

3. a diagnosis by an attending physician that the child has a condition that is attributable to a pre-natal exposure to an illegal use of a controlled dangerous substance.

F. Notification by a health care provider shall not be construed as requiring prosecution for any illegal action, but rather is for the purpose to assure the immediate screening, risk and safety assessment, and prompt investigation of reports of a newborn affected by illegal use of a controlled dangerous substance or withdrawal symptoms resulting from prenatal illegal drug exposure caused by the parent. The development of a plan of safe care for the newborn includes a continuum of triage procedures from the appropriate referral of a newborn who is not at risk of imminent harm to a community organization or voluntary preventive service to procedures for immediate steps to ensure and protect the safety of the drug exposed newborn who is at risk of imminent harm.

AUTHORITY NOTE: Promulgated in accordance with 42 U. S. C. 5101 et seq.; 42 U.S. C. 5116 et seq., R.S. 40:961 et seq, R.S. 49:954(B), R.S. 46:231, R.S. 36:474, R.S. 36:476 and 477, R.S. 46:51, and Ch. C. Art.603.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:

Ann Silverberg Williamson
Secretary

0602#083

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Child Care Assistance—Repair and Improvement
Grants and Job Search (LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III.5102, 5103, 5104, 5107, and 5109 in the Child Care Assistance Program (CCAP) effective February 1, 2006, pursuant to ACF Guidance, ACYF-IM-CC-05-03, Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations. This Rule shall remain in effect for a period of 120 days.

The devastation caused by Hurricane Katrina and Rita has left numerous child care facilities destroyed or damaged

and unsafe creating imminent peril to the health, safety, and welfare of the children in need of child care. Many of the CCAP providers will be unable to repair, rebuild, and reopen their businesses without financial assistance. The state currently provides Repair and Improvement Grants to certain child care providers but limits the receipt of these grants to one grant per state fiscal year. The amendment at §5107 will allow for the receipt of two Repair and Improvement Grants for state fiscal year 2005/2006 for providers in designated parishes.

Another consequence of the storms has been the significant loss of jobs throughout the state resulting in a dramatic increase in the number of people looking for work. CCAP does not currently provide assistance to low-income families who are searching for jobs. Therefore, the Agency also plans to expand the eligibility criteria at §§5102, 5103, 5104, and 5109 to include job search as a qualifying activity for child care assistance. These amendments will help insure that adequate child care is available and decrease the chance that the children will be left alone or in substandard care facilities.

Title 67
SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

Training or Employment Mandatory Participant (TEMP)—a household member who is required to meet criteria described in 5103.B.4 (effective February 1, 2006) including the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

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 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:

§5103. Conditions of Eligibility

A. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed or effective February 1, 2006, conducting a job search a minimum average of 25 hours per

week and all countable employment hours must be paid at least at the Federal minimum hourly wage; or

b. ...

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or effective February 1, 2006, job search, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week.

d. ...

e. effective February 1, 2006, participation in job search as a countable TEMP activity can only be used for three calendar months per state fiscal year.

5. - 6. ...

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the state. Required verification includes birth verification for all children under 18 years of age, proof of all countable household income, proof of the hours of all employment or education/training or, effective February 1, 2006, job search, and effective October 1, 2004, proof of immunization for each child in need of care.

B.8. - 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:

§5104. Reporting Requirements Effective February 1, 2004

A. ...

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. ...

2. an interruption of at least three weeks or a termination of any TEMP's employment, or training or, effective February 1, 2006, job search; or

3. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:

Subchapter B. Child Care Providers

§5107. Child Care Provider

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

2. A provider can receive no more than one such grant for any state fiscal year. Exception: effective February 1, 2006, for the State Fiscal Year 2005/2006, providers in the following parishes will be eligible to receive two repair and improvement grants: Orleans, Plaquemines, Jefferson, St. Bernard, St. Tammany, Washington, Calasieu, and Cameron.

3. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application. If a provider furnishes estimates to receive a grant, the grant must be spent for the requested purpose within three months of the date the grant is issued.

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

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

§5109. Payment

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

3. The number of hours authorized for payment is based on the lesser of the following:

a. ...

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program and/or effective February 1, 2006, conducting job search, each week, plus one hour per day for travel to and from such activity; or

B.3.c. - E. ...

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

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

Ann S. Williamson
Secretary

0602#014

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp Program, FITAP—Lump Sum Payments
Resource Exclusion (LAC 67:III.1235 and 1949)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend

LAC 67:III, Subpart 2 and Subpart 3, effective March 1, 2006. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective November 1, 2005, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in March 2006).

Pursuant to P.L. 107-171, the Food Stamp Reauthorization Act of 2002 (also known as the Farm Bill), the agency will amend §1949 in the Food Stamp Program and §1235 in the Family Independence Temporary Assistance Program (FITAP) to exclude from countable resources, lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. Section 4107 of the Farm Bill gives the state the option to exclude certain types of resources that the state agency does not include for TANF purposes.

Emergency action in this matter is necessary, as thousands of Louisiana citizens have suffered extensive damage to their home and/or business property due to Hurricanes Katrina and Rita and have incurred enormous expense. Many will receive insurance settlements that may preclude the household's eligibility for food stamp benefits thereby creating imminent peril to public health and welfare. Therefore, it is the agency's intention to remove this barrier to food stamp eligibility and exclude these payments as a countable resource.

This resource exclusion currently applies to the Family Independence Temporary Assistance Program, although the *Louisiana Administrative Code* does not specify this exclusion. That oversight is being corrected by means of this declaration.

Title 67 SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 22. ...

23. lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. This exclusion shall apply for six months following receipt of the payment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:45 (January 2003), LR 32:

Subpart 3. Food Stamps
Subchapter H. Resource Eligibility Standards
§1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. - 5. ...

6. lump sum payments received by the household from the conversion of an allowable resource, or as compensation for the loss of an allowable resource, or which is earmarked for a specific purpose. This exclusion shall apply for six months following receipt of the payment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:

Ann Silverberg Williamson
Secretary

0602#081

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Support Enforcement Services Program
Electronic Disbursement of Child Support
(LAC 67:III.2518)

The Department of Social Services, Office of Family Support, Support Enforcement Services (SES) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 4, effective March 1, 2006. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective November 1, 2005, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in March 2006).

Pursuant to Section 454A(g) of the Social Security Act, the agency is amending Chapter 25, Subchapter D, by adopting Section 2518, Electronic Disbursement of Child Support Payments, which allows for the electronic disbursement of child support payments. This Act allows the state to use its automated system for the effective and efficient collection and disbursement of support payments.

Emergency action in this matter is necessary to ensure that payments are received timely by eliminating postal delays caused by recent hurricanes. These changes are being made to 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 Services Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2518. Electronic Disbursement of Child Support Payments

A. Effective November 1, 2005, the agency will offer electronic disbursement of child support payments. Electronic disbursement of child support includes direct deposits to the custodial parent's bank account (checking or savings) or payments to a stored value card account.

B. A stored value card is a card-accessed account system where payments are electronically deposited into an account accessible for cash withdrawal or for credit purchases.

C. The fees associated with the use of the stored value card are subject to the conditions of that financial institution.

AUTHORITY NOTE: Promulgated in accordance with Section 454A(g) of the Social Security Act and PIQ-04-02.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0602#082

DECLARATION OF EMERGENCY

Department of Treasury
Teachers' Retirement System

Deferred Retirement Option Plan—Distributions
Provided for by the Gulf Opportunity Zone Act of 2005
(LAC 58:III.510)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of the Teachers' Retirement System of Louisiana hereby adopts the following Emergency Rule to implement provisions of the Gulf Opportunity Zone Act of 2005. This Act allows for distributions, from a public pension plan qualified under the provisions of the Internal Revenue Code, Section 401(a), to be made by retirees residing in the Hurricane Katrina, Hurricane Rita, and Hurricane Wilma disaster areas. These distributions will be allowed through December 31, 2006 without penalty.

Title 58
RETIREMENT

Part III. Teachers' Retirement System of Louisiana
Chapter 5. Deferred Retirement Option Plan
§510. Distributions Provided for by Gulf Opportunity Zone Act of 2005

A. If a participant was impacted by Hurricanes Katrina, Rita, or Wilma they may be able to withdraw funds from their DROP/ILSB account in addition to those normally allowed under §509. In order to receive an additional distribution, the participant must have retired prior to the special withdrawal request.

B.1. A qualified hurricane distribution must be made on or after:

a. August 25, 2005 and before January 1, 2007, to an individual whose principal place of residence on August 28, 2005 was located in the Hurricane Katrina disaster area, and who sustained economic loss due to Hurricane Katrina;

b. September 23, 2005 and before January 1, 2007, to an individual whose principal place of residence on September 23, 2005 was located in the Hurricane Rita disaster area, and who sustained an economic loss due to Hurricane Rita (but is not a distribution described in Subparagraph B.1.a);

c. October 23, 2005 and before January 1, 2007, to an individual whose principal place of residence on October 23, 2005 was located in the Hurricane Wilma disaster area, and who sustained an economic loss due to Hurricane Wilma (but is not a distribution described in Subparagraphs B.1.a or b).

2. The aggregate amount of eligible distributions cannot exceed \$100,000 in any tax year. No distribution is allowable greater than the participant's account balance. A qualified distribution is not subject to any penalty that would normally be imposed because of the participant's age, and the distribution is not subject to any mandatory federal income tax withholding.

C. Participants eligible to receive funds under this provision must complete a notarized Hurricane Affidavit attesting to their eligibility.

D. If the participant is married, consent of the participant's spouse is required to receive a Hurricane Katrina, Hurricane Rita, or Hurricane Wilma distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791 and the U. S. Gulf Opportunity Zone Act of 2005.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 32:

Maureen H. Westgard
Director

0602#044

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season Extension in Sister Lake

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the Department, and a Resolution adopted by the Wildlife and Fisheries Commission on August 4, 2005 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to reopen areas previously closed if the threat to the resource has ended, the Secretary hereby declares:

The oyster season in the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434.E shall be extended until one-half hour after sunset on January 31, 2006 except for that portion of the Sister Lake Public Oyster Seed Reservation west and north of a line originating at 29 degrees 12 minutes 50.56 seconds north latitude and 90 degrees 56 minutes 53.54 seconds west longitude thence northeast to a position at 29 degrees 15 minutes 06.06 seconds north latitude and 90 degrees 55 minutes 17.93 seconds west longitude thence east northeast to a position terminating at 29 degrees 15 minutes 20.89 seconds north latitude and 90 degrees 54 minutes 01.51 seconds west longitude.

The 2004 cultch plant located within the following coordinates will remain open from one-half hour before sunrise January 13 to one-half hour after sunset on January 15, 2006:

1. 29 degrees 13 minutes 36.49 seconds N
90 degrees 54 minutes 59.89 seconds W
2. 29 degrees 13 minutes 32.29 seconds N
90 degrees 54 minutes 43.89 seconds W
3. 29 degrees 13 minutes 15.72 seconds N
90 degrees 55 minutes 05.51 seconds W
4. 29 degrees 13 minutes 12.58 seconds N
90 degrees 54 minutes 46.94 seconds W

Despite hurricane-related impacts to the Sister Lake Public Oyster Seed Reservation and the harvest of significant numbers of marketable oysters, marketable quantities of oysters remain in these waters and have been noted during recent biological sampling. This continuation of harvesting activities within the areas to remain open should help facilitate the removal of sediment overburden, thereby re-exposing reefs and providing favorable habitat for future oyster spat sets.

Dwight Landreneau
Secretary

0602#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Remainder of Zone 1 and Additional Outside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, and allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set seasons, and in accordance with a resolution adopted by the Wildlife and Fisheries Commission on August 4, 2005 which authorized the Secretary of the Department of Wildlife and Fisheries to change the closing dates of the 2005 Fall Shrimp Season if

biological and technical data indicate the need to do so or if enforcement problems develop and to close all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters, and to re-open these waters if significant numbers of marketable size shrimp are available for harvest, and in accordance with a resolution adopted by the Wildlife and Fisheries Commission on January 5, 2006 which authorized the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if enforcement problems develop, and to reopen any area closed to shrimping when the closure is no longer necessary, and to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations, the Secretary of the Department of Wildlife and Fisheries does hereby declare that the fall inshore shrimp season in that portion of Shrimp Management Zone 1 extending north of the south shore of the Mississippi River Gulf Outlet, including Lake Pontchartrain and Lake Borgne will close at official sunset January 30, 2006, and that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29°03'10" N and

longitude 90°50'27" W, shall close to shrimping at official sunset January 30, 2006.

Effective with these closures, all state inside waters are closed to shrimping except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line [R.S. 56:495.1(A)2] which shall remain open until 6 a.m., March 31, 2006. State outside waters south of the inside/outside shrimp line westward from the western shore of Freshwater Bayou Canal at longitude 92°18'33" W and eastward from the northwest shore of Caillou Boca at latitude 29°03'10" N and longitude 90°50'27" W shall remain open to shrimping until further notice.

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

Dwight Landreneau
Secretary

0602#007

Rules

RULE

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit Program (LAC 13:I.Chapter 33)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 47:6020 through 6020.4 and 36:104, hereby adopts the following Rule for the Angel Investor Tax Credit Program.

The Department of Economic Development, Office of the Secretary, has found a need to provide rules regarding the regulation of the Angel Investor Tax Credit Program pursuant to R.S. 47:6020 through 6020.4, since no such rules exist at this time, and the state needs to provide for the growth and stability of Louisiana's entrepreneurial business environment by making available ready sources of capital necessary to support this environment. This program is intended to provide economic benefits to Louisiana-based investors who will make new investments or increase their existing investment in Louisiana-based economic development projects that will create and/or retain jobs for Louisiana citizens; and to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality of jobs available in Louisiana. Without this Rule, the state of Louisiana may suffer the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit

§3301. General

A. The intent of the Angel Investor Tax Credit Program Act of 2005 (Act 400 of 2005; R.S. 47:6020 through 6020.4, the provisions of which shall hereinafter be referred to as "Act 400") is to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality jobs available in Louisiana to retain the presence of young people in Louisiana. The purpose of these rules is to provide, on an emergency basis, definition of key terms provided for by the statute in order to advise the public and to provide for the efficient administration of the statute while the entirety of the rules are promulgated pursuant to the Louisiana Administrative Procedure Act. These provisions are to be read in *pari materiae* with Act 400 and shall be superseded

upon final promulgation of the rules in accordance with applicable statutes. For the purposes of this rule, the "secretary" shall be either the Secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006).

§3303. Accredited Investor

A. An *accredited investor* shall be defined as:

1. an angel pool as determined by the secretary, all of whose participants shall be accredited investors;
2. a natural person who has individual net worth, or joint net worth with the person's spouse, that exceeds \$1,000,000 at the time of the purchase;
3. a natural person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006).

§3305. Louisiana Entrepreneurial Business

A. A Louisiana entrepreneurial business shall be defined as those businesses approved by the secretary under Act 400 and that meet the following requirements.

1. A business shall provide the secretary with a business plan that includes all appropriate long and short term forecasts and contingencies of business operations, including research and development, profit, loss and cash flow projections and details of expenditure of angel investor funding in accordance with Act 400 and shall also include the following:

a. the principal business operations of the business are located in Louisiana, including Louisiana as the primary place of employment for the employees of the business;

b. demonstrating a plan or progression through which more than 50 percent of its sales will be from outside of Louisiana;

c. that the business is to operate as a person defined as an *employer* within the meaning of R.S. 51:2453(1)(b)(i) through (v), (c), and (d), and in §1105.A.1 through A.5b.iv of LAC 13:I.Chapter 11.Quality Jobs Program.

2. The secretary shall also find that the business is not a business primarily engaged in the business of retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds.

3. Such other findings by the secretary as shall be consistent with Act 400, provided that under no circumstances shall the secretary's certification of the applicant as a Louisiana entrepreneurial business be considered or implied to be an endorsement of the business or any investment in that business and the applicant shall so advise all investors of this fact.

RULE

**Department of Economic Development
Office of the Secretary**

**Small Entrepreneurship (Hudson Initiative) Certification
Program (LAC 19:VIII.Chapters 1 and 3)**

B. Approval of the secretary shall be obtained upon application by letter that submits the above business plan together with the Louisiana taxpayer identification number of the business and all other information regarding those items necessary to qualify the investment in the business for the angel tax credit as provided for by Act 400 addressed to the Secretary of Economic Development, P. O. Box 94185, Baton Rouge, LA 70802-9185. Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a Louisiana entrepreneurial business. The secretary's certification of the business shall include the Louisiana taxpayer identification number of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006).

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by accredited investors in Louisiana entrepreneurial businesses.

1. By January 31, 2006, Louisiana entrepreneurial businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have invested in the business provided that the business shall report up to and no more than \$2,000,000 total for the calendar year 2005 that shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than \$1,000,000 total for the tax year ending December 31, 2005.

2. All tax credit amounts reported to the secretary shall be fully credited to the accredited investor unless the total of all such investments shall exceed \$10,000,000 and the total of such credits shall exceed \$5,000,000 in which case the secretary shall prorate the total amount of investment and tax credits earned and advise each accredited investor of the amount of his credit for the tax year ending December 31, 2005 no later than February 28, 2006.

3. The secretary shall provide the accredited investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the accredited investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006).

Michael J. Olivier
Secretary

0602#026

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 39:2006 and R.S. 51:931, hereby adopts the following Rule for the Small Entrepreneurship (Hudson Initiative) Certification Program.

The Department of Economic Development, Office of the Secretary, has found a need to provide rules with regard to the certification of businesses as a "small entrepreneurship" pursuant to the mandate of R.S. 39:2006 and R.S. 51:931, since no such rules exist at this time, and the state needs to provide for the facilitation of the growth and stability of Louisiana's economy by fostering utilization by state interests of the business offerings available for state procurement and public contracts from Louisiana's small entrepreneurships. This program is intended to provide economic benefits to small Louisiana-based businesses which may not be benefiting from the business offerings available from state procurement and public contracts; and these Rules prescribe procedures for qualifying and certifying a business as a "small entrepreneurship" in order to facilitate their access to state procurement and public contracts and encourage business opportunities for small entrepreneurships, which will expand small business economic development throughout Louisiana. Without this Rule, the state of Louisiana may suffer the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 19

CORPORATIONS AND BUSINESS

**Part VIII. Small Entrepreneurship (Hudson Initiative)
Certification Program**

Subpart 1. Certification Program

Chapter 1. General Provisions

§101. Statement of Policy

A. In accordance with the provisions of R.S. 39:2006 and R.S. 51:931, the Department of Economic Development's Small Entrepreneurship (Hudson Initiative) Certification Program [SE(HI) Certification Program] through its designee or its staff administers these regulations which are intended to prescribe the procedures for qualifying and certifying a business as a "small entrepreneurship" to facilitate access to state procurement and public contracts and encourage business opportunities for small entrepreneurships.

B. Certifications that a business is a "small entrepreneurship" are not to be construed as an entitlement for any business locating or located in Louisiana either to such a certification, to any public contract, or to any proceeds from any state contract; and the Secretary of the Department of Economic Development, the director, or his

or their designee, the SE(HI) Certification Program, or its designee or staff, shall have the discretion to determine whether or not each particular applicant or application meets the criteria for the certification as provided herein; and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of such certification status.

C. In no way whatsoever shall the sex, race, birth, age, physical condition, religious beliefs, political ideas, or affiliations of a business' owners or officers be considered as a factor in determining whether a business receives certified status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006).

§103. Purpose

A. The purposes and intent of this program are to provide the maximum opportunity for small entrepreneurs to become so certified as small entrepreneurs and thereby become eligible to participate in a competitive modern business economy, to facilitate their access to state procurement and public contracts, and encourage business opportunities for such small entrepreneurs. These purposes shall be accomplished by providing a program for the certification of a business as a "small entrepreneurship."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:230 (February 2006).

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

Applicant—an individual, firm or business that seeks to be certified as a small entrepreneurship.

Certification—the determination and acknowledgement that a business qualifies for designation as a small entrepreneurship.

Designee—the person designated by the secretary or by the director to act in his absence.

Director—the Director of the Small Entrepreneurship (Hudson Initiative) Certification Program designated by the Secretary of the Department of Economic Development.

Firm—a business that seeks to be or that has been certified as a small entrepreneurship.

Full Time—employed and working in the firm at least 35 hours per week on a regular basis.

Program—the Small Entrepreneurship (Hudson Initiative) Certification Program [SE(HI) Certification Program] in the Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

Small Entrepreneurship (SE)—any business or firm organized for profit, including any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity which meets all of the criteria for certification by the Secretary of the Department of Economic Development as specified in R.S. 39:2006(A), as it may be amended from time to time. A nonprofit

organization is not a small entrepreneurship for purposes of this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:230 (February 2006).

Chapter 3. Certification

§301. Eligibility Requirements for Certification

A. A small entrepreneurship (SE) is a firm independently owned and operated; not dominant in its field of operations, which shall be determined by consideration of the business' number of employees, volume of business, financial resources, competitive status, and ownership or control of materials, processes, patents, license agreements, facilities, and sales territory; is owned by and has officers who are citizens or legal residents of the United States, all of whom are domiciled in Louisiana, and who maintain the principal business office in Louisiana; and together with its affiliate entities, has fewer than 50 full-time employees with average annual gross receipts not exceeding \$5,000,000 per year for construction operations and \$3,000,000 per year for non-construction operations, for each of the previous three tax years. Eligibility requirements include meeting all of the criteria specified in R.S. 39:2006(A), as it may be amended from time to time. In order to participate and continue to participate in the program, an individual or firm must meet and continue to meet all such eligibility requirements or criteria.

B. Small Entrepreneurship (SE). For purposes of the program, an individual or legal entity that meets all of the criteria specified in R.S. 39:2006(A), as it may be amended from time to time, may be certified as a small entrepreneurship.

C. Requirement for Certification. Applicants for certification as a small entrepreneurship must submit to the SE(HI) Certification Program office of the Department of Economic Development a written application, on a form prepared by the SE(HI) Certification Program, or its designee or staff, providing financial and other background information, and certifying as to the applicant's eligibility requirements or criteria as specified in R.S. 39:2006(A), as it may be amended from time to time, including an affidavit signed, dated, and notarized attesting to the correctness of the information provided and to the authenticity of all supporting documentation or information which may be provided by the applicant pursuant to the request of the SE(HI) Certification Program, or its designee or staff; and if requested by the SE(HI) Certification Program, or its designee or staff, the applicant must also furnish, within a reasonable time as established by the SE(HI) Certification Program, or its designee or staff, applicant's most recent financial statements, federal and state tax returns, a copy of its most recently filed Louisiana Department of Labor (LDOL) ES-4 form, and any other appropriate supporting documentation or information as may be requested or required by the SE(HI) Certification Program, or its designee or staff.

D. Any records, writings, accounts, reports, documents, financial information, tax information, proprietary business information and other materials that are in their nature considered to be confidential and are designated as

confidential or proprietary by those firms, businesses or individuals submitting, delivering or transmitting the same, pursuant to request, for the purposes of allowing the SE(HI) Certification Program, or its designee or staff, to investigate and/or examine these firms, businesses or individuals pertaining to its statutory duties, shall be considered and maintained as confidential and proprietary information within the meaning of R.S. 44:4(3). The SE(HI) Certification Program, its designee and staff, shall use all reasonable precautions to maintain such confidentiality and they are not to disclose such confidential information to any third party except as permitted or as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:230 (February 2006).

§303. Responsibility for Applying

A. It is the responsibility of any individual or business wishing to participate in the program to complete the appropriate written application and required certification process. Failure to provide complete, true, accurate or timely any requested additional supporting information may result in the rejection of the application.

B. Application and certification materials will be distributed by the SE(HI) Certification Program, or its designee or staff, upon written or verbal request. Written or verbal requests for application and certification materials should be directed to the SE(HI) Certification Program office in the Department of Economic Development in Baton Rouge.

C. Certification as a small entrepreneur (SE) also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a small entrepreneurship also does not constitute any determination by the SE(HI) Certification Program, its designee or staff, that the firm is a responsible one according to R.S. 39:1505 or R.S. 39:1601, or that the firm is capable of performing any work of any kind.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:231 (February 2006).

§305. Certification Application Procedure

A. The applicant must submit an application to the SE(HI) Certification Program office in the Department of Economic Development in Baton Rouge, containing a signed, dated, and notarized affidavit attesting to the correctness of the information provided in the application and to the authenticity of all supporting documentation or information which may be provided by the applicant pursuant to the request of the SE(HI) Certification Program, or its designee or staff, and attesting to the applicant's eligibility requirements or criteria as specified in R.S. 39:2006(A), as it may be amended from time to time.

B. The SE(HI) Certification Program, through its designee or staff, shall review the application, and if it is found to be incomplete or if further information is needed (such as, for example, applicant's most recent financial statements, federal and state tax returns, a copy of its most recently filed Louisiana Department of Labor (LDOL) ES-4

form, and any other appropriate supporting documentation or information as may be requested or required by the SE(HI) Certification Program, or its designee or staff), the SE(HI) Certification Program designee or staff will contact the applicant business and request such additional information. If the applicant does not respond with the further requested information within 15 days, the application will be denied. If the application is found to be sufficient, or if the application along with the additional information provided is found to be sufficient, a determination shall be made by the SE(HI) Certification Program, or its designee or staff, as to whether or not the applicant business will be certified as a small entrepreneur.

C. The director, or his designee, shall notify the applicant in writing of the decision whether or not to grant such SE certification; and if such SE certification is to be granted, a written certification as to such status in appropriate form, as determined by the director or his designee, shall be provided to the applicant business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:231 (February 2006).

§307. Duration of Certification; Graduation through Growth

A. The amount of time that a firm may be granted certification by the SE(HI) Certification Program is unlimited until the firm graduates by growing to exceed the eligibility requirements for certification.

B. Retention of the firm in the program depends upon the passing of time, the firm's growth and progress toward successfulness and the attainment of its business goals, its willingness and ability to cooperate with and follow through on recommendations of the SE(HI) Certification Program designee or staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:231 (February 2006).

§309. Verification of Eligibility; Reports by Certified Small Businesses; Evaluation

A. Verification of Eligibility. The SE(HI) Certification Program, or its designee or staff, may take any reasonable means at any time to confirm an applicant's eligibility or a certified firm's continued eligibility, such as by investigation, letter, telephone, contact with other governmental and/or state agencies, including but not limited to the Department of Labor, and any other persons, companies, suppliers, or by either announced or unannounced site inspections.

B. Report Form. By letter, or on forms which may be identified or prescribed by the SE(HI) Certification Program, or its designee or staff, certified businesses shall continue to report periodically and at times specified by the SE(HI) Certification Program, or its designee or staff, their financial position and attainment of the business' performance goals. Failure to report or failure to report on a timely basis, as required or requested by the SE(HI) Certification Program, or its designee or staff, may result in the business' termination of its SE certification and from the program.

C. Notification of Changes. To continue participation, a certified firm shall provide the SE(HI) Certification

Program, or its designee or staff, with a written statement of any changes in its address, telephone number, ownership, control, financial status, major changes in the nature of the operation, or any other appropriate supporting documentation or information as may be requested or required by the SE(HI) Certification Program, or its designee or staff, including, if requested by the SE(HI) Certification Program, or its designee or staff, updated financial information, federal and state tax returns, copies of DOL ES-4 Forms, and including an affidavit (signed, dated, and notarized) attesting to the authenticity of all of the aforesaid supporting documentation and attesting to the applicant's eligibility or the certified business' continued eligibility requirements or criteria as specified in R.S. 39:2006(A), as it may be amended from time to time. Failure to do so may be grounds for the firm's termination of eligibility and certification, and termination from the program.

D. Evaluation. The SE(HI) Certification Program, or its designee or staff, as necessary, shall evaluate and continue to evaluate the information provided and/or otherwise obtained to determine a business' progress, growth and dominance in its field of operations, number of employees, volume of business, areas of improvement, the firm's financial resources, competitive status, ownerships, status of owners and officers, and generally the firm's continued eligibility for its continued SE certification and continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:231 (February 2006).

§311. Deception Relating to Certification of a Small Entrepreneurship

A. Any individual or business found guilty of deception relating to certification of a Small Entrepreneurship (SE) will be denied its SE certification, or have its already approved certification revoked and shall be discharged from the program, and will not be eligible to reapply under the business name involved in the deception or under any business with which such individual(s) or business may be associated or affiliated.

B. In the event an applicant or certified business knowingly files a false statement in its application or in any other filing, the applicant or the certified business and/or its representatives may be guilty of the offense of filing false public records, and may be subject to the penalty provided for in R.S. 14:133. In the event an applicant or a certified business and/or its representative is reasonably believed to have filed a false statement in its application or any other filing, the SE(HI) Certification Program, or its designee or staff, is authorized to notify the District Attorney of East Baton Rouge Parish, Louisiana, and may also notify any other appropriate law enforcement personnel, so that an appropriate investigation may be undertaken with respect to the false statement and the application of any state funds to the application for other filing.

C. The SE(HI) Certification Program or its designee or staff shall have and retain the right, and shall have the authority, but not the obligation, to require and/or conduct

full investigations, at any time and from time to time, including but not limited to full financial and performance audits of any applicant, certified business or SE firm, including all relevant accounts, records and documents of the individual or business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:232 (February 2006).

§313. Departmental Listing; Availability

A. The department shall maintain a listing of all certified small entrepreneurs which shall be updated monthly. The listing shall be available on the Internet and shall also be available in written form upon written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:232 (February 2006).

§315. Departmental Reporting

A. The department shall report annually to the Commissioner of Administration with respect to the graduation rates for businesses which grew to exceed the eligibility requirements for certification in the most recently concluded fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:232 (February 2006).

Michael J. Olivier
Secretary

0602#027

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.107, 305, 307, 309, 313, 315, 701, 1101, 1115, 1141, 1151, 1153, 1301, 1313, 1335, 1345, 1347, 1349, 1351, 1355, 1501, 1701, 1901, 2001, 2501, 2701, 3303, 3305, 3307, and 3501)

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*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Student Standards and Assessments (DSSA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to:

- Revise the names of two of Louisiana's statewide assessment tests by removing *for the 21st Century* from each. *Graduation Exit Examination* (GEE) and *Louisiana Educational Assessment Program* (LEAP).
- Add Chapter 20, *Louisiana Alternate Assessment, Level 2* (LAA2) explaining a new test assessment instrument for special education students.

- Revise the name Louisiana Alternate Assessment (LAA) chapter 19, to Louisiana Alternate Assessment, Level 1 (LAA1).
- Relocate information about the assessment programs *The Iowa Tests of Basic Skills* (ITBS) and *Iowa Tests of Educational Development* (ITED) from §107.D to §107.H. The *Integrated* Louisiana Educational Assessment Program (*iLEAP*) will replace these tests in §107.D.

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 clarify new test assessment guidelines, verify the renaming of tests, and ensure effective test administrations.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 1. General Provisions

§107. Assessment Programs

A. Kindergarten Developmental Readiness Screening Program (KDRSP). Each school district is required to administer an approved screening instrument to each child entering kindergarten for the first time, with the results to be used for placement and planning instruction.

B. Louisiana Educational Assessment Program (LEAP). Criterion-referenced tests in English Language Arts, Mathematics, Science, and Social Studies assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance. The tests assess a student's complex thinking skills as well as knowledge and application of information. These high-stakes tests are tied to promotional policy for grades 4 and 8.

C. Graduation Exit Examination (GEE). Criterion-referenced tests in English Language Arts, Mathematics, Science, and Social Studies assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance. These high-stakes tests require high school students to meet established achievement levels to be eligible to receive a high school diploma.

D. *Integrated* Louisiana Educational Assessment Program (*iLEAP*). The *iLEAP* will integrate criterion-referenced tests and norm-referenced tests into one program to provide data for evaluating students, schools, and district performance in grades 3, 5, 6, 7, and 9 beginning with the 2005-2006 academic year.

E. LEAP Alternate Assessment, Level 1 (LAA 1). The LAA 1 is a performance-based student assessment that evaluates each eligible special education student's knowledge and skills in targeted areas. It is an "on-demand" assessment, which means the test administrator directs the student to perform a specific task and then scores the student's performance after the task is completed.

F. LEAP Alternate Assessment, Level 2 (LAA 2). The LAA 2 is a criterion-referenced assessment, which is based on modified academic achievement standards that allow

students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

G. English Language Development Assessment (ELDA). The ELDA is a research-based program designed to measure proficiency in reading, writing, speaking, and listening to English of LEP students; the program began in the 2004–2005 academic year.

H. The Iowa Tests. The Iowa Tests of Basic Skills (ITBS), used in grades 3, 5, 6, and 7, and the Iowa Test of Educational Development (ITED), used in grade 9, are norm-referenced tests that provide comparative data to evaluate student, school, and district performance. The last administration of The Iowa Tests occurred in academic year 2004-2005.

I. Graduation Exit Examination ("old" GEE). The "old" GEE measures curricula-based proficiencies in English Language Arts, Mathematics, Written Composition, Science, and Social Studies. The administration of the "old" GEE became a district responsibility beginning with the 2003-2004 academic year.

J. LEAP Alternate Assessment-B (LAA-B). The LAA-B, which was administered from 2000 through 2003, assessed special education students who met specific criteria at their functioning levels in language/reading and/or mathematics, rather than at their enrolled grade levels.

K. National Assessment of Educational Progress (NAEP). Also known as the Nation's Report Card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

L. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments, including LEAP, GEE, ELDA, and *iLEAP*. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

M. Placement Tests. Students from out-of-district or in-state educational settings, such as approved home study programs or nonpublic schools, who wish to enroll in public schools at grades 5 and 9 must take a placement test if they have not taken and met the requirements for LEAP. Students taking the placement test must score basic or above in English Language Arts or Mathematics and approaching basic or above in the other to enroll in grade 5 and score approaching basic or above in English Language Arts and Mathematics to enroll in grade 9.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006).

Chapter 3. Test Security

§305. Test Security Policy

A. The SBESE first approved a Test Security Policy on December 10, 1998. The policy has been periodically

revised. The State Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious. The Test Security Policy follows.

1. - 3.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], 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. - 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), or Graduation Exit Examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

13. - 16. ...

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

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

§307. Change of District Test Coordinator Notification

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE, Division of Student Standards and Assessments. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. The old district test coordinator must inform the new district test coordinator of passwords for LEAP*web* and LEAP*data*, location of placement tests, and location of "Old" GEE testing materials.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006).

§309. Erasure Analysis

A. - A.5. ...

6. A summary report of erasure analysis irregularities will be presented to the Louisiana Educational Assessment Testing Commission and the SBESE after each test administration.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006).

§313. Viewing Answer Documents

A. - B.3. ...

4. the type of assessment (i.e., LEAP, GEE, LAA 1, LAA 2, *i*LEAP, ELDA) and the content area of the answer document or documents requested; and

B.5. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), LR 32:234 (February 2006).

§315. Emergencies During Testing

A. - A.4. ...

5. If the test booklets have been opened and test security has been compromised, testing should not be continued. The answer documents should be sent to the testing company with the responses that were completed prior to the emergency. High school students who did not meet the achievement-level requirements to be eligible for a standard high school diploma will be allowed to retake the test they did not complete during the emergency at the next test administration. Likewise, a student who is unable to complete a LEAP test because of an emergency situation, thereby not meeting the requirements for promotion, will be allowed to retake the test during the next test administration.

6. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006).

Chapter 7. Assessment Program Overview

§701. Overview of Assessment Programs in Louisiana

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987–
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988–spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993–spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999–spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003–spring 2005 (no longer administered)
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990–
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989–spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	grades 10 and 11	spring 1989– spring 2003 (state administered) fall 2003– (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999–
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001–
GEE (Science and Social Studies)	grade 11	spring 2002–
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	Grades 3, 5, 6, 7, and 9	spring 2006–
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11.	spring 2001–
Louisiana Alternate Assessment, Level 2 (LAA 2)	Grades 4, 8, 10, and 11	spring 2006–
LAA 2	Grades 5, 6, 7, and 9	spring 2007–
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	spring 1999–spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	spring 2005–

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006).

Chapter 11. Louisiana Educational Assessment Program

Subchapter A. General Provisions

§1101. Introduction

A. The LEAP is a criterion-referenced testing program that is directly aligned with the state content standards, which by law are as rigorous as those of NAEP. The LEAP measures how well students in grades four and eight have

mastered the state content standards. Test results are reported in terms of achievement levels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (1) (c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006).

Subchapter B. Achievement Levels and Performance Standards

§1115. Performance Standards

A. Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for all grades and content areas.

B. LEAP Achievement Levels and Scaled Score Ranges—Grade 4

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Advanced	408–500	419–500	405–500	399–500
Mastery	354–407	370–418	360–404	353–398
Basic	301–353	315–369	306–359	301–352
Approaching Basic	263–300	282–314	263–305	272–300
Unsatisfactory	100–262	100–281	100–262	100–271

C. LEAP Achievement Levels and Scaled Score Ranges—Grade 8

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Advanced	402–500	398–500	400–500	404–500
Mastery	356–401	376–397	345–399	350–403
Basic	315–355	321–375	305–344	297–349
Approaching Basic	269–314	296–320	267–304	263–296
Unsatisfactory	100–268	100–295	100–266	100–262

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006).

Subchapter D. LEAP Assessment Structure

§1141. Content Standards

A. The LEAP tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in May 1997 by the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1545 (July 2005), amended LR 32:236 (February 2006).

§1151. Retests and Rescores

A. Double Jeopardy Rule. If a student scores at the required passing achievement level in LEAP English Language Arts or Mathematics during an administration and then retakes the test and scores below the required level on the retest administration, the passing score will be used to determine promotion.

B. Rescores

1. Students may request a rescore if the following criterion are met.

a. English Language Arts and Mathematics—grades 4 and 8. The test has a scaled score five points below the Basic or Approaching Basic achievement level.

1.b. - 4. ...

C. Summer Retest. The summer retest is for students enrolled in grades 4 and 8 who need to be tested with LEAP for promotion to grades 5 and 9 the following fall.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), amended LR 32:236 (February 2006).

§1153. Transfer Students

A. - A.1. ...

a. A fourth or eighth grade student who transfers to a Louisiana public school before the spring administration of LEAP must take and pass the spring administration of LEAP English Language Arts and Mathematics (ELA/Math) tests.

b. A fourth or eighth grade student who transfers to a Louisiana public school after the spring administration of the LEAP but before the end of the school year must take and pass the summer administration of the LEAP (ELA/Math) to be eligible for promotion to grade 5 or 9.

c. A student who seeks to enroll in a Louisiana public school in grade 5 or grade 9 after the LEAP summer administration and before school starts must take and pass the English Language Arts and Mathematics portions of the placement test.

A.1.d. - B.1. ...

a. A fourth or eighth grade student who transfers to a Louisiana public school before the spring administration of LEAP must take and pass the spring administration of LEAP (ELA/Math).

b. A fourth or eighth grade student who transfers to a Louisiana public school after the spring administration of the LEAP but before the end of the school year must take and pass the summer administration of the LEAP (ELA/Math) to be eligible for promotion to grade 5 or 9.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), amended LR 32:236 (February 2006).

Chapter 13. Graduation Exit Examination

Subchapter A. General Provisions

§1301. Introduction

A. The GEE is a criterion-referenced testing program that is directly aligned with the state content standards, which by law are as rigorous as those of NAEP. This test measures how well a student has mastered the state content

standards. The GEE initially is administered at grades 10 and 11. Initial testers generally take the English Language Arts test and the Mathematics test at grade 10 and the Science test and Social Studies test at grade 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (1)(c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:236 (February 2006).

B. GEE Achievement Levels and Scaled Score Ranges

Achievement Level	Grade 10		Grade 11	
	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Advanced	398–500	377–500	396–500	386–500
Mastery	347–397	346–376	349–395	344–385
Basic	299–346	305–345	301–348	297–343
Approaching Basic	270–298	286–304	267–300	275–296
Unsatisfactory	100–269	100–285	100–266	100–274

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:237 (February 2006).

Subchapter D. GEE Assessment Structure

§1335. Content Standards

A. The GEE tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in May 1997 by the SBESE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1552 (July 2005), amended LR 32:237 (February 2006).

§1345. Double Jeopardy Rule

A. If a school administers a GEE test that the student has already passed and the student scores unsatisfactory on the retest, the passing score will be used to determine the student's eligibility for a standard high school diploma.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006).

§1347. First and Second Cohorts

A. The first cohort comprises students who were first-time tenth graders in 2000-2001. First cohort students are required to score approaching basic or above on the GEE English Language Arts test and the GEE Mathematics test to be eligible for a standard high school diploma.

B. The second cohort comprises students who were first-time tenth graders in 2001-2002 and all first-time tenth graders thereafter. Second cohort students are required to score approaching basic or above on the GEE English Language Arts test and the GEE Mathematics test and to score approaching basic or above on either the GEE Science or Social Studies test to be eligible for a standard high school diploma.

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

Subchapter B. Achievement Levels and Performance Standards

§1313. Performance Standards

A. Performance standards for GEE English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for all grades and content areas.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006).

§1349. Rescores

A. Students may request a rescore of their GEE tests if the following criterion are met:

1. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006).

§1351. GEE Administration Rules

A. Students enrolled in grade 10 for the first time must take GEE English Language Arts and Mathematics tests during the spring administration.

B. Students repeating grade 10 shall take the GEE Science and Social Studies tests during the spring administration.

C. Students enrolled in grade 11 for the first time must take GEE Science and Social Studies tests during the spring administration.

D. - E. ...

F. Students in block schedules who are classified as tenth graders in the fall of their second year and as eleventh graders by the subsequent spring test administration are permitted to take all GEE content-area tests, English Language Arts, Mathematics, Science, and Social Studies, for the first time during that spring test administration.

G. If students enrolled in grade 12 have not yet met the GEE requirements to be eligible for a standard high school diploma, they may take all content-area tests, English Language Arts, Mathematics, Science, and Social Studies, during both the fall and the February Seniors Only retest administrations.

H. - I. ...

J. There is no ending age limit for students to retest in GEE, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

K. If a student was issued a GED diploma and subsequently meets the requirements of the GEE, the student may surrender the GED diploma and be issued a standard high school diploma.

L. If students are transferring to a public high school from a nonpublic high school that administers the GEE, the rules for nonpublic transfer students apply.

M. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006).

§1355. GEE Transfer Students

A. - A.1. ...

a. A student who entered the ninth grade during the 1999-2000 school year and thereafter and who transferred to a Louisiana public school at or below the ninth grade shall take and pass the English Language Arts and Mathematics sections and either the Science or the Social Studies test of GEE.

b. A student who entered the ninth grade in 1999-2000 and thereafter and who is classified by the local school district as a tenth grade student shall take and pass the English Language Arts and Mathematics tests and either the Science or the Social Studies test of GEE.

c. A student who entered the ninth grade in 1999-2000 and thereafter and who is classified by the local school district as an eleventh grade student shall take and pass either the Science or the Social Studies test of the GEE.

d. A student who entered the ninth grade in 1999-2000 and thereafter and who is classified by the local school district as a twelfth grade student shall not be required to take any part of the GEE.

2. - 2.a. ...

i. A student who returns in the seventh and/or eighth grade for a period in membership of 160 days total shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

ii. A student who returns in the ninth grade shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

iii. A student who returns and is classified as a tenth grade student shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

iv. A student who returns and is classified as an eleventh grade student shall take and pass either the Science or the Social Studies test of the GEE.

v. A student who returns and is classified as a twelfth grade student shall not be required to take any part of the GEE.

b. A student who was in initial membership in Louisiana public schools in the seventh and/or eighth grade for a period of 160 days total, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

c. A student who was in initial membership in Louisiana public schools as a ninth grade student, transferred

out, and subsequently returned at any grade level shall be required to take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

d. A student who was in initial membership in Louisiana public schools as a tenth grade student, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

e. A student who was in initial membership in Louisiana public schools as an eleventh grade student, transferred out, and subsequently returned at the eleventh- or twelfth-grade level shall take and pass either the Science or the Social Studies test of the GEE.

f. A student who was in initial membership in Louisiana public schools as a twelfth grade student, transferred out, and subsequently returned as a twelfth grader shall not be required to take any part of the GEE.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1555 (July 2005), amended LR 32:238 (February 2006).

Chapter 15. Norm-Referenced Tests

§1501. Description

A. The Louisiana Statewide Norm-Referenced Testing Program (LSNRTP) was established in 1986 as a component of LEAP. The primary goal of the program is to provide parents, students, educators, and policymakers with normative data that may be used for evaluating student, school, and district performance. Test results are used by teachers and administrators to plan instructional programs that enhance educational opportunities for Louisiana students. The LSNRTP ended in 2005 with the last administration of The Iowa Tests.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006).

Chapter 17. Integrated LEAP

§1701. Background

A. The NCLB Act requires the development of grade-level expectations (GLEs) or grade-level content standards at grades 3 through 8 for reading and mathematics. Louisiana has supplemented its existing content standards with grade-level expectations. To create a comprehensive system, Louisiana has developed GLEs in four content areas, English language arts, mathematics, science, and social studies, for grade levels prekindergarten through 12. NCLB further requires standards-based tests (or augmented norm-referenced tests) that measure the content standards. LEAP (grades 4 and 8) and GEE (grades 10 and 11) measure the content standards, and these tests will continue. To measure the standards and GLEs at grades 3, 5, 6, 7, and 9, however, the *Integrated* LEAP (*iLEAP*) tests will be used, beginning in spring 2006. The *iLEAP* tests will replace The Iowa Tests, which were used to evaluate student performance in grades 3, 5, 6, 7, and 9 from spring 1998 to spring 2005. The term *integrated* refers to the integration of standards-based tests (CRTs) and norm-referenced tests (NRTs) into one program.

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4 (F) (2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006).

Chapter 19. LEAP Alternate Assessment, Level 1 **§1901. General Provisions**

A. The LEAP Alternate Assessment, Level 1 (LAA 1) is a performance-based student assessment that evaluates each student's knowledge and skills in targeted areas. It is an "on-demand" assessment; the test administrator directs the student to perform a specific task and then scores the performance after the task is completed. The LAA 1 is designed to minimize time away from instruction and direct services to students. Teachers are encouraged to administer the assessment as part of a daily routine

B. ...

C. Structure of LAA 1. The LAA 1 is based on selected Louisiana content standards. It includes 20 target indicators from the standards, five from English language arts, five from mathematics, six from social studies, and four from science. Each target indicator includes participation levels, which reflect three different levels of skill complexity: introductory, fundamental, and comprehensive. A 6-point scoring rubric provides descriptors for evaluating student performance on each of the target indicators.

D. - F. ...

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).

Chapter 20. LEAP Alternate Assessment, Level 2 **§2001. Description**

A. LEAP Alternate Assessment, Level 2 (LAA 2) is a criterion-referenced assessment which is based on modified academic achievement standards that allows students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

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 32:239 (February 2006).

Chapter 25. Field Testing

§2501. General Provisions

A. ...

1. Louisiana Educational Assessment Program (LEAP);

2. Graduation Exit Examination (GEE);

3. *Integrated* LEAP (iLEAP);

B. LEAP and GEE field tests are conducted annually in designated content areas.

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

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 32:239 (February 2006).

Chapter 27. Placement Tests

§2701. Administration and Scoring

A. ...

B. Students who participate in the spring and/or summer administration of LEAP test and fail to score at the required achievement level(s) are not eligible to take The Iowa Tests for placement purposes.

C - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 32:239 (February 2006).

Chapter 33. Assessment of Special Populations

§3303. Special Education Students

A. All special education students must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Special education students who meet specific participation criteria as stated in Bulletin 1530 Louisiana IEP Handbook for Students with Disabilities, Chapter 9 and whose Individualized Education Plans (IEPs) indicate they will participate in an alternate assessment may participate in an alternate assessment, such as the LEAP Alternate Assessment, Level 1 (LAA 1) or LEAP Alternate Assessment, Level 2 (LAA 2). The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006).

§3305. Students with One or More Disabilities

According to Section 504

A. - F. ...

G. LEAP Summer Retest and GEE Summer, Fall, and February Seniors Only Retest. Students who were identified as Section 504 or who had accommodations added to their Section 504 IAP and Section 504 Testing Accommodation Verification forms after the spring assessment must be submitted on the LEAP Data Validation form to LDE 30 days before the summer or fall retest. The Section 504 Testing Accommodation Verification form and a copy of the IAP must be forwarded to the student's summer remediation and summer or fall testing site to ensure the student receives the appropriate accommodations for instruction and assessment.

H. GEE and "Old" GEE. Students who have completed their Carnegie units but are no longer enrolled in school should receive the accommodations documented on their last IEP and Section 504 Testing Accommodation Verification forms.

I. - I.6. ...

a. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the Reading and Responding session of LEAP and GEE, Reading and Language session of iLEAP, Reading Comprehension of the ITBS and the "old" GEE, Reading session of ELDA, and corresponding session of LAA 2, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006).

§3307. Limited English Proficient Students

A. - C.3. ...

4. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the test administration manuals. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP and GEE, Reading and Language session of iLEAP, Reading Comprehension of the ITBS and the "old" GEE, Reading session of ELDA, and corresponding session of LAA 2, and any others developed to measure this skill. Directions only to these sessions may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq. and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006).

Chapter 35. Assessment of Students in Special Circumstances

§3501. Approved Home Study Program Students

A. Fourth grade students from state-approved home study programs who are seeking to enroll in grade 5 must take and score basic or above on the grade 4 LEAP English Language Arts or the Mathematics test and approaching basic or above on the other test to enroll in grade 5.

B. Eighth grade students from state-approved home study programs who are seeking to enroll in grade 9 must take and score basic or above on the grade 8 LEAP English Language Arts or the Mathematics tests and approaching basic or above on either to enroll in grade 9.

C. ...

D. Students from state-approved home study programs may take the GEE in grades 10 and 11.

E. Students from state approved home study programs may take the iLEAP tests in grades 3, 5, 6, 7, and 9.

F. Approved home study program students shall take the test which is designated for the enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R.S. 17:10, R.S. 17:22 (6), R.S. 17:391.1-17: 391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 32:240 (February 2006).

Weegie Peabody
Executive Director

0602#006

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28: CXV.2320)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators* (LAC Part Number CXV). This revision to Bulletin 741 provides statewide policy and guidance for Senior Projects. The Senior Project is one of the possible performance indicators students can use in qualifying to receive an Academic Diploma Endorsement. The new policy is similar to policy in other states and districts. The purpose of the policy is to provide consistency and ensure that the rigor of the Senior Project is equivalent to the other Performance Indicators for the Academic Endorsement.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2320. Senior Projects

A. A Senior Project is a focused rigorous independent learning experience completed during the student's year of projected graduation from high school.

B. Each LEA allowing students to complete a Senior Project in partial fulfillment of the requirements for an Academic Endorsement shall develop local policy for Senior Projects that includes these requirements.

1. Each student must choose a challenging topic of interest approved by their parents or guardians and the school-level Senior Project Committee.

2. Each student must have a Senior Project mentor.

3. Students must successfully complete the four components listed below with a score of Satisfactory or higher on each component. The components will be evaluated locally using rubrics provided by the DOE:

a. research paper of 8 to 10 pages on an approved topic of the student's choice;

b. product or service related to the research requiring at least 20 hours of work;

c. portfolio that documents and reflects the Senior Project process;

d. presentation to a panel of three to five adults from the community and school.

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 32:240 (February 2006).

Weegie Peabody
Executive Director

0602#005

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Emissions Inventory (LAC 33:III.919)(AQ255)

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.919 (Log #AQ255).

The 1-hour National Ambient Air Quality Standard (NAAQS) was revoked effective June 15, 2005 (69 FR 23858). The Rule deletes the term "1-hour" and replaces it with the term "8-hour" to refer to the currently applicable 8-hour ozone NAAQS. The Rule also enumerates the required number of copies of the annual Certification Statement to be submitted to the department and revises the requirements for calculations.

The 1-hour ozone standard was established by the Environmental Protection Agency (EPA) following the passage of the Clean Air Act. The 1-hour ozone standard was reviewed and revised by the EPA as per Section 109 of the Clean Air Act Amendments. The 1-hour ozone standard was replaced with a more stringent, more protective 8-hour ozone standard, which was effective June 15, 2004. The 1-hour ozone standard was revoked effective one year after the effective date of the 8-hour ozone standard, or June 15, 2005. This Rule deletes reference to the 1-hour ozone standard that has been revoked and refers to the current 8-hour ozone standard that is in effect. There are no new Clean Air Act requirements to comply with as a result of the transition from the 1-hour to the 8-hour standard. The basis and rationale for this rule are to continue efforts toward attainment of the ozone standard statewide and attainment of the PM_{2.5} standard.

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 III. Air

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§919. Emissions Inventory

Emissions inventory data shall be submitted to the department on magnetic media in the format specified by the Office of Environmental Assessment, Air Quality Assessment Division. *Facilities* are defined as all emissions points under common control on contiguous property. *Emissions point* is defined as the source of emissions that

should have a Source Classification Code (SCC). Detailed instructions are provided, on an annual basis, for completing and submitting emissions inventories. The state point source emissions inventory will be compiled from the emissions inventories submitted in accordance with this Section from the facilities that meet the criteria for applicability in Subsection A of this Section. The state area source, non-road and on-road mobile source, and biogenic emissions inventories are compiled by the department from data that may be requested from other federal, state, or local agencies or other private entities.

A. ...

1. Any facility located in the 8-hour ozone nonattainment parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge is required to report if the facility emits or has the potential to emit any one or more of the following:

a. - d. ...

2. Any facility located in the parish of Assumption, East Feliciana, Iberia, Point Coupee, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Tangipahoa, or West Feliciana, (parishes that adjoin an 8-hour ozone nonattainment parish) is required to report if the facility emits or has the potential to emit any one or more of the following:

2.a. - 5....

6. No facility classes or categories are exempted.

B. Types of Inventories

1. Annual Emissions Statement. Facilities as identified in Subsection A of this Section, shall submit an original Annual Emissions Statement (AES) and a duplicate for all criteria pollutants for which a NAAQS has been issued and for NAAQS precursor pollutants. Except as provided in Subparagraph B.2.d of this Section, the AES shall consist of an inventory of actual emissions and the allowable (permitted) emissions limits of VOC, NO_x, CO, SO₂, Pb, PM₁₀, PM_{2.5}, and ammonia, and an annual Certification Statement in accordance with Subparagraph B.5.a of this Section. The emissions inventory may be an initial emissions inventory for facilities submitting their first emissions inventory, or an annual emissions inventory update for facilities that have previously submitted an emissions inventory. Actual emissions shall be reported for all sources of emissions at a facility, including fugitive emissions, flash gas emissions, insignificant sources (as defined in LAC 33:III.501.B.5, Insignificant Activities List, A. Based on Size of Emission Rate), and excess emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime. For purposes of this Section, the term *actual emissions* is the calculation or estimate of the actual emissions of a pollutant, in accordance with Subsection C of this Section, for the calendar year or other period of time if requested by the department. *Excess emissions* are defined as emissions quantities greater than normal operations. Where there is an enforceable document, such as a permit, that establishes allowable levels, the AES shall include the allowable emissions level as identified in the permit Maximum Allowable Emissions Rate Table and the allowable tons per year.

2. - 5.g.v. ...

C. Calculations. Actual measurement with continuous emissions monitoring systems (CEMS) or approved stack

testing shall be used for reporting of emissions from an emissions point when such data exists. In the absence of CEMS or stack test data, emissions shall be calculated using methods found in the most recent edition, as of December 31 of the current reporting year, of the Compilation of Air Pollution Emission Factors (AP-42), calculations published in engineering journals, and/or EPA or department-approved estimation methodologies.

D. - F. ...

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), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 32:241 (February 2006).

Herman Robinson, CPM
Executive Counsel

0602#020

RULE

Office of the Governor Boxing and Wrestling Commission

Definition of Contestant; HIV Testing
(LAC 46:XI.101 and 108)

The Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D) to adopt the following Rule. This Rule is necessary to promote the safety of contestants, other participants and spectators in that it will require participants in all sports under the jurisdiction of the Boxing and Wrestling Commission to be tested for HIV and present medical certification that participant is HIV negative. This proposed Rule repromulgates and moves to Chapter 1, General Rules, the Rule on HIV testing, previously in §325.B, and clarifies definition of *contestant*.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§101. Definitions

* * *

Contestant—any participant in all sports under the jurisdiction of this commission including but not limited to boxing, wrestling, kickboxing and martial arts sports.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor,

Boxing and Wrestling Commission, LR 31:2003 (August 2005), LR 32:242 (February 2006).

§108. Medical Requirements

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV and said test results are negative. Said test and certificate shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at the time of "weigh in."

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006).

Patrick C. McGinity
Attorney for the Commission

0602#030

RULE

Office of the Governor Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board has amended its rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. General

1. There will be a \$10,000 limit for awards for all victims with the exception of those primary victims who become totally and permanently disabled as a result of the crime. For those awards, the board may, at its discretion, award up to \$25,000, depending on availability of funds its administrative rule limits for certain award benefits, and the extent, if any, of collateral resources. For purposes of this Section:

a. a victim is "totally and permanently disabled" if the victim has a physical or mental impairment that substantially precludes them from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout their life;

b. the board reserves the right to obtain an impartial medical expert, at its expense, if necessary, to assess the degree of disability of the victim.

A.2. - M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February

1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 32:242 (February 2006).

Lamarr Davis
Chairman

0602#097

RULE

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

General Provisions (LAC 46:XXXIII.301, 306, 415, 419, 501, 1506, 1509, 1511, 1611, 1613, 1703, and 1705)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.301, 306, 415, 419, 501, 1506, 1509, 1511, 1611 1613, 1703, and 1705. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - B. ...

C. Approved Specialties. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves only the following specialties:

1. dental public health;
2. endodontics;
3. oral and maxillofacial surgery;
4. oral pathology;
5. orthodontics and dentofacial orthopedics;
6. pediatric dentistry;
7. periodontics;
8. prosthodontics; and
9. oral and maxillofacial radiology.

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006)

**§306. Requirements of Applicants for Licensure by
Credentials**

A. - A.2. ...

3. has been in active practice, while possessing a nonrestricted license in another state, by working full-time as a dentist at a minimum of 1,000 hours per year for the

preceding three years before applying for licensure in Louisiana or full-time dental education as a teacher for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301; the applicant completing the residency program must apply for licensure within 180 days of graduation from said specialty program or fellowship or work full-time as a dentist for three years before licensure;

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006).

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. For processing applications for licensure, permits, and examinations, the following non-refundable fees shall be payable in advance to the board:

- | | |
|---|-------|
| 1. - 16. ... | |
| 17. Clinical licensing examination makeup fee per portion | \$150 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006).

Subchapter D. Fees for Dental Hygienists

**§419. Licenses, Permits, and Examinations
(Dental Hygienists)**

A. For processing applications for licensure, permits, and examinations, the following non-refundable fees shall be payable in advance to the board:

- | | |
|---|------|
| 1. - 10. ... | |
| 11. Clinical licensing examination makeup fee per portion | \$50 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) , R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006).

Chapter 5. Dental Assistants

§501. Authorized Duties

A. - B.19. ...

20. exception: a dental assistant who has been employed by a licensed, practicing dentist and has worked as a dental assistant prior to July 30, 1992, may continue performing the following duties without registering as an

expanded duty dental assistant. These duties must also be performed under the direct, on-premises supervision of the dentist:

- a. apply cavity liners, excluding capping of exposed pulpal tissue;
- b. place, wedge or remove matrices for restoration by the dentist;
- c. place and remove periodontal dressings;
- d. place and remove retraction cords.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry (October 1970), amended LR 2:186 (June 1976), LR 7:586 (November 1981), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), LR 16:505 (June 1990), LR 19:205 (February 1993), LR 32:243 (February 2006).

Chapter 15. Anesthesia/Analgesia Administration

§1506. Conscious Sedation with Enteral Drugs

A. In order to administer enteral conscious sedation, the dentist shall:

1. comply with all requirements of this Chapter;
2. utilize a working pulse oximeter on patients;
3. maintain a proper record keeping mechanism in addition to a controlled substance log;
4. utilize an accurate scale on pediatric patients (anyone under the age of 13).

B. Drugs for enteral conscious sedation must be administered in a dental office and the patient must be observed by a qualified office staff member with training and credentials to perform the specific tasks concomitant with the procedure being administered. Continuous monitoring with pulse oximetry must be initiated with early signs of conscious sedation and continued until the patient is alert. A precordial, pretracheal stethoscope must be available to assist intraoperatively in the monitoring of heart and respiratory rates. A sphygmomanometer shall be immediately available and utilized as needed throughout the procedure. Drugs for anxiolysis may be administered off premises prior to the dental procedure.

C. For those licensees who have received permits to administer pediatric enteral conscious sedation prior to the effective date of this rule, said licensee shall satisfactorily complete a board approved course in the administration of pediatric enteral conscious sedation before the permit is renewed concurrently with the license renewal. However, a grace period of 180 days after the renewal of one's license shall be granted to the licensee if good cause can be shown that a course was not available.

D. The licensee must provide proof of current certification in cardiopulmonary resuscitation, Course "C," Basic Life Support for the Health Care Provider as defined by the American Heart Association or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:793.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006).

§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral or Enteral Drugs and General Anesthesia/Deep Sedation

A. - B.2 ...

C. Conscious Sedation with Enteral Drugs

1. To be granted an unrestricted (adults and children) permit to administer conscious sedation with enteral drugs, the applicant must submit verification of formal post-doctoral training in the use of enteral conscious sedation on both pediatric and adult patients or satisfactory completion of a board approved course which includes a minimum of 16 hours of didactic training and a component on handling emergencies incident to the administration of conscious sedation.

2. To be granted a restricted permit (adults only) to administer conscious sedation with enteral drugs, the applicant must submit verification of formal post-doctoral training in the use of enteral conscious sedation on adult patients or satisfactory completion of a board approved course which includes a minimum of 8 hours of didactic training and a component on handling emergencies incident to the administration of conscious sedation.

D. Deep Sedation and General Anesthesia. Successful completion of an American Dental Association accredited program in oral and maxillofacial surgery or a program which meets or exceeds the specifications outlined in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry adopted by the American Dental Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006).

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. - A.7.d. ...

e. Pulse oximeter when parenteral or enteral conscious sedation on a patient is performed.

A.8. - B.3. ...

4. When conscious sedation with parenteral or enteral drugs is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006).

Chapter 16. Continuing Education Requirements

§1611. Continuing Education Requirements for Relicensure of Dentists

A. ...

B. At least one-half of the minimum credit hours (20) must be attained by personally attending clinical courses

pertaining to the actual delivery of dental services to patients. However, 10 of these 20 hours may be attained by completing ADA or AGD certified Internet or correspondence courses which are clinical in nature and require successful completion of a written examination at the conclusion of said course.

C. - J. ...

K. In order to renew permits for the administration of deep sedation, parenteral sedation, and enteral sedation, each licensee shall complete a board approved course pertinent to the level of their sedation permit no less than once every five years.

1. Recertification for deep sedation or general anesthesia as required by the American Association of Oral and Maxillofacial Surgeons every five years shall satisfy this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006).

§1613. Continuing Education Requirements for Relicensure of Dental Hygienists

A. ...

B. At least one-half of the minimum credit hours (12) must be attained by personally attending clinical courses pertaining to the actual delivery of dental or dental hygiene services to patients. However, 6 of these 12 hours may be attained by completing ADA, AGD, or ADHA certified Internet or correspondence courses which are clinical in nature and require successful completion of a written examination at the conclusion of said course.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:245 (February 2006).

Chapter 17. Licensure Examinations

§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry

A. This manual is too voluminous to print and LAC 46:XXXIII.1703 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006).

§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry

A. This manual is too voluminous to print and LAC 46:XXXIII.1705 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006).

C. Barry Ogden
Executive Director

0602#045

RULE

**Department of Health and Hospitals
Board of Nursing**

**Definition of Terms and Administration
of Anesthetic Agents
(LAC 46:XLVII.3703 and 3705)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., that the Louisiana State Board of Nursing (board) pursuant to the authority vested in the board by R.S.37:918 and R.S. 37:935, adopts Rules amending the Professional and Occupational Standards to implement Act 642 of the 2004 Louisiana Legislature to provide authority for registered nurses to administer anesthetic agents in accordance with an order of an authorized prescriber to certain patients in accordance with rules and regulations promulgated by the board. These Rules provide the required direction for the safe implementation of Act 642. The amendments of the Rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 37. Nursing Practice

§3703. Definition of Terms Applying to Nursing Practice

Executing Health Care Regimes as Prescribed by a Licensed Physician, Dentist or Authorized Prescriber—carrying out the medical orders of a physician, dentist or other authorized prescriber licensed in Louisiana.

1. Registered nurses may, based on their individual judgment of each situation, accept verbal orders initiated by an authorized prescriber and transmitted through a licensed or certified health care practitioner, provided the order is related to the said practitioner's scope of practice.

2. Registered nurses may execute standing orders of an authorized prescriber provided the said prescriber initiates the standing orders and provided, further, that the said orders do not require the nurse to make a medical diagnosis or to engage in prescriptive activity or to administer anesthetic agents other than in accordance with R.S. 37:930.D and E, R.S. 37:935 and LAC 46:XLVII.3705.

3. Registered nurses employed in the public school system are authorized to execute health care regimens prescribed by physicians licensed in adjacent states, pursuant to R.S. 17:436(B)(3)(a) and R.S. 17:436.1(B)(1)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:911, R.S. 37:913 and R.S. 37:935.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing LR 7:79 (March 1981), amended LR 10:598 (August 1984), LR 12:677 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 32:245 (February 2006).

§3705. Administration of Anesthetic Agents

A. Registered nurses, who are not certified registered nurse anesthetists, may administer anesthetic agents to intubated patients in critical care settings, and may titrate and continue infusion of local anesthetic agents through the use of epidural catheters for pain management, excluding obstetric patients, provided that the following conditions are met.

1. There is an institutional policy and plan for registered nurses (non-CRNAs) to administer anesthetic agents to intubated patients in critical care settings, and to titrate and continue infusion of local anesthetic agents through the use of epidural catheters for pain management for patients other than obstetric patients that includes:

- a. a clear statement of the purpose and goal of the treatment;
- b. written protocols, with documentation of acceptance of the protocols by the medical staff of the agency;
- c. policies and procedures to include but not be limited to the following:
 - i. preparation of solution;
 - ii. initiation of infusion;
 - iii. responding to emergency situations;
 - iv. maximum dose per hour of an anesthetic agent which can be administered by a registered nurse, who is not a certified registered nurse anesthetist, as approved by the medical staff; and
 - v. criteria for documentation of the procedure.

2. No anesthetic agent may be administered by a registered nurse, who is not a certified registered nurse anesthetist pursuant to this part unless there is a medical order by an authorized prescriber. Any orders to change the rate of infusion must be a medical order or in lieu of a specific order to change the rate of infusion, there are clearly stated criteria, by the authorizing prescriber, for adjusting the rate of infusion. However, in an emergency situation, the registered nurse may decrease the rate of infusion before calling the authorized prescriber.

B. Further, registered nurses, who are not certified registered nurse anesthetists, may titrate and continue infusion of local anesthetic agents through the use of epidural catheters for pain management, excluding obstetric patients, provided that the following conditions are met.

1. There is documentation that the registered nurse has successfully completed a course of instruction, which includes but is not limited to didactic instruction and supervised clinical practice on the following:

- a. anatomy and physiology of the spinal cord and column;
- b. purpose of the epidural catheter for pain management;

- c. catheter placement and signs and symptoms of misplacement;
- d. effects of medication administered epidurally;
- e. untoward reaction to medication and management;
- f. complications; and
- g. nursing care responsibilities:
 - i. observation;
 - ii. procedures;
 - iii. catheter maintenance;
 - iv. proper calibration and operation of infusion pump, and
 - v. removal of the epidural catheter.

2. Competencies shall be measured initially during orientation and on an annual basis.

C. The administration of anesthetic agents to intubated patients in critical care settings, and the titration and continuance of infusion of local anesthetic agents through the use of epidural catheters for pain management for patients may not be delegated or assigned by a registered nurse to anyone other than a registered nurse who meets the criteria set forth in this standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:935.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 32:246 (February 2006).

Barbara L. Morvant
Executive Director

0602#063

RULE

**Department of Health and Hospitals
Board of Nursing**

Renewal of License and Licensure as
Advanced Practice Registered Nurse
(LAC 46:XLVII.3333 and 4507)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S.37:918, R.S.37:920(E) amends the Professional and Occupational Standards Rules pertaining to the extension period of time in which persons licensed to practice as registered nurses and advanced practice registered nurses must renew current licenses and removes the requirements of providing evidence of completion of continuing education for the calendar year 2005. The amendments of the Rule is set forth below.

Many of the state's registered nurses and advanced practice registered nurses have suffered losses of personal property and have been displaced from their residences and places of employment. The lack of resources available to many registered nurses and advanced practice registered nurses will severely limit the ability of many licensees to meet the requirements for renewal of their licenses by January 31, 2006.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered
Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse

Licensure

§3333. Renewal of License

A. Every person holding a license to practice as a registered nurse, and intending to practice during the ensuing year, shall renew his license annually prior to the expiration of his license. The board shall furnish an application for renewal of a license to every person who holds a current license. The licensee shall complete the renewal form and return to the board before January 1. Upon receipt of the application and the renewal fee as required under §3341, the board shall verify the accuracy of the application and issue to the licensee a license of renewal for the current year beginning February 1 and expiring January 31. Incomplete applications will be returned. Applications postmarked after December 31 will be considered late and subject to the fee as required under §3341 for late renewals. Failure to renew a license prior to expiration subjects the individual to forfeiture of the right to practice. An individual shall notify the board of:

A.1. - B.3. ...

4. notwithstanding any provision of this Section to the contrary, any license to practice as a registered nurse issued valid through January 31, 2006 shall be valid through March 31, 2006;

5. notwithstanding any provision of this section to the contrary, no evidence of meeting the requirements of §3335 shall be required to renew a license issued valid through January 31, 2006, if said license is renewed on or before March 31, 2006.

C. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and 920.

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 16:1061 (December 1990), LR 23:962 (August 1997), LR 23:963 (August 1997), repromulgated LR 24:1293 (July 1998), amended LR 26:1443 (July 2000), LR 32:247 (February 2006).

Chapter 45. Advanced Practice Registered Nurses

§4507. Licensure as Advanced Practice Registered

Nurse

A. - E.2.d. ...

e. notwithstanding any provision of this Section to the contrary, for renewal of an APRN license issued valid through January 31, 2006 and renewed on or before March 31, 2006, compliance with Subparagraphs b and c will not be required.

F. - F.2.g. ...

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 22:281 (April

1996), amended LR 27:723 (May 2001), LR 29:580 (April 2003), LR 32:247 (February 2006).

Barbara L. Morvant
Executive Director

0602#064

RULE

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

Inpatient Hospital Services—State Hospitals
Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered in state acute hospitals to discontinue the requirement that state hospitals utilize target rate per discharge amounts and per diem limitations to determine the reimbursable Medicaid inpatient costs on the cost report. Inpatient hospital services provided by state acute hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

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

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

0602#080

RULE

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

Pharmacy Benefits Management Program
Antihemophilia Drugs Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

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

estimated acquisition cost reimbursement rate under the Medicaid Program for Antihemophilia drugs, Factor products, to the average wholesale price minus 30 percent for all prescription drug providers.

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

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

0692#079

RULE

**Department of Health and Hospitals
Office of Public Health**

**Genetic Diseases—Neonatal Screening
(LAC 48:V.6303)**

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health amends LAC 48:V.6303, A., B. and G.

The Rule adds screening for argininosuccinic aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD), medium chain acyl-CoA dehydrogenase deficiency (MCADD) and includes other requirements necessary for ensuring proper laboratory testing, follow-up and reporting. The Rule also increases the price of the red border lab form (Lab-10 form) for use with non-Medicaid patients from \$18 to \$30. All of these metabolic diseases untreated cause severe disability and the complications with some of them can be fatal.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Newborn Heel Stick Screening

§6303. Purpose, Scope Methodology

A. Purpose and Scope. R.S. 40:1299.1, 2, and 3, require physicians to test Louisiana newborns for phenylketonuria, congenital hypothyroidism, sickle cell disease, biotinidase deficiency, galactosemia, argininosuccinic Aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD) and medium chain acyl-CoA dehydrogenase deficiency (MCADD). The Office of Public Health (OPH) maintains a laboratory for performing newborn screening tests for the above-mentioned diseases. The newborn screening battery may also be available through other approved laboratories (see Subsection G).

B. Methodology

1. Filter Paper Specimen Form, (Lab-10) used in blood specimen collection for neonatal screening, can be obtained at parish health units. There are two different types of Lab-10 forms which are color-coded.

a. For patients covered by Medicaid, including those in the Kid-Med Program, blue border forms are used. There is no charge to private providers for these blue border forms.

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are \$30 each.

2. Private providers should order a mix of red and blue Lab-10 forms from their local parish health unit (or OPH Regional Office for certain areas) to match the Medicaid/non-Medicaid composition of newborns to be screened at their facility. The Lab-10 forms must be completely filled out.

3. For non-Medicaid eligible patients who attend a parish health unit for just the newborn screening service, the parent or guardian will be charged \$30 upon registering.

B.4. - F. ...

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism, biotinidase deficiency, galactosemia, argininosuccinic aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD), medium chain acyl-CoA dehydrogenase deficiency (MCADD) and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias E disease and C disease

2. - 4. ...

5. Only the following testing methodologies are acceptable without prior approval.

Disease	Testing Methodology
PKU	Fluorometric Tandem Mass Spectrometry Phenylalanine level cut-off: >3 mg, dL, call Genetics Office immediately for obtaining phenylalanine/tyrosine
Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T4 and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorimetric or Fluorometric
Galactosemia	Galt enzyme assay Total Galactose
Hemoglobinopathies (Sickle cell)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF) Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) Sickle Dex - NOT Acceptable Controls must include: F, A, S, C, E Result Reporting: by phenotype Positive/negative is NOT acceptable
Argininosuccinic Aciduria (ASA)	Tandem Mass Spectrometry
Citrullinemia	Tandem Mass Spectrometry
Homocystinuria	Tandem Mass Spectrometry
Maple Syrup Urine Disease (MSUD)	Tandem Mass Spectrometry
Medium Chain Acyl-CoA Dehydrogenase Deficiency (MCADD)	Tandem Mass Spectrometry

Disease	Testing Methodology
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an in-house validation study of said methodology.	

6. - 7. ...

8. **Mandatory Reporting of Positive Test Results Indicating Disease**

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office either by FAX at (504) 219-4452 or by telephone at (504) 219-4413 and followed up by the mailing of the information to the following address: Genetic Diseases Program, 1450 L & A Road, 2nd Floor, Metairie, LA 70001.

b. Specific time deadlines after data reduction and interpretation for reporting positive results indicating probable disease to the Genetics Office:

i. PKU: report a phenylalanine level of >3 mg/dL on the initial or repeat blood specimen within 2 hours and for inconclusive results, 2 consecutive results of >2mg/dl - <3mg/dl within 2 hours;

ii. Galactosemia, argininosuccinic aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD) and medium chain acyl-CoA dehydrogenase deficiency (MCADD) on the initial or repeat blood specimen within 2 hours; for inconclusive results, 2 hours for 2 consecutive inconclusive results;

iii. Congenital Hypothyroidism: report confirmatory test results within 24 hours;

iv. Biotinidase Deficiency: report results within 24 hours;

v. Sickle Cell Disease: report results of FS, FSC, FSA from initial specimens within 24 hours.

8.c. - 10.a. ...

b. The laboratory must electronically report newborn screening results on all Louisiana newborns screened to the Genetic Diseases Program Office on a monthly basis. The file format and data layout will be determined by the Genetic Diseases Program. Essential patient data is the following and is required to be reported unless "optional" is indicated:

- i. child's name;
- ii. child's last name;
- iii. mother's first name;
- iv. mother's last name;
- v. mother's maiden name (optional);
- vi. child's street address;
- vii. child's city;
- viii. child's state;
- ix. child's zip code;
- x. child's parish (optional);
- xi. child's date of birth (format: mm/dd/yyyy);
- xii. child's sex;
- xiii. child's race (format: (W)hite, (B)lack, Native American, Asian, other, Hispanic);
- xiv. mother's Social Security number (format: 999-99-9999);
- xv. child's test results.

H. **The Newborn Heel Stick Screening Policy for Result Reporting and Repeat Screening Post Transfusion**

1. The laboratory reporting the results to the submitter must indicate that transfusion may alter all newborn screening results along with the following instruction.

Repeat Testing Recommended:
2 days after last transfusion;
and 7 days after last transfusion;
and 90 days after last transfusion.

2. Whenever possible, a specimen should be collected prior to transfusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001), LR 29:1490 (August 2003), LR 32:248 (February 2006).

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

0602#065

RULE

**Department of Public Safety and Corrections
Office of Corrections Services**

**Adult Institutions Non-Medical Furloughs
(LAC 22:I.305)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, amends the contents of §305, Adult Institutions Non-Medical Furloughs.

The purpose of the amendment of the aforementioned regulation is to make clarifications to the existing regulation. These clarifications include the adding of definitions and changes to the applicability, as well as the eligibility section of the regulation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§305. Adult Institutions Non-Medical Furloughs

A. Purpose. To establish the secretary's policy regarding non-medical furloughs.

B. Applicability. Chief of operations, assistant secretary, director of probation and parole, and unit heads. Each unit head shall ensure that appropriate procedures are in place to comply with the provisions of this regulation.

C. Definitions

Non-Medical Furlough—a release from incarceration during the last six months of an inmate's sentence for the purpose of assisting in his transition into society.

Non-Medical Furlough Violation—the commission of any new offense, as well as the failure to follow rules and guidelines while on non-medical furlough.

Non-Medical Furlough Residence—a verified, established residence of an approved family member where the inmate will reside during the non-medical furlough.

Institution—includes, for the purpose of this regulation, state operated prison facilities, Winn Correctional Center, Allen Correctional Center, local jail facilities, and community rehabilitation centers under contract to or under cooperative endeavor with the Department of Public Safety and Corrections.

Unit Head—wardens of institutions, directors of community rehabilitation centers and local law enforcement authorities, i.e. sheriffs, chiefs of police, and administrators of local jail facilities.

D. Policy

1. It is the secretary's policy that non-medical furloughs typically will be reserved only for those inmates in work release programs. This regulation sets forth minimum requirements necessary for approval of a non-medical furlough (although such non-statutory minimum requirements may be waived by the secretary at his discretion) and does not prevent denial of a non-medical furlough to any inmate whose record, medical or mental health status, or observable behavior indicates that approval would not be appropriate or who, in the unit's head's discretion, is not otherwise acceptable. Nothing herein acts to authorize any non-medical furlough when, in the belief of responsible institutional staff, there is a reasonable risk to public safety or is likely to evoke adverse public reaction. Under no circumstances shall a non-medical furlough exceed 72 hours. Out-of-state non-medical furloughs are not authorized.

E. Eligibility. Adult offenders must meet the following criteria in order to be eligible for a furlough:

1. served at least one year in physical custody and have a good record of institutional adjustment;
2. six months or less to discharge;
3. must be classified as minimum custody according to the criteria of the institution where confined and have exemplary conduct;
4. must not have escaped, attempted to escape, or abetted an escape during the preceding seven years;
- 5.a. inmates serving sentences for these offenses:
 - i. first degree murder;
 - ii. second degree murder;
 - iii. attempted murder;
 - iv. aggravated rape;
 - v. attempted aggravated rape;
 - vi. forcible rape;
 - vii. aggravated kidnapping;
 - viii. aggravated arson;
 - ix. armed robbery;
 - x. attempted armed robbery;
 - xi. producing, manufacturing, distributing or dispensing or possession with intent to produce, manufacture, distribute or dispense a Schedule I or II controlled dangerous substance (R.S. 40:964);
 - xii. habitual felony conviction (R.S. 15:529.1);
- b. are eligible for non-medical furloughs only during the last six months of their sentence. In accordance with R.S. 15:833.B.(3)(a) and (c) the provisions of this Section cannot be waived;

6. generally, inmates serving a sentence for any crime enumerated in Department Regulation No. B-08-009 "Sex Offender Notification and Registration Requirements" are ineligible for furlough consideration. However, if specific circumstances warrant consideration and a sex offender is approved for a non-medical furlough, notification procedures must be followed as outlined in Department Regulation No. B-08-009.

F. Procedures

1. Non-medical furlough recommendations must be submitted by the unit head at least 30 days prior to the start of the requested furlough period on the Non-Medical Furlough Recommendation Form (see Attachment 1). The unit head's comments should address the inmate's adjustment while incarcerated, as well as his overall behavior, and whether or not there is a victim notice and registration form on file.

2. Non-medical furloughs should not be requested for inmates even though they meet the established criteria when it is known to the unit head that the inmate might present a danger to himself or others or cause adverse public reaction should he be released.

3. The unit head's favorable recommendation shall be sent to the secretary.

4. The secretary will generally route the request to the chief of operations for review of compliance with applicable law and policy. In any event, the secretary may:

- a. concur with the unit head's recommendation and approve the non-medical furlough;
- b. seek additional information prior to rendering a decision; or
- c. disapprove the non-medical furlough request.

5. When a non-medical furlough is being considered, the Office of Adult Services will contact the sheriff and district attorney in the parish of conviction and the sheriff and/or chief of police in the jurisdiction of the furlough residence.

6. If a victim notice and registration form has been filed pursuant to the provisions of Department Regulation No. C-01-007 "Crime Victims Services Bureau," the Office of Adult Services (OAS) will contact that person or persons to seek their comments.

7. It shall be the unit head's responsibility to notify the victim or family member by certified mail of the inmate's release if the non-medical furlough is approved. In the event the inmate is housed in a local jail facility, or community rehabilitation center under contract to or under cooperative endeavor agreement with the department, notification shall be made by OAS.

8. If approved, the non-medical furlough will be for a specific time period, not to exceed three days. The unit head will be notified of the secretary's decision.

9. It is the unit head's responsibility to ensure that a DNA sample has been obtained and to verify the non-medical furlough plan, transportation, and coordination with the approved family member prior to the inmate's release.

10. Upon approval of the secretary and prior to the inmate's departure, a Non-Medical Furlough Agreement Form (see Attachment 2) outlining the conditions of the non-medical furlough shall be signed by the inmate. In

addition, the inmate's approved family member must sign the form agreeing to be responsible for the inmate and to ensure that transportation is provided. (No public transportation is allowed.) A copy of the Non-Medical Furlough Agreement Form shall be filed in the inmate's record.

11. All non-medical furlough violations must be reported utilizing the Non-Medical Furlough Violation Report Form (see Attachment 3). The chief of operations will maintain statistical data regarding furlough violations in accordance with R.S. 15:833 C.

G. Attachment 1—Non-Medical Furlough Recommendation

NON-MEDICAL FURLOUGH RECOMMENDATION

The below listed inmate is being recommended for a non-medical furlough. The inmate meets all statutory and regulatory requirements. In my opinion, the inmate constitutes only minimal danger to himself or to society.

One time only for a period of _____
Inmate Name _____ DOC Number _____
Purpose of Furlough _____
Name, Relationship, Address and Telephone number of the person with whom the inmate will reside while on Furlough:
Name _____ Relationship _____
Address _____
Telephone _____
Unit Head's Comments: _____

Unit Head _____ Chief of Operations _____ Approved/Disapproved _____

Secretary _____ Approved/Disapproved _____

H. Attachment 2—Non-Medical Furlough Agreement

NON-MEDICAL FURLOUGH AGREEMENT

Inmate's Name _____ DOC Number _____
The above named and numbered inmate is authorized to be on a non-medical furlough commencing at _____ AM/PM on _____
The inmate will reside with _____ relationship _____, telephone number _____ address _____.

I agree to abide by the following rules. I understand that my failure to do so may result in the suspension of the non-medical furlough, disciplinary action, and, if applicable, criminal prosecution.

1. I will return to _____ on or before _____.
2. I will remain within the boundaries of _____ Parish during this period, and at the address indicated above during the hours of 10 p.m. until 8 a.m.
3. I will not have in my possession any firearms, or other dangerous weapons, nor consume or possess any alcoholic beverages or illegal drugs.
4. I will not engage in any type of criminal activity nor will I associate with anyone known to be engaged in such activities.
5. I will not operate a motor vehicle while on furlough, and I will avoid places of harmful or disreputable character. I will not visit anyplace where alcohol is the major product served or sold.
6. I understand that as a condition of the non-medical furlough, I agree to submit to a urinalysis test at any time so requested, and assume the cost of the test.
7. I agree to report immediately any arrests, problems or unusual occurrences to the institutional staff member assigned as liaison.
8. I understand that failure to return from furlough at the designated time may result in my being charged with escape.
Inmate's Signature _____

I, _____, agree to accept responsibility for the above inmate and agree to provide the necessary residence and transportation for the inmate.

I have also read and understand the conditions stated above. Make/Model/Color of transporting vehicle; License Plate Number: _____

Signature of family member _____
Releasing authority _____

I. Attachment 3—Non-Medical Furlough Violation Report

NON-MEDICAL FURLOUGH VIOLATION REPORT

Inmate Name _____ DOC Number _____ Age _____
The above named inmate violated the condition(s) of his non-medical furlough agreement:
Date and Time _____
Brief explanation of violation _____
Inmate's instant offense _____
Length of sentence _____
Attached is a copy of the inmate's State Police and FBI rap sheets.

Unit Head _____ Institution _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:811(C), R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978), amended LR 8:274 (June 1982), LR 15:853 (October 1989), LR 32:249 (February 2006).

Richard L. Stalder
Secretary

0602#031

RULE

Department of Revenue
Office of Charitable Gaming

Casino Nights
(LAC 42:I.2301-2339)

Under authority of R.S. 4:707 and 729 and R.S. 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Charitable Gaming has amended LAC 42:I.2301-2339 to remove antiquated references and clarify the Office of Charitable Gaming's requirements for casino nights conducted by charitable organizations.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Subpart 2. Electronic Video Bingo

Chapter 23. Casino Nights

§2301. Definitions

A. For the purposes of this Chapter the following definitions shall apply.

Cash—all coins, currency, and legal tender of the United States and foreign governments including gold, silver, or other negotiable instruments such as cashiers checks, certified checks, money orders, stocks, bonds, or negotiable securities.

Certain Related Offenses—an offense against local, state, federal, or other country's laws as follows:

- a. any felony offense;
- b. any offense directly or indirectly related to gambling or gaming laws; or
- c. any misdemeanor offense for the following:
 - i. theft or related offense;
 - ii. attempted theft or related offense;
 - iii. issuing worthless checks;
 - iv. illegal possession of stolen things, or
 - v. false swearing or related offense.

Law—the Charitable Raffle, Bingo and Keno Licensing Law, R.S. 4:701 et seq.

Private Casino Contractor—any person or other entity licensed pursuant to the provisions of R.S. 4:701 et seq., as a distributor of gaming supplies or equipment who is engaged directly or indirectly in the business of providing equipment, supplies, and/or services for the conducting of charitable casino nights for licensed charitable organizations.

Reasonable Market Rental Rate—that rate at which similar facilities or equipment available for similar purposes in the community may be leased or rented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:283 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:251 (February 2006).

§2303. Compliance

A. Any person, corporation or other legal entity desiring to act as a private casino contractor in this state must:

- 1. comply with all criteria set forth in R.S. 4:701 et seq. and the administrative provisions of Title 42 of the Louisiana Administrative Code, Part I, Charitable Bingo, Keno, Raffle, and all other applicable provisions of federal, state and local laws;
- 2. be issued and maintain all applicable federal, state, parish and municipal licenses; and
- 3. qualify for and possess a current valid license to distribute gaming supplies issued by the office pursuant to the provisions of R.S. 4:701 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:284 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:252 (February 2006).

§2305. Commencement of Activity

A. No person, corporation, or other legal entity shall act as a private casino contractor until the effective date of any license that is granted by the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:284 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:252 (February 2006).

§2307. License Required for Leasing Equipment

A. No person, corporation, or other legal entity except a licensed private casino contractor may lease casino night equipment to any person or organization for use during a casino night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:284

(March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:252 (February 2006).

§2309. Information Required; Unsuitability

A. In conjunction with its application, the private casino contractor must furnish to the office for approval the following information for each of his employees or independent contractors to be used to work or assist during a casino night during the licensing year:

- 1. full name;
- 2. date of birth;
- 3. Social Security number; and
- 4. current physical address.

B. Any significant change in the information submitted on its application for licensure shall be filed by a licensee with the office within 10 days of the change. Names of additional workers and employees not provided in the application must be provided to the office no later than two business days from hire date. Any change in the officers, directors, managers, proprietors, or persons having a direct or indirect financial interest in any licensed organization or entity is considered to be a significant change that must be reported.

C. The office may declare unsuitable and restrict from participation in charitable gaming any person assisting in the holding, operation, or conduct of casino nights who:

- 1. has been convicted of certain related offenses within the last five years or who presently has such a charge pending in any state or federal court;
- 2. has ever been convicted of a gambling-related offense in any state or federal court;
- 3. is or has ever been a professional gambler;
- 4. is in consideration of any of the factors enumerated in R.S. 4:705(11) determined unsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:284 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:252 (February 2006).

§2311. Leasing Equipment from Licensed Private Casino Contractors

A. No organization may lease casino night equipment for use during a casino night from anyone other than a licensed private casino contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:284 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:252 (February 2006).

§2313. Specific License Required

A. No person, corporation, or organization may conduct a casino night without a charitable gaming license issued by the office specifically authorizing the casino night at the specific date and times. The license must be conspicuously displayed at the premises where the event is conducted at all times during the activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:284 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:252 (February 2006).

§2315. Organization Compliance

A. Any person, corporation, or organization desiring to conduct casino nights must:

1. comply with and meet all criteria as set forth in R.S. 4:701 et seq. and the administrative provisions of Part I of Title 42 of the Louisiana Administrative Code and comply with all other applicable provisions of federal, state, and local laws;

2. be issued and maintain all applicable federal, state, parish, and municipal licenses; and

3. qualify for and possess a valid license to conduct charitable games of chance issued by the Office pursuant to the provisions of R.S. 4:701 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:285 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:253 (February 2006).

§2317. Contracts

A. Each organization leasing casino night equipment or utilizing private casino contractor labor or services must submit to the office a copy of the contract for the equipment, labor and/or services no later than seven days prior to the scheduled event. The casino night contract must include the following:

1. name of licensed charitable organization;
2. name and address of distributor or private casino contractor company;
3. date, times, and location of event;
4. detailed list of games to be conducted;
5. description of gaming equipment including number of gaming tables to be supplied;
6. rental price of each gaming table and any other rental terms and conditions;
7. number of dealers or other workers to be supplied;
8. proposed charges for labor and services;
9. signature of organization official; and
10. signature of private casino contractor.

B. Any changes in the information contained in Subsection A that occur within seven days of the event must be provided to the office in writing within 10 days after the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:285 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:253 (February 2006).

§2319. Additional Consideration Prohibited

A. No organization may pay any consideration, other cost, or service charge, directly or indirectly, more than the agreed rental price for the rental of casino night equipment and/or for private casino contractor labor or services.

B. No lease providing for a rental arrangement for premises, equipment, labor, or services in conjunction with a casino night may provide for payment in excess of the reasonable market rental rate for the premises, equipment, labor, or services. Any charges for premises, equipment, labor, or services in excess of the reasonable market rental rate will be waived or reimbursed within 10 days of the determination by the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:285 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:253 (February 2006).

§2321. Percentage Payments Prohibited; Use Fees

A. No organization may pay a percentage of the receipts or net profits from the casino night for the rental of casino night equipment or for private casino contractor labor or services.

B. Use fees must be based on rental, lease, or sale of equipment or charitable gaming supplies excluding any charge for labor or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:285 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:253 (February 2006).

§2323. Name Tags

A. Each organization member, organization worker, or private casino contract worker assisting in the conduct of a casino night must wear a printed or typed name tag clearly visible by the participants. The printing on the tag must include the following:

1. the name of the person; and
2. the name of the private casino contractor's company for whom the person is working, if applicable; or
3. the name of the organization of which the person is a member, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:285 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:253 (February 2006).

§2325. Authorized Games

A. During a casino night, an organization or private casino contractor may conduct only the following authorized games of chance:

1. blackjack;
2. roulette;
3. any dice game where the player competes against the house;
4. money wheel;
5. baccarat;
6. poker; and
7. bourrée.

B. Nothing will prohibit an organization from also conducting, during a licensed scheduled casino night, the games of chance authorized by R.S. 4:707(A), when the games are conducted in accordance with the Law. The authorized games of chance listed in this Subsection A may not be conducted utilizing any electromechanical device or other mechanism employing cathode ray tubes, video display screens, or microprocessors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:285 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:253 (February 2006).

§2327. Wagering on Authorized Games Only

A. A wager may not be placed on any contest other than an authorized game of chance being conducted at the designated time and location.

B. Side bets shall not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:286 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:254 (February 2006).

§2329. Display of Rules

A. The private casino contractor or the organization conducting the casino night must notify players of the rules governing each game by posted rules with letters a minimum of 1/2 inch high or by a legibly printed program provided to all participants.

B. A copy of the rules must be submitted to the office prior to approval of application and prior to any advertising of the event. The office may, at its own discretion, require rule changes based on fairness to players and/or organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:286 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:254 (February 2006).

§2331. Miscellaneous Provisions

A. In all dice games, the size of each die shall be a minimum of 3/4 inch.

B. Equipment used in the conduct of a casino night must be maintained in good repair and proper working condition.

C. The utilization of equipment and method of play must be such that each participant is afforded an equal chance of winning. Marked cards will not be allowed. Marked cards include but are not limited to cards that have been punched, cut, or otherwise defaced.

D. Each game must be conducted by a dealer present at the gaming table. In a family style game, a dealer must be designated for each hand.

E. No organization worker or contract worker may accept tips, either with real or imitation money, from the participants. However, organization workers may receive donations for the organization.

F. No organization worker or contract worker may conduct the game when the worker's immediate family member is a participant at the worker's table.

G. No person under 21 years of age will be permitted to participate in gaming at the casino night. No person under 18 years of age shall be permitted to assist in the conduct of the casino night.

H. No private casino contract worker or organization worker will be eligible to win prizes or bid on prizes in the event an auction is conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:286 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:254 (February 2006).

§2333. Tickets; Recordkeeping Requirements

A. The organization conducting a casino night must require tickets for admission to the event. No ticket may be sold for less than the price printed on it.

B. Nothing will prohibit an organization from printing separate, complimentary invitations or tickets for dignitaries or selected persons. However, the organization must maintain a list of every person who is admitted free of charge. The list will be considered part of the session records and be retained for three years.

C. Each admission ticket sold for admission to a casino night must be preprinted and prenumbered in consecutive order. Each admission ticket must include the following:

1. organization name;
2. organization license number;
3. date, time, and location of event; and
4. ticket price.

D. Admission tickets may be sold only by bona fide members of the organization licensed to conduct the casino night or bona fide members of another licensed organization. No tickets may be sold by the private casino contractor, or the contractor's agents or employees regardless of whether the person is a member of a licensed charitable organization.

E.1. The organization must maintain a log including the following:

- a. name of each worker issued tickets;
- b. name of organization to which each worker belongs if the worker is not a bona fide member of the organization licensed to conduct the casino night;
- c. serial numbers of tickets issued, sold, and returned by each worker;
- d. amount of money submitted by each worker for advance ticket sales.

2. The log and all unsold tickets will be considered part of the session records and must be retained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:286 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:254 (February 2006).

§2335. Accountability

A. Imitation money sales must be fully and accurately documented.

B. Each organization must ensure strict accountability for the handling of cash and imitation money by all participating members.

C. The accounting system must provide a sound audit trail and allow for the systematic accumulation of data for the organization's quarterly financial report to be submitted to the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:286 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:254 (February 2006).

§2337. Imitation Money

A. Upon admission, each participant will be given the same amounts in value of imitation money.

B. No cash may be wagered or paid as winnings during a casino night.

C. Imitation money must be sold only by organization workers on the floor or at selected sales areas. Imitation money may not be sold at an individual gaming table.

D. Imitation money will have no actual cash value and must be unique to the organization or private casino contractor.

E. If redeemed, the imitation money must be bid on merchandise prizes in an auction that must be completed no later than two hours after the conclusion of the authorized games of chance. Cash prizes may not be awarded.

F. In lieu of an auction, the organization may designate prizes to be awarded to top winners prior to the start of the gaming activity. Cash prizes may not be awarded.

G. After the original issue of imitation money, no person may provide imitation money to any participant except for the original issue price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:286 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:254 (February 2006).

§2339. Register of Workers

A. The charitable organization and/or the private casino contractor conducting a casino night must prepare and maintain a register of workers including the following information:

1. name;
2. current residential address;
3. date of birth;
4. job description; and
5. name of organization or private casino contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 729.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 18:287 (March 1992), amended by the Department of Revenue, Office of Charitable Gaming, LR 32:255 (February 2006).

Michael E. Legendre
Director

0602#028

RULE

Department of Revenue Office of Charitable Gaming

Electronic Bingo Card Dabber Devices (LAC 42:I.2101-2111)

Under authority of R.S. 4:703 and 739 and 47:1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Charitable Gaming, has adopted LAC 42:I.2101-2111, to provide for the regulation of the use of electronic bingo card dabber devices and systems.

This Rule provides for the use of electronic bingo card dabber devices and systems by charitable organizations without the need to purchase bingo paper.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Subpart 2. Electronic Video Bingo

Chapter 21. Electronic Bingo Card Dabber Devices

§2101. Definitions

A. As used throughout this Chapter, the following definitions apply.

Applicant—any person who has applied for registration as a manufacturer, distributor, or supplier for electronic bingo card dabber devices.

Distributor—a person or business entity that owns and/or leases electronic bingo card dabber devices to a charitable organization.

EBCDD—electronic bingo card dabber device.

Electronic Bingo Card Dabber Device System (EBCDD system)—any electronic or computerized device and related hardware and software that is interfaced with or connected to equipment used in connection with EBCDD to conduct a game of bingo.

a. May include secondary components provided by the manufacturer that are part of or are connected to EBCDD that does not affect the conduct of the game of bingo.

b. EBCDD systems may include, but are not limited to, computer screen backgrounds, battery charge up, software routines, modems, monitors, keyboards, pointer devices, mice, printers, printer software drivers, radio frequency (RF) software and hardware, TV tuners, and charging racks.

Law—the Charitable Raffle, Bingo and Keno Licensing Law, R.S. 4:701 et seq.

Lease Agreement—the lease agreement between the holder of a bingo license and the distributor of electronic bingo dabber devices or the agreement between the distributor of electronic bingo card dabber devices and the manufacturer.

Office—the Office of Charitable Gaming under the Louisiana Department of Revenue.

Person—an individual, partnership, joint venture, or corporation doing business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:703 and 739.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 32:255 (February 2006).

§2103. Registration of Manufacturers, Distributors or Owners of Electronic Bingo Card Dabber Devices

A. Any person desiring to own, sell, or distribute electronic bingo card dabber devices in this state must comply with the following:

1. be issued and maintain all required federal, state, parish, and municipal licenses;

2. apply to the office and pay the required licensing fee as prescribed in R.S. 4:705(2);

3. apply to the office 90 days prior to June 30 for a renewal of registration and pay the nonrefundable renewal fee as prescribed in R.S. 4:705(2);

4. furnish to the office quarterly reports identifying the quantities, models, manufacturers, owners, and distributors of machines, and any other information the office determines necessary; and

5. meet the suitability and business relationship criteria of R.S. 4:718.

B. No manufacturer or distributor except one that is a licensed charity may be registered to hold a permit or be directly involved with the operating or the assisting in the operation of any other game of chance permitted under the Act. In addition, no manufacturer or distributor may be involved in directly or indirectly in leasing or renting any premises or equipment for such game or in the providing of any other incidental goods or service in connection with such game or games.

C. No manufacturer or distributor may ship EBCDDs or EBCDD systems into this state until an application for registration is granted by the office.

D. Registration may be suspended or revoked by the office upon determination, after notice and opportunity for hearing, which the registrant has not complied with the conditions of registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:726 and 739.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 32:255 (February 2006).

§2105. Electronic Bingo Card Dabber Device Approval Process

A. Eligibility. EBCDDs and EBCDD systems will only be allowed under the following criteria:

1. a charitable organization doing business in those parishes or incorporated municipalities where an ordinance has been adopted allowing charitable games of chance; or

2. a manufacturer or distributor of EBCDDs that is registered under the law and leases or rents the machines only to charitable organizations in parishes or incorporated municipalities where an ordinance has been adopted allowing charitable games of chance.

B. Application

1. Upon approval of the manufacturer's application by written notice from the office, the manufacturer will be allowed to submit EBCDDs and EBCDD systems for certification to an independent testing laboratory approved by the office.

2. The manufacturer must agree to pay all cost associated with the testing by the independent testing laboratory, which will use established uniform testing criteria.

3. Prior to the initial shipment of EBCDDs or EBCDD systems into the state, manufacturers must receive final written approval from the office.

C. EBCDD Specifications. Each EBCDD must include the following specifications:

1. a model number and unique identification number designated by the manufacturer;

2. be programmed to automatically erase all electronic bingo cards and/or bingo card face numbers that were stored in the device upon turning off the device after the last bingo game of each session or by some secondary timing or clearing method;

3. offer for play only the game commonly known as bingo. EBCDD may not allow the play or simulate the play of video poker, keno, blackjack, slots, or similar casino type games.

D. EBCDD System Specifications. Each EBCDD System must include the following specifications:

1. a self-contained receipting function for electronic bingo cards and be able to print out a copy of the receipt for each sale or void of an EBCDD. The receipt must be given to the player and must include the following information:

a. EBCDD model and unique identification number;

b. the date and time of the transaction;

c. the session in which the product was used;

d. the quantity of electronic bingo cards purchased or loaded;

e. the total dollar amount of the transaction; and

f. the sequential and consecutive transaction number;

2. not be able to engage in any type of sale, void, alteration, or reload transactions unless the EBCDD is connected or interfaced with and communicating with the site system;

3. include a point of sale station and an internal accounting system that is capable of recording each sale of EBCDD;

4. be able to provide the winning numbers and game patterns required for the entire bingo session on a hard copy printout. The printout must be available upon demand by the office at the bingo session;

5. electronically verify that the numbers appearing on a potential winning electronic bingo card is a valid bingo and that the bingo card was purchased during the current session;

6. ensure that an EBCDD does not allow for play any bingo card faces other than those verifiably purchased by the player;

7. ensure that EBCDD system has the capability to produce a summary report, on a hard copy transaction log, after each session that includes the following information:

a. name and state license number of organization;

b. date and time of report;

c. number of EBCDDs loaded;

d. number and description of electronic bingo faces loaded into the EBCDDs;

e. voided transactions; and

f. total dollar amount of electronic bingo face sales;

8. must include software that ensures the internal accounting system is capable of recording and retaining for each session the following information:

a. the unique serial number of each bingo card sold for EBCDD use;

b. the sale price of each card or card package for use with an EBCDD;

c. the total amount of EBCDD sales;

d. the total number of card faces sold for use with EBCDDs;

e. the model and unique identification number associated with each EBCDD sold;

f. all the above information must be secured and shall not be accessible for alteration during a session; and

g. must have the capability to print all required information on the system's active or archived databases for a period not less than 12 months;

9. must have dial-up capability, so that the office has the ability to remotely verify operation, compliance, and internal accounting systems;

10. may include a player tracking computer software that is used to identify or track certain characteristics of bingo players, including but not limited to, personal data and purchasing habits of players at a particular location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:739.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 32:256 (February 2006).

§2107. Equipment Malfunctions and Inspections

A. Any malfunction or problems with an EBCDD or EBCDD system that could affect the security or integrity of the bingo game, the bingo card monitoring devices, or other bingo systems, must be logged and the office must be notified of the malfunction as soon as possible.

B. The office's authorized representatives may examine and inspect any individual EBCDD or EBCDD system. Examination and inspection includes immediate access to the EBCDD and unlimited inspection of all secondary parts of the EBCDD system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 739.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 32:257 (February 2006).

§2109. Reporting and Record Requirements

A. Reporting Requirements—Manufacturers

1. Each manufacturer selling, leasing, or otherwise furnishing EBCDDs or EBCDD systems must maintain a log or other records, such as invoices, which includes the following information:

- a. the date of transaction;
- b. the model and unique identification number of each EBCDD and EBCDD system;
- c. the model and/or version number of all components of the EBCDD system, excluding secondary components;
- d. the name of the distributor to whom the EBCDD or EBCDD system was sold, leased, or otherwise furnished;
- e. the time period covered by the invoice;
- f. the quantity sold or leased; and
- g. the total invoice amount.

2. Each licensed manufacturer shall file with the office a quarterly report signed by an official of the manufacturer as described in §1707 on form prescribed and supplied by the office. The report must be postmarked, or if hand delivered, received in the office, no later than the last business day of the first month following the end of the quarter. Quarters are on a calendar year basis and end on March 31, June 30, September 30, and December 31. The report must include the following information:

- a. licensed distributor to which the EBCDDs and EBCDD systems were sold or leased to;
- b. number of EBCDD units sold or leased;
- c. item description or model number;
- d. cost or lease amount per item; and
- e. total sale amount or leased amount attributable to EBCDDs.

3. In addition to any other civil or criminal penalties, manufacturers may be assessed a \$100 late penalty for each quarterly report or reports not submitted timely after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Repeated violations are cause for denial, suspension, or revocation of license.

B. Reporting requirements—Distributors

1. Each Distributor selling, leasing, or otherwise furnishing EBCDD or EBCDD systems must maintain a log or other records, such as invoices, which includes the following information:

- a. the date of transaction;
- b. the model and unique identification number of each EBCDD and EBCDD system, excluding secondary components;
- c. the model and/or version number of all components of the EBCDD system;
- d. the name of the organization to which the EBCDD or EBCDD system was sold, leased, or otherwise furnished;
- e. the time period covered by the invoice;
- f. the quantity of EBCDDs sold or leased; and
- g. the total invoice amount.

2. Each licensed distributor shall file with the office a monthly report signed by an official of the distributor as described in §1707 on form prescribed and supplied by the office. The office must receive the report, along with the user fees, no later than the midnight of the 15th of each following month. The report must include the following information:

- a. licensed organization to which the EBCDDs were sold or leased to;
- b. number of EBCDD units sold or leased;
- c. item description or model number;
- d. cost or lease amount per item;
- e. total number of electronic card faces sold for use by EBCDDs;
- f. total sale amount or leased amount attributed to EBCDDs; and
- g. total amount of use fees collected.

3. In addition to any other civil or criminal penalties, distributors may be assessed a \$100 late penalty for each monthly report or reports not submitted timely after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Repeated violations are cause for denial, suspension, or revocation of license.

C. Reporting requirements—Organizations

1. Each Organizations leasing or otherwise utilizing EBCDD or EBCDD systems must maintain a log or other records, such as invoices, which includes the following information:

- a. the date of transaction;
- b. the model and unique identification number of each EBCDD and EBCDD system, excluding secondary components;
- c. the model and/or version number of all components of the EBCDD system;
- d. the name of the distributor(s) from whom the EBCDD or EBCDD system were leased or otherwise furnished;

- f. the time period covered by the invoice;
- g. the quantity sold or leased; and
- h. the total invoice amount.

2. Each Organization must receive approval from the office for the selling price of electronic and face sales. Any pricing configuration desiring to be used by an organization must have prior approval from the office.

3. All sales of electronic card faces must be reported on the Organization quarterly report as gross proceeds from bingo.

4. A violation of the aforementioned provisions may result in a civil penalty and possible revocation of license in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 716 and 739.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 32:257 (February 2006)

§2111. Enforcement

A. Applicant Suitability and Business Relationships. The office may deny an application or revoke, suspend, restrict, or limit a permit or approval of a EBCDD or EBCDD system when it is determined that the applicant or a business relationship between an applicant and another person or business entity is unsuitable or endangers the health, safety, or welfare of the citizens of this state. In determining the suitability of an applicant or other persons or business entities in a business relationship, the office may consider the following factors relating to the person or business entity:

- 1. general character, including honesty and integrity;
- 2. financial security and stability, competency, and business experience in the capacity of the relationship;
- 3. records, if any, of violations that may affect the legal and proper operation of a machine including a violation affecting another permittee or applicant and any violation of the laws of this state, other states, and countries without limitations as to the nature of the violation;
- 4. refusal to provide access to records, information, equipment, or premises to the office or its authorized representatives when access is reasonably necessary to ensure or protect public health, safety, or welfare.

B. Approval of Electronic Bingo Card Dabber Devices or Systems

1. The office may conditionally approve and maintain a list of specific models of electronic bingo card dabber devices (EBCDD) or EBCDD systems based on its finding that the machines conform to R.S. 4:739.

a. Final approval of each EBCDD and EBCDD system is required even if the device or system has been conditionally approved.

b. Conditional or final approval may be withdrawn by the office if it is found that a device or system does not conform to specifications and testing standards, including new or revised requirements.

2. The office may allow shipment of an EBCDD or EBCDD system for the purpose of providing conditional approval of that make or model provided the following conditions are met:

- a. the office will not be responsible for any purchase, shipping, or handling charges;
- b. all information required by this Section must accompany the EBCDD or EBCDD system; and

c. prior to shipment, the office has approved shipment of an EBCDD or EBCDD system for scheduled testing and approval.

3. If the specifications are changed such that previously approved machines do not comply, the office will allow a specified time for a permittee to bring an EBCDD or EBCDD system into compliance.

C. Machine Repair. To assure the integrity, security, and monitoring of EBCDD or EBCDD systems in service, a permitted EBCDD or EBCDD system or any portion thereof must only be substituted or replaced with identical software versions and/or hardware, which have been previously approved by an independent testing laboratory and the office. This provision does not apply to secondary components.

D. Inspection and Seizure of EBCDD or EBCDD Systems

1. The office or its authorized representative has the right at all times to make an examination of any EBCDD or EBCDD system being used to play electronic bingo. The right of inspection includes immediate access to all EBCDD or EBCDD systems and unlimited inspection of all parts. The office or its authorized representative may immediately seize and remove any machine or device that violates the Law or this Section. Emergency seizure is subject to a hearing as described in R.S. 4:711.

2. Given reasonable cause, the office may remove an EBCDD or EBCDD system or any parts for laboratory testing and analysis. When parts are removed, the office may seal any EBCDD or EBCDD system left on the permittee's premises pending the investigation. Breaking or removal of the seal without approval, may subject the permittee to seizure of the entire EBCDD or EBCDD system and suspension or revocation of the permit.

E. Investigation of Permittee. The office may, upon its own motion, and will, upon receipt of a written verified complaint of any person, investigate the actions of any permittee and the operations of any EBCDD or EBCDD system. The investigation shall be undertaken for the purpose of gathering evidence and determining whether a violation of the Law, rules, or other statutes has occurred.

F. Civil Violations

1. When the office determines a permittee has violated the law or these rules, the office may issue a civil violation to the permittee in an amount not less than \$250 or more than \$1,000. Violations may be issued for each offense not in accord with these regulations. Each day of operation in violation constitutes a separate violation.

2. A violation may be issued for the following acts:

- a. the operation in a bingo game or possession of an unapproved EBCDD or EBCDD system;
- b. the failure to report and pay timely the fees assessed;
- c. the falsification of application or reporting documents; or
- d. the refusal to allow inspection of the EBCDD or EBCDD system.

G. Suspension and Revocation

1. The office may suspend any and all permits held by an alleged violator after opportunity for hearing when:

- a. the office receives a certified copy or other credible evidence of a judgment or conviction of any

permittee or the permittee's agent, servant, or employee for any violation of any criminal law or ordinance of the United States, the state of Louisiana, or any Louisiana parish or town relating to charitable gaming;

b. the office receives a certified copy of the record or other credible evidence of the forfeiture by any permittee or the permittee's agent or employee of bond to appear to answer charges of violating any law or ordinance relating to charitable gaming; or

c. the office, after investigation, has reasonable cause to believe that any permittee, or the permittee's agent or employee has violated the provisions of the law or these rules and has been issued a violation or citation.

2. The office may suspend a permit or permits prior to the opportunity for hearing when the office, after investigation, has reasonable cause to believe continued operation of the permitted machine endangers public health, safety, and welfare. During the period of suspension, the permittee may not operate the EBCDD or EBCDD system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:711 and 739.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 32:258 (February 2006).

Michael E. Legendre
Director

0602#029

RULE

Department of Revenue Policy Services Division

Annual Retirement Income Exemption for Individuals 65 or Older (LAC 61:I.1311)

Under the authority of R.S. 47:44.1, R.S. 47:295, 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, adopts LAC 61:I.1311 relative to the \$6,000 exemption for annual retirement income received by an individual who is 65 years of age or older.

Title 61

REVENUE AND TAXATION

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

Chapter 13. Income: Individual

§1311. Annual Retirement Income Exemption for Individuals 65 or Older

A. Louisiana Revised Statutes 47:44.1 provides an exemption of up to \$6,000 for annual retirement income received by an individual who is 65 years of age or older. Only the individual who actually received the annual retirement income is entitled to the exemption.

Annual Retirement Income—pension and annuity income which is included in *tax table income*.

Tax Table Income—as defined in La. Rev. Stat. 47:293.

B. For purposes of determining the total annual retirement income exemption that can be claimed on a Louisiana individual income tax return, an individual receives annual retirement income as follows:

1. Receipt of Benefits Paid from a Pension Plan. Except as otherwise provided herein, only the plan participant receives annual retirement income from the pension plan, the non-participant spouse does not receive annual retirement income from the plan.

2. Receipt of Annuity Income. Only the named payee or named annuitant receives annual retirement income from an annuity.

3. Receipt of Income from an Individual Retirement Account. Only the named payee or distribute receives annual retirement income from an individual retirement account.

4. Exceptions

a. If there is a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p), payments received by the alternate payee will be considered annual retirement benefits received by an individual.

b. Survivor benefits paid from a pension plan to the plan participant's surviving spouse will be considered annual retirement benefits received by an individual.

C. Examples

1. Mary and John are a married couple. Mary worked for X Corporation for 35 years from 1964 until she retired in 1999. While working for X Corporation, Mary participated in the corporation's pension plan. In 2005, Mary received a total of \$30,000 in distributions from the X Corporation pension plan. John's only source of retirement income is federal social security, which is not included in the couple's tax table income because it is already exempt under R.S. 47:44.2. Mary and John's filing status for federal and state income tax is married filing joint and they are both over 65. Because only Mary receives annual retirement income, Mary and John may only exempt \$6,000 of Mary's retirement income from their 2005 income taxes under this exemption. Because John is not the plan participant, he has not received any annual retirement income for purposes of the exemption.

2. Scott and Ellen are a married couple. Their filing status for federal and state income tax is married filing joint and they are both over 65. Because they are both 65 years of age or older, each of them is entitled to exempt up to \$6,000 of the annual retirement income each of them receive. Scott worked for ABC Corporation for 35 years from 1964 until he retired in 1999 at the age of 65. While working for ABC Corporation, Scott participated in the corporation's pension plan. In 2005, Scott received a total of \$30,000 in distributions from the ABC Corporation pension plan. Ellen has two sources of retirement income; federal social security that is already exempt under R.S. 47:44.2 and an annuity paid to her as the named annuitant in the amount of \$4,000 annually. Scott may exempt \$6,000 of his ABC Corporation pension income and Ellen may exempt all of her \$4,000 annuity income for a combined exemption of \$10,000.

3. Alan and Leslie are a married couple who do not live apart. Their filing status for federal and state income tax is married filing separate and they are both over 65. Because they are both 65 years of age or older, each of them is entitled to exempt up to \$6,000 of the annual retirement income each of them receive on their married filing separate returns. Alan is the named annuitant of an annuity from which he receives annual retirement income of \$10,000. Leslie is not yet retired and receives a salary, but no annual retirement income. Alan's annuity income and Leslie's salary are community property. Because Louisiana is a community

property state and the couple has chosen not to file a joint return, Leslie must report one half of Alan's annuity income, or \$5,000, on her married filing separate federal and state income tax returns. Because Leslie is not the named annuitant, she has not received annual retirement income for purposes of the exemption and cannot claim any exemption amount on her return. Because Alan is only reporting \$5,000 of his annuity income on his federal and state income tax returns, he is only entitled to an exemption of \$5,000.

4. Assume the same facts as in Example 3 except that Alan and Leslie have a separation of property agreement. Each spouse will therefore report his or her own items of income and loss on his or her own married filing separate return. Allan will report the entire amount of his annuity income and will be entitled to exempt \$6,000 of the \$10,000 of annual retirement income he receives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:44.1, R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 32:259 (February 2006).

Cynthia Bridges
Secretary

0602#058

RULE

Department of Revenue Policy Services Division

Corporation Income Tax (LAC 61:I.1115)

Under the authority of R.S. 47:287.73, R.S. 47:287.785, R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, repeals LAC 61.I.1115 in its entirety.

Act 401 of the 2005 Regular Session repealed R.S. 47:287.73(C)(1) which provided for a deduction from net income in the amount of dividends received from another corporation to the extent that the dividends were earned in the state and the income from which the dividends were paid were taxed under Louisiana law. LAC 61.I.1115 specifically addressed R.S. 47:287.73(C)(1) by providing an example of how to calculate the deduction. However, Act 401 now exempts dividend and interest income from Louisiana corporation income tax altogether, thus LAC 61.I.1115 is no longer necessary.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Income: Corporation Income Tax §1115. Modifications to Deductions from Gross Income Allowed by Federal Law

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.73, R.S. 47:287.785 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:95 (February

1988), repromulgated by the Policy Services Division, LR 30:476 (March 2004), repealed LR 32:260 (February 2006).

Cynthia Bridges
Secretary

0602#055

RULE

Department of Revenue Policy Services Division

Definition of Separate Corporation Basis (LAC 61:I.1175)

Under the authority of R.S. 47:287.733, R.S. 47:287.785, 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, adopts LAC 61:I.1175 relative to a definition of separate corporation basis.

The primary purpose of this regulation is to define the term "separate corporation basis" as used in R.S. 47:287.733.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Income: Corporation Income Tax §1175. Definition of Separate Corporation Basis

A. Louisiana Revised Statute 47:287.733 provides that corporations that are included with affiliates in a consolidated federal income tax return must file their Louisiana corporation income tax on a separate corporation basis. For Louisiana income tax purposes, filing a return on a separate corporation basis means filing a return as if the affiliate either elects not to be part of the consolidated group or is not included in a federal consolidated return.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.733, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 32:260 (February 2006).

Cynthia Bridges
Secretary

0602#057

RULE

Department of Revenue Policy Services Division

Interest Waiver and Filing Extensions Following Disasters (LAC 61:III.2111)

Under authority of R.S. 47:1601(A)(2)(e) and 1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:III.2111 to provide automatic extensions and interest waivers for tax returns filed by taxpayers located in disaster areas.

Revised Statute 47:1601(A)(2)(e) authorizes the secretary to waive the interest to promote the effective administration of the tax laws. Taxpayers located in disaster areas need additional time to compile the records required to file tax returns. Providing waiver of interest and automatic extensions promotes the effective administration of the tax laws.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue—Administrative Provisions and Miscellaneous

Chapter 21. Interest and Penalties

§2111. Interest Waiver and Filing Extensions Following Disasters

A. The following provisions apply to all returns due following a disaster.

1. Automatic Extensions—Taxpayers located within the disaster areas will automatically be granted the applicable statutory extensions for filing returns without having to file an application for extension.

2. Interest Waiver—Interest on these returns due as a result of a disaster may be waived in accordance with the following guidelines.

a. If the return is filed within the applicable statutorily provided extension period, interest will be automatically waived.

b. If the return is filed after the applicable statutorily provided extension period, the taxpayer must file a written request to have the interest waived.

3. Tax Preparers—If a taxpayer's tax preparer is located within the disaster area, and as a result the taxpayer's returns are not timely filed, the taxpayer must make a written request for interest due as a result of the disaster to be waived.

4. Consolidated Returns—Taxpayers filing consolidated returns for locations within and without the disaster areas should file returns using the information available at the time the return is due. When the amended return is filed to accurately reflect the taxpayer's information, the taxpayer should attach a written request to waive any interest due as a result of the disaster.

B. Definitions

Disaster Area—a parish or location that has been declared a disaster area by the President.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1601(A)(2)(e) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:261 (February 2006).

Cynthia Bridges
Secretary

0602#059

RULE

**Department of Revenue
Policy Services Division**

**Modifications to Federal Gross Income
(LAC 61:I.1114)**

Under the authority of R.S. 47:287.71, R.S. 47:287.785, 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, adopts LAC 61:I.1114 relative to modifications to federal gross income.

The primary purpose of this regulation is to explain the effects of RS 47:287.738(F) as enacted during the 2005 Regular Session of the Legislature.

Title 61

REVENUE AND TAXATION

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

**Chapter 11. Income: Corporation Income Tax
§1114. Modifications of Federal Gross Income**

A. In order to calculate Louisiana gross income, R.S. 47:287.71 requires modifications be made to federal gross income. R.S. 47:287.71(B)(7) provides that exclusions from Subpart F must be taken into account when computing Louisiana gross income. Included in the exclusions from gross income required by R.S. 47:287.71(B)(7) are those modifications provided for in R.S. 47:287.738(C) through (F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.71, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:261 (February 2006).

Cynthia Bridges
Secretary

0602#056

RULE

**Department of Revenue
Policy Services Division**

**Nonresident Contractors
(LAC 61:I.4373)**

Under the authority of R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.4373

pertaining to the value of the surety bonds that nonresident contractors are required to furnish to the Secretary of the Department of Revenue guaranteeing their payment of the state and local taxes that become due as the result of their construction activity in the state.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4373. Nonresident Contractors

A. - B. ...

C. Contracts to be Registered with Secretary and Central Collector

1. Prior to obtaining a building permit necessary for the lawful commencement of any contract in Louisiana, a nonresident contractor shall register each contract that exceeds \$3,000 in total price or compensation with the secretary of the Department of Revenue and with the central sales and use tax collector for the parish in which the project is located. The secretary shall provide the necessary forms for the contractors to register each contract. The forms will require the nonresident contractor to give a complete description of each project, pertinent tax registration data, and a list of anticipated subcontractors. A fee of \$10 per contract shall be paid to the secretary at the time of registration. As required by the secretary, the contractor shall furnish a surety bond for each contract or a blanket surety bond for all contracts. The bond shall be:

a. two and one-half percent of the gross contract amount or \$1,000, whichever is greater, if income tax withholdings remitted to the department include such payments deducted from non-employee compensation (e.g., independent contractors); or

b. five percent of the gross contract amount or \$1,000, whichever is greater, if income tax is not withheld from non-employee compensation paid by the non-resident contractor.

2. Upon satisfactory completion of the registration and surety bond requirements, the secretary shall issue the contractor a certificate of compliance with which to obtain any building permits necessary for lawful commencement.

C.3. - F.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 21:185 (February 1995), amended by the Department of Revenue, Policy Services Division, LR 31:95 (January 2005), LR 32:262 (February 2006).

Raymond E. Tangney
Senior Policy Consultant

0602#060

RULE

**Department of Revenue
Policy Services Division**

Sales Tax Refund for
Tangible Personal Property
Destroyed in a Natural Disaster (LAC 61:I.4371)

Under the authority of R.S. 47:315.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.4371, to clarify the types of property destroyed in natural disasters, the sales tax paid on which will be eligible for refund under R.S. 47:315.1.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4371. Sales Tax Refund for Tangible Personal Property Destroyed in a Natural Disaster

A. Under certain circumstances, a refund is allowed for state sales or use tax paid on tangible personal property that has been destroyed in a natural disaster. The conditions and requirements are as follows.

1. The property destroyed must be classified as tangible personal property at the time of destruction rather than being classified as real or immovable property. For purposes of determination of the classification of such property, reference and guidance shall be to the rules of the Louisiana Civil Code. In Louisiana, property is classified as either movable or immovable rather than as personal or real. Under Louisiana law a corporeal movable is equivalent to tangible personal property at common law, and an immovable is equivalent to real property. Generally speaking a house or a building and all central heating or cooling systems, lighting fixtures, lavatories, etc., that are actually connected with or attached to the house or building by the owner are immovable by their nature. Such items as clothing, drugs, food, recreation equipment, appliances not permanently attached to a house or building where the removal thereof would not damage the movable or immovable, etc., would be classified as tangible personal property or movable property, and the sales tax paid on these items would be eligible to be refunded. Automobiles, trucks, motorcycles, boats, boat trailers, and other vehicles will not be considered tangible personal property used in or about a person's home, apartment, or homestead. The sales tax paid on these items is not eligible to be refunded under this statute.

2. Such property destroyed must be a part of and used in or about a person's home, apartment or homestead, on

which Louisiana sales tax has been paid by the owner of the property destroyed in an area subsequently determined by the president of the United States to warrant assistance by the federal government. Therefore, it is necessary that individuals suffer the loss, since R.S. 47:315.1 does not apply to partnerships or corporations. Further, it does not apply to business losses, even by individuals, since the law limits the losses to property that is part of and used in or about a person's home, apartment or homestead. Also, the area where the natural disaster occurred must be designated as an area warranting assistance by the federal government in order to qualify under this Section.

3. The claimant suffering the loss of the tangible personal property must be the owner of such property that purchased and paid the Louisiana sales tax on such property. Any refund claim filed shall be made in accordance with the rules and regulations prescribed by the secretary. Accordingly, any refund claim shall be filed on or before the end of the third calendar year following the year in which the property was destroyed, and the refund claim shall be limited to the tax paid on such tangible personal property destroyed for which no reimbursement was received by insurance or otherwise.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:99 (January 2005), LR 32:262 (February 2006).

Raymond E. Tangney
Senior Policy Consultant

0602#061

RULE

Department of Revenue Policy Services Division

Segregation of Items of Gross Income (LAC 61.I.1128)

Under the authority of R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, repeals LAC 61:I.1128 relative to the segregation of items of gross income.

The purpose of this regulation is to repeal the corporation income tax regulation relating to the segregation of items of gross income pursuant to Act 401 of the 2005 Regular Session. Act 401 repeals R.S. 47:287.95(E) pertaining to income from the business of making loans and the remaining portion of the regulation is merely a restatement of the statute. Thus, LAC 61.I.1128 is purposeless.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Income: Corporation Income Tax

§1128. Segregation of Items of Gross Income Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:101 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:476 (March 2004), repealed LR 32:263 (February 2006).

Cynthia Bridges
Secretary

0602#054

RULE

Department of Social Services Office of Family Support

Family Independence Temporary Assistance Program
(FITAP) and Kinship Care Subsidy Program(LCSP)
Waiver of Redetermination Interview
(LAC 67:III.1207, 1227, 1257, 5305, 5327, 5347, and 5349)

The Department of Social Services, Office of Family Support, has exercised the provision of the Administrative Procedure Act, R.S. 49:953(B) and amended §§1207, 1227, and 1257 in the Family Independence Temporary Assistance Program (FITAP) and §§5305, 5327, and 5347 in the Kinship Care Subsidy Program (KCSP). The Rule also adopted §5349, Foster Care Payments.

In an effort to create a less burdensome reapplication process for the client, simplify policy, and reduce workloads, the agency requested and received approval of a waiver that eliminated the requirement for redetermination interviews in the food stamp program. For consistency purposes, §§1207 and 5305 was amended to remove the requirement for redetermination interviews in the FITAP and KCSP Programs.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration and application for continued assistance will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December

1999), amended LR 28:1598 (July 2002), LR 32:263 (February 2006).

Subchapter B. Conditions of Eligibility

§1227. Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home for a period not to exceed 180 days. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2, 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 32:264 (February 2006).

§1257. Reporting Requirements

A. ...

B. A FITAP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013 and must report if the only eligible child moves out of the home.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq. 7 CFR Part 273, 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:1486 (July 2004), LR 32:264 (February 2006).

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5305. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration and application for continued assistance will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. Also, if during the reapplication process, a change is reported which results in a determination of ineligibility the case will be closed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.42 U.S.C 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:1599 (July 2002), LR 32:264 (February 2006).

Subchapter B. Conditions of Eligibility

§5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day-to-day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Legal custody or guardianship must be obtained by the caretaker

relative within one year of certification of benefits. Failure to obtain such custody within 12 months of certification will result in cessation of benefits. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home for a period not to exceed 180 days. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237,42 U.S.C. 608.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 27:2264 (December 2001), LR 32:264 (February 2006).

§5347. Reporting Changes

A. ..

B. A KCSP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013 and must report if the only child moves out of the home.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273, 42 U.S.C., et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:1487 (July 2004), LR 32:264 (February 2006).

§5349. Foster Care Payments

A. A child who receives federal or state foster care payments is not eligible to receive KCSP benefits.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006).

Ann Silverburg Williamson
Secretary

0602#085

RULE

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

Truancy Assessment and Service Centers
(LAC 67:III.5539)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, adopted §5539, Truancy Assessment and Service Centers as a new TANF Initiative for the purpose of providing truancy intervention for at-risk school-aged children.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5539. Truancy Assessment and Service Centers

A. Effective October 1, 2005, OFS shall enter into Memoranda of Understanding or contracts for Truancy

Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006).

Ann S. Williamson
Secretary

0602#084

RULE

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

Actuarial Calculations
(LAC 58.I.703, 1501, and 4301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58.I.703, LAC 58.I.1501 and adopted LAC 58.I.4301. The new Rule will set out the manner and cost to LASERS members for actuarial calculations made at the request of the member. This Rule complies with and is enabled by R.S. 11:424, 11:446 and 11:515.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 7. Purchase of Military Service

**§703. Requirements for Application to Purchase
Military Service**

A. In order to apply for purchase of the service, an active member shall:

1. make application to LASERS;
2. provide a copy of military form DD 214;
3. certify that he is not drawing a regular retirement benefit based on the military service calculated on the basis of age and service (This restriction does not apply to disability benefits based on 25 percent or less disability received as a result of military service); and
4. certify that he has not received credit for the service in any other public retirement system;
5. pay for the calculation of the actuarial calculation to determine the cost to purchase the service.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 32:265 (February 2006).

Chapter 15. Purchases and Transfers of Service

**§1501. Purchases and Transfers of Service;
Calculations; Costs**

A. The purchase of service on an actuarial basis and the transfer of service from other public retirement systems into LASERS requires an actuarial calculation by the system actuary.

B. The cost of this calculation shall be paid by the member requesting the calculation. Payment must be made before the request for the calculation will be forwarded to the actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:424, 11:446 & 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 32:265 (February 2006).

Chapter 43. Actuarial Calculations

§4301. Charges for Actuarial Calculations

A. The system shall collect a fee of \$150 from those persons requesting certain actuarial calculations which must be obtained from the actuarial firm with whom LASERS contracts actuarial services. Except as otherwise provided in R.S. 11:446.E, the fee must be payable to LASERS and will be forwarded to the actuarial firm.

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

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 32:265 (February 2006).

Robert L. Borden
Executive Director

0602#089

RULE

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

Certification of Continuing Eligibility
(LAC 58.I.2511)

Under the authority of R.S. 11:220, R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58.I.2511, which sets out the requirement that certain disability retirees obtain an annual attending physician's statement certifying their continued eligibility for disability retirement.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement

**Chapter 25. Procedures for Processing Disability
Applications**

§2511. Certification of Continuing Eligibility

A. LASERS may require a disability retiree to complete an Annual Attending Physician Statement (AAPS) once each year during the first five years following the disability retirement and once in every three years thereafter until the retiree has reached the equivalent age of regular retirement

unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability. The AAPS needs to be returned within 10 business days of receipt by the disability retiree. Depending on the results of the AAPS LASERS may require a disability retiree to undergo a medical examination.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:220.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:1581 (September 2001), LR 32:265 (February 2006).

Robert L. Borden
Executive Director

0602#090

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 6 a.m., March 4, 2006 through 6 a.m. March 13, 2006 within that portion of Terrebonne Parish as described below.

1. From a point originating from the intersection of the eastern shoreline of Bayou Dularge and the northern shoreline of Falgout Canal; thence westward along the northern shoreline of Falgout Canal to Lake Decade; thence westward and then southward along the northern and western shoreline of Lake Decade to the mouth of Bayou Decade; thence southwesterly along the northern shoreline of Bayou Decade to Lost Lake; thence westward along the northern shoreline of Lost Lake to the mouth of an unnamed

bayou originating from Big Carencro Bayou; thence northward along the eastern shoreline of the unnamed bayou to Big Carencro Bayou; thence northward and then westward along the northern shoreline of Big Carencro Bayou to the eastern shoreline of Four League Bay; thence southwesterly to the northernmost point of land on Pointe Au Fer Island at Mosquito Pass; thence southward along the eastern shoreline of Pointe Au Fer Island to the mouth of Oyster Bayou; thence southward along the western shoreline of Oyster Bayou to a point along the inside-outside shrimp line as defined in R.S. 56:495; thence eastward along the inside-outside shrimp line to the eastern shoreline of Bayou Grand Caillou; thence northward to the first red channel marker (No. 10) in Bayou Grand Caillou; thence northward along the red channel markers in Bayou Grand Caillou to channel marker No. 40; thence due eastward to the eastern shoreline of Bayou Grand Caillou; thence northward along the eastern shoreline of Bayou Grand Caillou to the Tennessee Gas Pipeline canal; thence westward along the northern shoreline of the Tennessee Gas Pipeline canal to Bayou Dularge; thence northward along the eastern shoreline of Bayou Dularge and terminating at the intersection of Falgout Canal and Bayou Dularge.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed area shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006).

Dwight Landreneau
Secretary

0602#022

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Meat and Poultry Inspections
(LAC 7:XXXIII.Chapter 1)

The Commissioner of the Department of Agriculture and Forestry proposes to amend regulations regarding the Meat and Poultry Inspection Program, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed changes will remove from the regulations all references to the word *permit* and replaces it with the word *license*, and remove references to "USDA Handbook 191." The proposed Rule change is a general cleanup of the existing rules which corrects citation errors, redundancy and replaces references to Title 40 with Title 3.

This Rule is enabled by R.S. 3:4232.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§101. Applicability of Federal Laws and Regulations

A. Notwithstanding any other provision of this Chapter to the contrary no provision of any regulation in this Chapter shall exempt any person subject to the Louisiana Meat and Poultry Inspection Law, (R.S. 3:4201 et seq.), or participating in the Louisiana Cooperative Federal/State Meat and Poultry Inspections Program from any applicable federal law or regulation, including but not limited to the following:

1. the Federal Food, Drug, and Cosmetic Act, (21 U.S.C. §301 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

2. the Federal Meat Inspection Act, (21 U. S. C. §601 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

3. the Federal Poultry Products Inspection Act, (21 U.S.C. §451 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

4. the Federal Humane Methods of Livestock Slaughter Act, (7 U.S.C. §1901 et seq.) and regulations promulgated in the Code of Federal Regulations pursuant to the Act.

B. In respect to intrastate operations and commerce, notwithstanding any other provision of this Chapter to the contrary, no provision of any regulation in this Chapter shall be construed or interpreted as imposing, or requiring the enforcement of, any standards that are less than those imposed and enforced under the Federal Meat Inspection Act and the Federal Poultry Products Inspections Act and regulations promulgated pursuant to those Acts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708

(December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:196 (February 2004), LR 32:

§103. Definitions

A. As used in this Chapter, the words and terms defined in R.S. 3:4201 and the following words and terms shall have the meanings given to them except where the context expressly indicates otherwise.

Combination Custom Slaughterer and Processor—a person which provides both slaughter and processing services solely for the owners of animals.

Custom Processor—any person which prepares, processes, and/or transports intrastate the meat of animals slaughtered for the owners of such animals.

Custom Slaughterer—any person which offers to the public the service of slaughtering cattle, sheep, poultry, swine, goats, horses, mules or other equines for the owners thereof.

Commissioner—Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry, Office of Animal Health Services, Division of Meat and Poultry Inspection, Grading and Certification.

Establishment—each place of business of a licensee, registrant, or a person whose business is subject to inspection.

Meat Jobber—a person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of cattle, sheep, poultry, swine, goats, horses, mules or other equines at the wholesale level, but who does not subsequently change the form of the product in any manner.

Meat Processor—any person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of cattle, sheep, poultry, swine, goats, horses or other equines at the wholesale level; who receives the product in tact, and who changes the form of the product before shipping out again.

Normal Retail Quantities—sales to a single customer not exceeding the amounts shown below (see also 9 CFR 303.1.d.2.ii, Federal Meat and Poultry Inspection Regulations):

- a. cattle, 300 pounds;
- b. calves, 37.5 pounds;
- c. sheep, 27.5 pounds;
- d. swine, 100 pounds;
- e. goats, 25 pounds.

Person—an individual, company, corporation limited liability company, or firm as defined in R.S. 3:4201(2) and any other legal entity or other form of organization.

Prepared—slaughtered, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

Primal Cut—the first or main cut.

Restaurant—any place of business:

a. where products are prepared solely for sale or service, as meals or entrees, directly to individual consumers at such establishments; and

b. where only federally or state inspected and passed products or products prepared in a retail store or outlet are used.

Retail Outlet—any place of business operated in the traditional or usual manner of operation or a retail store, with sales across-the-counter only in normal retail quantities. The term *retail outlet* applies solely to businesses with a single location.

Traditional or Usual Manner of Operation—

a. cutting up, slicing and trimming carcasses, halves, quarters or wholesale cuts into retail cuts such as steaks, chops and roasts, and freezing such cuts;

b. grinding and freezing products made from meat;

c. curing, cooking, smoking, rendering or refining of livestock fat or other preparation of products, except slaughtering or retort processing of canned products;

d. breaking bulk shipments of products;

e. wrapping or re-wrapping of products.

USDA—the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§105. Persons Required to Register

A. The following persons shall register with the department prior to conducting intrastate operations and commerce:

1. meat brokers, renderers and animal food manufacturers;

2. wholesalers of any carcasses or parts of carcasses of any cattle, sheep, poultry, swine, goats, horses, mules or other equines, whether the product is intended for human consumption or not;

3. public warehousemen who store carcasses or parts of carcasses of any cattle, sheep, poultry, swine, goats, horses, mules or other equines;

4. buyers, sellers, and transporters of any dead, dying, disabled or diseased animals or parts of carcasses of such animals;

5. meat brokers;

6. meat jobbers;

7. meat processors;

8. slaughters, including custom slaughters;

9. processors, including custom processors;

10. combination custom slaughterers and processors;

11. educational programs where carcasses or parts of carcasses are slaughtered, processed, or both;

12. any combination of the above.

B. All persons entering into any of the business activities listed in Subsection A shall apply for registration prior to engaging in such business. All persons shall be registered by category as shown in Subsection A above.

C. All registrants shall pay an initial registration fee of \$25 for each establishment at the time of application to cover the costs of processing of registrations and issuance of certificates of registration.

D. All persons must submit the following information in their applications for registration:

1. names and addresses of each establishment or place of business;

2. names and addresses of owner(s) and principal stockholder(s) and/ or names and addresses of members of boards of directors;

3. all trade names under which the person, firm, association, corporation or educational program conducts business.

E. All registrations must be renewed on or before April 1 of each year. The fee for renewal of registrations shall be the same as for the initial registration.

F. Each registrant shall receive a certificate of registration within 30 days after the application for registration is filed with the department if the registrant is in full compliance with applicable federal and state laws and regulations regarding slaughtering, processing, inspecting, packaging, handling, and transportation meat and poultry.

G. Penalties for failure to register or to annually renew a registration if the establishment is still in operation shall be assessed in accordance with R.S. 3:4233.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended LR 11:247 (March 1985) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§107. Licenses for Establishments Coming under Inspection

A. All persons operating a slaughtering, processing, or combination slaughtering/processing establishment, or as a custom slaughterer, custom processor or a combination custom slaughterer and processor shall obtain a license from the department for each establishment prior to conducting intrastate operations or commerce.

B. All applications for licenses shall consist of a completed Form 401 submitted to the department at 5825 Florida Boulevard, Baton Rouge, LA 70806. Form 101 is available on request from the department.

C. A license number shall be assigned to each establishment upon the department's approval of the application. The license shall be issued to the establishment within 30 days of final approval, in one of the following categories:

1. slaughter;

2. processing;

3. custom;

4. any combination of Paragraphs 1, 2 or 3 above.

D. All establishments receiving licenses shall display the license at a prominent location in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§109. Change of Ownership of Licensed Establishments

A. Whenever the ownership or operation of a licensed establishment changes, the new owner or operator must submit an application for a license to the department at least 30 days prior to the date the change in ownership or operation is to take place.

B. Within 30 days of change of ownership or operation, the new owner or operator shall submit to the department a certified copy of the act of sale, lease agreement or other legal document showing change of ownership or operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§111. Exemption

A. No person or establishment shall be exempt, under the Louisiana Meat and Poultry Inspection Law, from the inspections of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations except as provided in R.S. 3:4215 and 4216.

B. Establishment at which the slaughter of animals and the preparation of the carcasses, parts thereof, meat, poultry, and meat and poultry food products are exempt from inspection under R.S. 3:4215 and 4216 shall conduct slaughtering and processing operations under the same sanitary standards as are required of slaughter and processing establishments that engage in interstate operations or commerce.

C. No retail store, restaurant, or similar retail type establishment shall qualify for any exemption provided for in R.S. 3:4215 and 4216 unless the establishment otherwise qualifies as a retail store or restaurant under The Federal Meat Inspection Act and regulations promulgated pursuant to the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§113. Removal of Inspection Services

A. An assigned inspector may, upon proper justification, withhold inspection services for an inspected plant for a period not to exceed six hours, but may not withhold inspection services for a period longer than six hours. If for any reason the assigned inspector leaves the plant during the period when inspection services are withheld, he shall be available to the plant within one hour of notification of correction of the situation justifying the withholding of inspection services.

B. An area supervisor may, upon proper justification, withhold inspection services for a period not to exceed a total of 12 hours from the time when inspection services were first withheld.

C. The state office of the meat and poultry inspection program may withhold inspection services for an indefinite period of time upon proper justification.

D. An informal public hearing shall be held on the next working day following the initial withholding of inspection services upon the request of the establishment.

E. Inspection services may not be permanently withdrawn by the department except following a public hearing on the matter conducted in accordance with §121 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§115. Inspection Brands; Hot Brands; Replacement Brands

A. The department shall furnish an appropriate number of inspection brands to the establishment upon initial approval for inspection.

B. The establishment shall furnish the required number of hot brands and the number provided shall be provided to the department.

C. The establishment shall notify the assigned inspector when replacement brands are needed, providing the following information to the assigned inspector:

1. the name and address of the brand manufacturer preferred by the establishment; and
2. the number and kind of brands needed.

D. Upon receipt of the information required in §121.C, the inspector shall immediately notify the state office, which shall place the official order with instructions for the brands to be shipped direct to the establishment.

E. Upon receipt of the replacement brands, the establishment must deliver all unserviceable brands to the assigned inspector for transmittal to the department for destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§117. Stamping of Carcasses

A. All beef, calf and veal carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 7 in Appendices (§137.A and §139) attached immediately following.

B. All swine carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 8 in Appendices (§141).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Certification, LR 32:

§119. Inspection upon Movement of Meat and Meat Products

A. All carcasses, parts of carcasses, meat and meat products brought into any slaughtering, meat canning, salting, packing, rendering or similar establishment must originate from an establishment under inspection.

B. All carcasses, parts of carcasses, meat or meat products which are inspected and passed at any slaughtering, meat canning, salting, packing, rendering or similar establishment before movement there from, which is later returned to the same establishment, must be re-inspected upon return before further treatment or processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§121. Appeals from Decisions of the Cooperative Federal/State Meat and Poultry Inspection Program

A. Any person owning or operating an establishment that is subject to inspection or these rules and regulations may appeal any dispute of any decision made by an inspector in accordance with the procedures set forth in this rule.

B. If the person disputes the methods used by any inspector in the program, such person shall first make his objections known to the inspector.

C. If the person objecting and the inspector cannot resolve the dispute, the person objecting shall immediately notify the area supervisor of the dispute and the basis for the dispute.

D. If the dispute cannot be resolved by conference with the area supervisor, the person objecting shall then notify the department's program manager of the meat and poultry inspection program within three business days after the conference. Such notification may be verbal but shall be confirmed in writing within three days after the verbal notification.

E. If the person objecting and the program manager cannot resolve the dispute the person objecting may petition the commissioner, in writing, for a resolution of the dispute within three business days after the program manger makes his decision.

F. The commissioner may appoint a designee who does not work in the meat and poultry inspection program meditate the dispute. If the mediation is unsuccessful or the commissioner determines that a public hearing is necessary to resolve the dispute then the commissioner may set a public hearing to resolve the dispute. Any public hearing shall be conducted in accordance with the Administrative Procedure Act.

G. No license shall be suspended or revoked from any establishment without a full hearing on the matter in accordance with R.S. 3:4233 and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§123. Taking of Blood Samples

A. A slaughter establishment under inspection shall be responsible for the identification of animals and the maintenance of records as provided in this rule.

B. Any cattle that are not officially backtagged upon receipt shall be identified by an official backtag, properly placed.

C. The name and address of the consignor and the name and address of the owner of the herd of origin, if different from the consignor, shall be recorded on forms provided by the department, the original of which shall be transmitted to the department and the copy of which shall be maintained in the establishment's files.

D. The assigned inspector shall take a blood sample from all cattle received at the establishment.

E. The assigned inspector shall be responsible for collection and identification of all blood samples, and for packaging and transmission of blood samples, corresponding backtags and forms to the diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:713 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

§125. Overtime and Holiday Inspection Service

A. The Department of Agriculture and Forestry shall perform inspection services for official establishments, without charge, up to a 40 hours workweek Monday through Friday.

B. The department shall charge to and be reimbursed by official establishments an hourly overtime rate per department employee providing overtime inspection services to the official establishment. The overtime periods and rate per period are as follows:

1. \$25 per hour for inspection services provided for more than 40 hours in any workweek Monday through Friday;

2. \$30 per hour for inspection services provided on a Saturday or Sunday that is not otherwise a legal holiday established by R.S. 1:55;

3. \$35 per hour for inspection services provided on days of public rest and legal holidays, other than Saturdays and Sundays, observed by the departments of the state in accordance with R.S. 1:55;

4. overtime inspection services shall be billed at a minimum of two hours at the appropriate rate. Time spent providing inspection services in excess of two hours shall be billed in increments of quarter hours, with the time being rounded up to the next quarter hour.

C. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime inspections will not be performed for official establishments having a delinquent account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:247 (March 1985), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:1055 (May 2005), LR 32:

Family Impact Statement

The proposed amendments to Title 7, Part XXXIII, Chapter 1, regarding the Meat and Poultry Inspection Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through March 24, 2006, to Mike Windham, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, Louisiana 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Meat and Poultry Inspections

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No estimated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is estimated to be no costs and/or economic benefits to affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0602#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

Forest Landowner Assistance (LAC 7:XXXIX.701)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 3:4274 and R.S. 3:3, the Commissioner of Agriculture and Forestry proposes to amend the attached rules and regulations for the adjustment of the fee schedule for certain forest management services provided by the Office of Forestry.

The amendment of this Rule increases fees for certain forest management services provided to private landowners by the Louisiana Department of Agriculture and Forestry, Office of Forestry by \$30 per hour with a minimum of one hour for forest management services. The fee for tractor work will increase from \$70 an hour, with a minimum of one hour, to \$100 an hour with a minimum of one hour.

This Rule is enabled by R.S. 3:4276.

**Title 7
AGRICULTURE AND ANIMALS**

Part XXXIX. Forestry

Chapter 7. Forest Landowner Assistance

§701. Management Service Fees

A. The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

1. Basic Services. Performed on an as-requested basis in all Office of Forestry districts.

a. Prescribed Burning Services	
i. Reforestation (cutover areas)	\$25/acre plus \$70/hour for fireline establishment \$300 minimum charge
ii. Afforestation (pasture, etc.)	\$15/acre plus \$70/hour for fireline establishment. \$300 minimum charge.
iii. Helicopter Assisted Burns	\$10/acre plus \$70/hour for fireline establishment. \$300 minimum charge.
iv. Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.)	\$20/acre \$300 minimum charge.
v. Fireline Plowing Only	\$70/hour \$100 minimum charge.
b. Timber Marking	\$25/acre

2. Special Services. Performed when approved on a case-by-case basis.

a. Tree Planting*	\$46/acre
b. Direct Seeding*	\$10/acre
c. Light tractor (dozer) work [650 John Deere (or other brand of equal power) or less]	\$70/hour (1 hour minimum)
d. Heavy tractor (dozer) work [over 650 John Deere or other brand of equal power]	\$100/hour (1 hour minimum)
*Seedlings or seed not included.	

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:4276, R. S. 3: 4274 and R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 32:

Family Impact Statement

The proposed amendment to Rule Title 7:XXXIX.701 regarding the adjustment of the fee schedule for certain forest management services provided by the Office of Forestry should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

- 1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed rules to Paul Frey through the close of business on March 24, 2006 at P.O. Box 1628, Baton Rouge, LA 70821 (5825 Florida Blvd, Baton Rouge). No preamble regarding this Rule is necessary.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Forest Landowner Assistance**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is estimated to be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be an increase of \$1,500 in self-generated revenue annually for the Department of Agriculture and Forestry. Actual revenue could be affected by a large number of variables beyond our control, but this work is only done with case-by-case approval and we anticipate no more than 50 hours annually.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is an estimated cost increase of \$30 per hour for some forest management services. The fee for tractor work will increase from \$70 an hour, with a minimum of one hour, to \$100 an hour with a minimum of one hour.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No substantial effect on competition or employment is anticipated.

Skip Rhorer
Assistant Commissioner
0602#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

**Caps, Required Payment, and Cancellation of
Overtime Earned at the Hour-for-Hour Rate**

The State Civil Service Commission will hold a public hearing on Wednesday, March 8, 2006, to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room, Claiborne Building, 1201 N. Third Street, Baton Rouge, Louisiana.

The following will be considered at the meeting:

Amend Rule 21.11 to change the period of time at which excess state overtime is calculated and paid from a calendar-year basis to a fiscal-year basis.

**21.11 Caps, Required Payment, and Cancellation of
Overtime Earned at the Hour-for-Hour Rate**

(a) Compensatory leave earned hour for hour may be accrued in excess of 360 hours, but not more than a total of 360 such hours shall be carried forward from one fiscal year to the next. However, an appointing authority may request an exception to this subsection to maintain essential services necessary to preserve the life, health, or welfare of the public. This exception may ask that up to a total of 540 such hours be carried forward to the next fiscal year. Such a request is subject to approval by the Commission.

(b) For non-exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this rule, payment shall be made within 90 days after the beginning of the fiscal year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a).

(c) For exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this rule, payment may be made within 90 days after the beginning of the fiscal year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a). Any excess leave not paid, shall be cancelled.

Explanation

This change is being proposed as the result of requests from several agencies. The change to a fiscal-year basis will allow agencies to pay any excess overtime at the beginning of a fiscal year rather than in the middle of a fiscal year. This change will provide the agency greater ability to plan and manage their budgets. In addition, in many agencies, the largest portion of overtime is earned during the November/December holiday periods. As it stands now, the calendar-year basis for calculating excess compensatory time does not give the agency any time to allow employees to use their compensatory leave before it must be paid or cancelled. Changing this to a fiscal-year basis will provide employers with sufficient time to allow employees to use their compensatory leave before it must be paid or cancelled.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to the meeting.

Anne S. Soileau
Acting Director

0602#002

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Furlough without Pay

The State Civil Service Commission will hold a public hearing on Wednesday, March 8, 2006, to consider proposed amendments to Rule 17.8. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room of the

Claiborne Building, 1201 North Third Street, Baton Rouge, Louisiana.

Consideration will be given to the following:

Amend Rule 17.8 Furlough without Pay

When an appointing authority determines it is necessary to furlough employees in order to avoid or reduce layoffs, his request is subject to the following:

- (a). No change.
- (b). No change.
- (c). No change.
- (d). When the Commission or Director determines that extraordinary circumstances exist, they may approve an extension of furlough beyond 450 hours. If any employees are recalled during this extended furlough period, the employee with the most state service for a given job title shall be recalled first. If such position requires specific licensure or certification the employee with the most state service who meets those requirements shall be recalled first.

Explanation

Following Hurricanes Katrina and Rita, agencies have needed to use the furlough without pay as a mechanism to remove employees from their payrolls until such time as a formal layoff plan could be submitted, approved and implemented. Current rules impose specific time limits on the number of hours an employee can be furloughed. We have found that, under the current extraordinary circumstances, these limits do not always allow adequate time to implement the formal layoff process, particularly with regard to notifications and displacement offers. An emergency rule to address this matter was passed by the Civil Service Commission at its January meeting.

We now propose this addition to the layoff avoidance rules on a permanent basis. The goal is to implement any necessary layoff as rapidly as reasonably possible without the potentially unrealistic time constraints required by the current rule. Extensions beyond 450 hours would be approved only under conditions that the Commission or Director has determined to be extraordinary and would be approved for the shortest possible period of time. Because this rule would be an addition to the existing layoff avoidance measures, the director would have the authority to approve, disapprove or refer plans directly to the Commission for consideration under Rule 17.2(a). Our intent is that the Director could grant approval to a request for extension under the new rule only for the period of time prior to the next regularly scheduled commission meeting. The Commission could approve any further extension.

The rule requires agencies using the extraordinary furlough extension to recall employees on the basis of seniority. The only exception to the seniority basis for recall would be if a particular position required a specific license or certification. In such a case, the most senior employee possessing that requirement would be recalled first.

Persons interested in making comments relative to these proposals may do so at the public hearing, or by writing to the Director of State Civil Service at P.O. Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify us prior to the meeting.

Anne S. Soileau
Acting Director

0602#013

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.Chapters 3, 4, 5, 6, 7, 14, 15, 17, 21, 24, 35, 41, 43, and 45)

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 28: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 define/outline/clarify the following: school performance score goals; calculating the SPS component; incentive points; calculating a K-8 assessment index; calculating a 9-12 assessment index; state assessments and accountability; pairing/sharing of schools with insufficient test data; inclusion of schools; growth targets; defining a graduation index; determining a cohort for a graduation index; documenting a graduation index; calculating a graduation index; subgroup component indicators; safe harbor; calculating a graduation rate; failing the subgroup component; levels of academic assistance; levels of school improvement; entry into school improvement; exit from school improvement; school improvement requirements and state support at each level; recovery school district; inclusion of alternative education students; option considerations; valid data considerations; NRT and CRT data; attendance and dropout/exit data; and subgroup component adequate yearly progress. Chapter 45, Disaster Consideration for School and District Accountability, is a proposed amendment to existing policy. It is designed to address the impacts of Hurricane Katrina and Rita and other disaster scenarios that may occur.

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. ...

B. Through 2005, the school performance score shall be determined using a weighted composite index derived from;

three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), student attendance for grades K-12, dropout rates for grades 7-12.

Through 2005, K-12 Indicators and Weighting	
CRT (60% K-12)	Grades 4, 8, 10, 11
NRT (30% K-12)	Grades 3, 5, 6, 7, 9
Attendance (10% K-6; 5% 7-12)	Grades K-12
Dropout Rate (5% 7-12)	Grades 7-12

1. In 2005-2006, the NRT (Iowa) tests administered in grades 3, 5, 6, 7, and 9 will be replaced with the iLEAP tests. Changes in SPS calculations are described below (Paragraph H.4).

2. In 2006-2007, the attendance and dropout rate calculations for grades 9-12 will end. A Graduation Index will replace these indicators in schools with a 12th grade as described below (Paragraph I.6).

C. - D. ...

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

1. Preliminary accountability results shall not be released in the summer of 2006.

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

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

F. In the fall of 2004, schools shall receive two SPS:

1. a Growth SPS, which shall consist of the CRT, NRT, and LAA data from the prior school year and the attendance and/or dropout data from the school year two years prior (example: fall 2004 Growth SPS will include spring 2004 CRT, NRT and LAA data and 2002-2003 attendance and/or dropout data):

a. the Growth SPS shall be used to determine growth labels, rewards status and academic assistance status for the SPS component;

b. beginning in 2006, LEAP Alternate Assessment (LAA) will consist of Levels 1 and 2 (LAA 1 and LAA 2). LAA 2 will be administered in grades 4, 8, and 10 in ELA and math and grade 11 in science and social studies in 2006. Additionally, LAA 2 will be administered in grades 5, 6, 7, and 9 in ELA and math in 2007. LAA 2 will be fully implemented with science and social studies added to grades 4-8 in 2008;

2. a Baseline SPS, which shall consist of the two prior school years' CRT, NRT, and LAA data and attendance and/or dropout data from two years' prior to the most recent assessment results (Example: fall 2004 Baseline SPS will include spring 2003 and 2004 CRT, NRT, and LAA data and 2001-02 and 2002-03 attendance and/or dropout data):

a. the Baseline SPS shall be used to determine performance labels and academically unacceptable schools;

b. beginning in 2006, LEAP Alternate Assessment will consist of two levels as described above in Subparagraph F.1.b.

G. In the fall of 2005, schools shall receive three SPS.

1. Two will be those described above (Paragraphs F.1 and 2).

2. Schools will also receive a Transition Baseline SPS which will determine the Growth Target for 2006.

3. The 2005 Transition Baseline SPS will consist of the following indicators and weighting with the test data collected in spring 2004 and 2005, and attendance and dropout data collected in academic years 2002-2003 and 2003-2004.

2005 Transition Baseline SPS K-12 Indicators and Weighting	
LEAP/GEE, LAA (90% K-12)	Grades 4, 8, 10, 11
Attendance (10% K-6; 5% 7-12)	Grades K-12
Dropout Rate (5% 7-12)	Grades 7-12

H. In the fall of 2006, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels, rewards status, and academic assistance status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above (Paragraph G.3), with the test data collected in spring 2006, and attendance and dropout data collected in the academic year 2004-2005.

3. The Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. Schools that were not labeled Academically Unacceptable in 2005 and that have a 2006 Baseline SPS of less than 60, shall be labeled Academically Unacceptable in 2006 but shall have SI status waived.

4. The Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and attendance and dropout data collected in academic years 2003-2004 and 2004-2005.

2006 Baseline SPS K-12 Indicators and Weighting	
LEAP/GEE, iLEAP, LAA-1 and 2 (90% K-12)	Grades 3-11
Attendance (10% K-6; 5% 7-12)	Grades K-12
Dropout Rate (5% 7-12)	Grades 7-12

I. In the fall of 2007, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels, rewards status and academic assistance status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above, with the test data collected in spring 2007, and attendance and dropout data collected in the academic year 2005-2006.

3. The Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

4. For K-8 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and attendance and dropout data collected in the academic years 2003-2004 and 2004-2005.

2007 (and beyond) Baseline SPS K-8 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (90% K-8)	Grades 3-8
Attendance (10% K-6; 5% 7-8)	Grades K-8
Dropout Rate (5% 7-8)	Grades 7-8

5. For 9-12 schools in 2007, the Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. 9-12 schools that were not labeled Academically Unacceptable in 2006 and whose 2007 baseline SPS are below 60, are labeled Academically Unacceptable in 2007, but if their 2007 Growth SPS are 60 or greater shall have SI requirements waived.

6. For 9-12 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and graduation data collected in the academic year 2005-2006.

K. 2005-2006 K-8 Transitions

2005-2006 K-8 Transitions			
2005			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2005	LEAP (60%), Iowa (30%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2005
Baseline SPS	2004 & 2005	LEAP (60%), Iowa (30%), Attendance (5%), Drop (5%)	Performance Label, SI Status, SPS AYP
Transition Baseline SPS	2004 & 2005	LEAP (90%), Attendance (5%), Drop (5%)	Growth Target, Growth Goal for 2006
2006			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2006	LEAP (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2006
Baseline SPS	2006	LEAP/iLEAP (90%), Attendance (5%), Drop (5%)	Performance Label, SI Status (refer to H.3.a. above), SPS AYP, Growth Target and Goal for 2007

L. 2005-2007 High School Transition

2005-2007 High School Transition			
2005			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2005	GEE (60%), Iowa (30%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2005
Baseline SPS	2004 & 2005	GEE (60%), Iowa (30%), Attendance (5%), Drop (5%)	Performance Label, SI Status, SPS AYP for 2005
Transition Baseline SPS	2004 & 2005	GEE (90%), Attendance (5%), Drop (5%)	Growth Target, Growth Goal for 2006
2006			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2006	GEE (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2006
Baseline SPS	2006	GEE/iLEAP (90%), Attendance (5%), Drop (5%)	Performance Label, SI Status refer to H.3.a. above), SPS AYP for 2006; Growth Target and Goal for 2007
2007			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2007	GEE/iLEAP (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2007
Baseline SPS	2007	GEE/iLEAP (70%), Graduation Index (30%)	Performance Label, SI Status, SPS AYP for 2007; Growth Target and Goal for 2008 (refer to 1.5.a. above)

2007 (and beyond) Baseline SPS 9-12 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (70%)	Grades 9-11
Cohort Graduation Index (30%)	Grade 12

J. In 2008 and beyond, schools will continue to receive two SPS.

1. A Growth SPS will be calculated using the indicators and weighting from the tables above (Paragraphs I.4 and I.6).

2. The Growth SPS will continue to determine Growth Labels, rewards status and academic assistance status for the SPS component.

a. The Growth SPS will include test data from the most recent spring administration (in the prior academic year) and attendance/dropout or graduation data from two years prior.

3. A Baseline SPS will continue to determine Performance Labels and Academically Unacceptable schools.

4. The indicators and weighting for both SPS will consist of that used for the 2007 Baseline SPS.

a. The Baseline SPS will include test data from the two most recent spring administrations and attendance/dropout or graduation data from two and three years prior.

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:

§303. Calculating the SPS Component

A. ...

B. Formula for Calculating an SPS [K-6] (Academic Year 2004/2005)

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: $[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
SPS = 67.1			

C. The 2005 Transition Baseline SPS and the 2006 Growth SPS will be calculated for all schools using a 90 percent weight for the CRT

D. Beginning in 2006, the K-6 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: $[(87.8 * 90\%) + (110.9 * 10\%)] = 90.1$			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-6)	87.8	90%	79.0
Attendance (K-6)	110.9	10%	11.1
SPS = 90.1			

1. Any K-6 school with at least one grade that is assessed (3-6) will receive an SPS based only on its own student data.

2. Any configuration that has no assessed grades will be paired/shared as described in §521.

E. Formula for Calculating an SPS [K-8] (Academic Year 2004/2005)

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: $[(71.2 * 60\%) + (76.1 * 30\%) + (87.7 * 5\%) + (90.4 * 5\%)] = 74.4$			
Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
SPS = 74.4			

F. Beginning in 2006, the K-8 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example; $[(87.8 * 90\%) + (95.2 * 5\%) + (102.7 * 5\%)] = 88.9$			
Indicator	Index Value	Weight	Indicator Score

Assessment Index (Grades 3-8)	87.8	90%	79.0
Attendance (K-8)	95.2	5%	4.8
Dropout (7-8)	102.7	5%	5.1
SPS = 88.9			

1. Any K-8 school with at least one grade that is assessed (3-8) will receive an SPS based only on its own student data.

G. Formula for Calculating an SPS for 9-12 and Combination Schools (Academic Year 2004/2005)

Combination schools (through 2005) are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade. The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is: $SPS = (.60 * CRT \text{ Adjusted Achievement Index}) + (.30 * NRT \text{ Adjusted Achievement Index}) + (.05 * Dropout \text{ Index}) + (.05 * Attendance \text{ Index})$ The following is an example of how this calculation shall be made: $[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS = 69.0			

H. In 2006, the 9-12 Baseline SPS will be calculated using the following formula.

The SPS for a 9-12 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: $[(85.5 * 90\%) + (92.3 * 5\%) + (89.9 * 5\%)] = 86.1$			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 9-11)	85.5	90%	77.0
Attendance (9-12)	92.3	5%	4.6
Dropout (9-12)	89.9	5%	4.5
SPS = 86.1			

I. In 2007 and future years, the 9-12 SPS will be calculated using the following formula.

The SPS for a 9-12 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: $[(92.1 * 70\%) + (83.3 * 30\%)] = 89.5$			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 9-11)	92.1	70%	64.5
Graduation Index (Grade 12)	83.3	30%	25.0
SPS = 89.5			

J. Beginning in 2006, a school with a grade configuration that includes a combination from both categories of schools, K-8 and 9-12, will receive a score from a weighted average of the SPS from the K-8 grades and the SPS from the 9-12 grades.

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

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

a. the students eligible to test during the spring test administration, and:

i. in 2006, the average number of students per grade level in grades 9-11;

ii. beginning in 2007, the number of members of the cohort used as the denominator in the graduation index calculation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:763 (April 2004), LR 32:

§307. Incentive Points

A. ...

B. If, during spring testing, a repeating 4th or 8th grade student scores at a higher achievement level on a LEAP test of mathematics, English language arts, science or social studies than the previous spring, the retaining school shall receive 50 incentive points per improved subject in its accountability index. A student may earn a maximum of 50 points per subject for a total of 200 incentive points for his/her school (before weighting). Incentive points will not be awarded for a student's improved performance in the same subject for both the spring retest and summer school improvement (as described in Subsection C below). Students retained a second year may again earn 50 incentive points per subject.

C. ...

D. Option II 8th grade students (students passing one part of the LEAP that have been placed on a high school campus) must retake the part of the LEAP exam they failed.

1. If, during spring testing, an Option II 8th grade student receives a score of approaching basic or above on the LEAP test for which he/she received a score of unsatisfactory the previous spring, the high school in which the Option II 8th grader is enrolled, shall earn 50 incentive points in its 9th grade NRT index through 2005 and in its assessment index in 2006.

2. Due to changes in high-stakes testing policy, fall 2005 will be the last year students will be newly labeled as Option II 8th graders. Option II 8th graders will participate in 9th grade iLEAP beginning in 2006. They will repeat the subject test of the 8th grade LEAP that they failed. The category "Option II 8th graders" will cease to exist after spring testing 2006.

E. Students repeating the GEE ELA, math, science, and/or social studies tests shall not earn incentive points.

H. Example of K-8 Assessment Index Calculation

Grade	Subject	Subject-Test Index Score	Incentive Points (Spring Retest)	Unit Weight	Weighted Subject-Test Index Score
3	ELA	100		2	200
3	MTH	50		1	50
3	SCI	50		0.5	25
3	SS	100		0.5	50
4	ELA	100	50	2	300
4	MTH	50		2	100
4	SCI	50	50	1	100
4	SS	50		1	50
5	ELA	150		1	150
5	MTH	150		1	150
5	SCI	100		1	100
5	SS	150		1	150
6	ELA	100		1	100
6	MTH	100		1	100
6	SCI	100		1	100

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005), LR 32:

Chapter 4. Assessment Index Calculations
§405. Calculating a K-8 Assessment Index

A. For all grades 3 - 8 use the values from the following table.

iLEAP, LEAP and GEE Index Points	
Label	Subject-Test Index Points
Advanced =	200
Mastery (Exceeding the Standard) =	150
Basic (Meeting the Standard) =	100
Approaching Basic (Approaching the Standard) =	50
Unsatisfactory =	0

1. Add any incentive points earned by repeating 4th or 8th graders to their subject-test index points (a student scoring Basic in 06 in ELA, who scored Unsatisfactory in 05 in ELA, is recorded as earning 150 points in 06 in ELA.

B. Weight each subject-test index score by the corresponding value from the table below.

Unit Weights for K-8 Assessment Index				
Grade	ELA	Math	Science	Social Studies
3rd	2	1	1/2	1/2
4th	2	2	1	1
5th	1	1	1	1
6th	1	1	1	1
7th	1	1	1	1
8th	2	2	1	1

C. Sum all weighted subject-test index scores.

D. Sum all weights applied to subject-test index scores from the table above (in Subsection B).

E. Weight the sum of all summer school incentive points (from the prior summer as described in §307) by 2.

F. Add the value from Step (Subsection) E to the value from Step (Subsection) C.

G. Divide the sum from Step (Subsection) F by the sum from Step (Subsection) D. This quotient is the K-8 Assessment Index.

Grade	Subject	Subject-Test Index Score	Incentive Points (Spring Retest)	Unit Weight	Weighted Subject-Test Index Score
6	SS	50		1	50
7	ELA	0		1	0
7	MTH	50		1	50
7	SCI	0		1	0
7	SS	0		1	0
8	ELA	150		2	300
8	MTH	100		2	200
8	SCI	100		1	100
8	SS	150		1	150
Sums				28	2575
K-8 Assessment Index				2575 ÷ 28 = 92.0	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§409. Calculating a 9-12 Assessment Index

A. For all grades 9-11, use the values from the table in §405.A, above.

B. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 7 percent (100.0 percent - 9th grade DO rate + 7.0 percent)

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 7 percent and the 10th grade non-dropout rate plus 7 percent [(100.0 percent - 9th grade DO rate + 7.0 percent) x (100.0 percent - 10th grade DO rate + 7.0 percent)]

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 7 percent and the 10th grade non-dropout rate plus 7 percent and the 11th grade non-dropout rate plus 7 percent

[(100.0 percent - 9th grade DO rate + 7.0 percent) x (100.0 percent - 10th grade DO rate + 7.0 percent) x (100.0 percent - 11th grade DO rate + 7.0 percent)]

C. Weight each adjusted subject-test index score by the corresponding value from the table below.

Unit Weights for 9-12 Assessment Index					
Grade	ELA	Math	Science	Social Studies	Total
9th Grade	1	1			2
10th Grade	1.25	1.25			2.5
11th Grade			1.25	1.25	2.5

D. Sum all weighted values from Step (Subsection) C, above.

E. Divide the sum from Step (Subsection) D, above, by the sum of all weights applied to subject-test index scores from the table above (in Subsection C). This quotient is the 9-12 Assessment Index.

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are: 9th - 92.0 percent, 10th - 95.0 percent, and 11th - 96.0 percent.

Grade	Subject	Subject-Test Index Score	Dropout Adjustment	Adjusted Subject-Test Index Score	Unit Weight	Weighted Adjusted Subject-Test Index Score
9	ELA	100	.990	99.0	1	99.0
9	MTH	50	.990	49.5	1	49.5
10	ELA	100	1.010	101.0	1.25	126.3
10	MTH	150	1.010	151.5	1.25	189.4
11	SCI	50	1.040	52.0	1.25	65.0
11	SS	50	1.040	52.0	1.25	65.0
Sums					7	594.2
9-12 Assessment Index					594.2 ÷ 7 = 84.9	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 5. Calculating the NRT Index

§515. State Assessments and Accountability

A. With the exception of grade 8 Option II students (ends after 2006 testing), Louisiana students in grades 3 through 11 will participate in only one of the following state assessments on an annual basis:

1. LEAP, or;
2. GEE, or;
3. Iowa On-Level replaced with iLEAP in 2006, or;
4. LEAP Alternate Assessment Level 1 (LAA 1), or;
5. LEAP Alternate Assessment Level 2 (LAA 2).

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:

§519. Inclusion of Schools

A. - B.2. ...

C. Beginning in 2006 for the Baseline SPS, all K-8 schools shall have a minimum number of 80 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

D. Beginning in 2007 for the Growth SPS, all K-8 schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

E. In 2006 for the Baseline SPS, all 9-12 and combination schools shall have a minimum number of 80 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

F. In 2006 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 testing units in any combination of LEAP, and LAA 1 or 2.

G. In 2007 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

H. Beginning in 2007 for the Baseline SPS, all 9-12 and combination schools shall have a minimum number of 80 units in any combination of graduation cohort membership and LEAP, iLEAP, and LAA 1 or 2.

I. Each member of a cohort used to calculate a graduation index shall be counted as 4 units when determining the minimum number of units required calculating an SPS.

J. Beginning in 2008 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 units in any combination of graduation cohort membership and LEAP, iLEAP, and LAA 1 or 2.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:

§521. Pairing/Sharing of Schools with Insufficient Test Data

A. In order to receive an SPS through 2005, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must be either "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

1. Beginning in 2006, any school with at least one testing grade (3-11) will receive its Baseline SPS based only on its own student data provided it meets the requirements of §519.

B. Through 2005, a school with a grade-level configuration such that it participates in neither the CRT nor the NRT (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

1. For the Transition Baseline SPS in 2005 and the 2006 Growth SPS, any school that does not include 4th, 8th, 10th or 11th will share CRT test data from another school. The school sharing the CRT data will provide its own attendance and/or dropout data to its own SPS.

2. Beginning with the Baseline SPS in 2006, any K-2 school will share 3rd-grade test data from another school. The K-2 school will provide its own attendance data to its own SPS.

3. Beginning in 2007, any school enrolling only 12th grade students will share data with a school or schools containing grades 9-11 that send it the majority of its students. This sharing relationship is to define the cohort that will provide the starting roster on which its graduation index will be based. The 12th grade school will receive an SPS based solely on the graduation index.

4. Beginning in 2007, any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

C. Through 2005, a school with a grade-level configuration in which students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data and the test scores for just one grade from the other school.

D. ...

E. If a school is not paired/shared at the beginning of the school year for the baseline SPS, it shall not be paired/shared at the end of the school year for the growth SPS. A school's sharing/pairing status at the beginning of the school year for the baseline SPS shall be its status at the end of the school year for the growth SPS.

F. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see §519).

G. - I. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:

§523. Growth Targets

A. - B. ...

C. The percentage of LEP students and students with disabilities varies significantly across schools, and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of such students eligible to participate in the CRT, NRT, LAA 1 or 2 in each school will be a factor in determining the growth target for each school.

$$\text{PropRE} * (120 - \text{SPS}/N) + [\text{PropSE} * (120 - \text{SPS}) / (2N)] + [\text{PropLEP} * (120 - \text{SPS}) / (2N)] \text{ or } 2.0 \text{ points, whichever is greater.}$$

PropRE (Proportion Regular Education Students) = the number of students not in special education or LEP divided by the total number of students in the school eligible to participate in the NRT, CRT, LAA 1, or 2.

PropSE (Proportion Special Education Students) = the number of special education students in the school who are eligible to participate in the NRT, CRT, LAA 1, or 2 and who are not defined as LEP students divided by the total number of students in the school who are eligible to participate in the NRT, CRT, or LAA. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students

Prop LEP (Proportion Limited English Proficient Students) = the number of limited English proficient students in the school participating in the NRT, CRT LAA 1, or 2 divided by the total number of students in the school who are eligible to participate in the NRT, CRT LAA 1, or 2.

SPS = Baseline School Performance Score.

N = Number of remaining years until 2014.

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), amended LR 32:

Chapter 6. Graduation Index

§601. Defining a Graduation Index

A. Beginning in 2007, the Louisiana Department of Education (LDE) will calculate a Graduation Index based on a cohort of students for use in the School Performance Score of each school with students in grade 12.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§603. Determining a Cohort for a Graduation Index

A. A cohort of students is all students who entered 9th grade at a given school in a given academic year.

B. Each cohort of students will be tracked for four years, from entry as first time 9th-graders through 12th grade.

C. Students who exit a cohort in less than four years for legitimate reasons shall not be counted as dropouts in the cohort's graduation index calculations.

1. Exit Codes 7, 8, 9, 10, 12, 14, 16, 20, 21, 27, 28, 29, and 30 from §611 are legitimate.

D. Students who exit a cohort for other than legitimate reasons will be considered dropouts in graduation index calculations.

E. Students who transfer from another LEA, home school, non-public school, or state into a school on or before October 1 of a cohort's 11th grade year will enter the cohort at the students' assigned grade level.

F. Students transferring within an LEA will remain in their same grade-level cohort.

1. Students transferring within an LEA on or before October 1 of their cohort's 12th grade year will be included in the calculation of the graduation index at the school into which they transfer and complete their 4th year of high school.

G. Students who graduate or complete high school in less than 4 years will be included in the cohort in which they started 9th grade.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§611. Documenting a Graduation Index

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

Exit Code Documentation		
Code	Descriptions	Required Documentation
01	Expelled	Due process documentation supporting expulsion
03	Illness	Letter from a physician stating the student's date(s) of care written on the doctor office's letterhead with the doctor's original signature
04	Graduate with Diploma	Official transcript showing successful completion of requirements
05	GED only	LDE confirmation document
06	Certificate of Achievement (Special Education)	Official transcript showing successful completion of requirements
07	Death (of student) or permanent incapacitation	Death Certificate, obituary, or similar form. Signed statement by a physician indicating student's inability to return.
08	Transferred to another public school within district	Request for records from the receiving school
09	Transferred to another public school within Louisiana	Request for records from the receiving school
10	Transferred out of state or country	Request for records from the receiving school (or similar form located in the student's cumulative records, signed and dated by the parent/guardian or adult student and an authorized representative of the school). Documentation proving a student was a foreign exchange student.
12	Transferred to Correctional Institution	A signed statement from the sentencing judge, Office of Youth Development, or representative of the correctional facility.
14	Transferred to non-public school	Request for records from the receiving school
15	Exit from grade for reassignment to another grade	Test results, summer school grades or similar forms located in the student's cumulative records supporting the grade change
16	Transferred to home study/in-school Private Schooling	LDE Approval letter
17	Completed all Carnegie unit requirements but not the GEE	Official transcript showing successful completion of requirements
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program.
21	Transferred to State school	Request for records from the receiving school
22	Options Program Completer: GED & Industry Based Certificate	Official transcript showing successful completion of requirements
23	Options Program Completer: GED & Locally Designed Skills Certificate	Official transcript showing successful completion of requirements
24	Options Program Completer: Industry Based Certification	Official transcript showing successful completion of requirements
25	Options Program Completer: Local Skills Certificate Only	Official transcript showing successful completion of requirements
26	Options Program Completer: Certificate of Completion	Official transcript showing successful completion of requirements

Exit Code Documentation		
Code	Descriptions	Required Documentation
27	Exit under SBESE Academic School Choice Policy	Request for records from the receiving school
28	Exit under SBESE Unsafe School Choice Policy	Request for records from the receiving school
29	Exit due to Hurricane Katrina	Used only by specific districts as defined in Chapter 45. Entry into SIS is sufficient documentation
30	Exit due to Hurricane Rita	Used only by specific districts as defined in Chapter 45. Entry into SIS is sufficient documentation

B. Valid alternate documentation that provides sufficient justification for the use of an exit code is allowable.

C. Schools without sufficient documentation to support exit codes are subject to the actions described in Chapter 41.

D. Schools shall maintain documentation that supports exit codes for at least four years after the data has been used in School Performance Scores.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§613. Calculating a Graduation Index

A. Points shall be assigned for each member of a cohort during the cohort's 4th year of high school according to the following table.

1. Students who do not earn a diploma, a GED, a Skills Certificate, or a Certificate of Achievement after four years of high school are defined as attendees.

Student Result	Points
Regular Diploma w/Academic and Career/Technical Endorsement	240
Regular Diploma w/Academic or Career/Technical Endorsement	180
Regular Diploma	120
GED	90
Skills Certificate or Certificate of Achievement	60
Attendee	30
Dropout	0

B. The graduation index of a school shall be the average number of points earned by cohort members.

C. Students who complete/exit high school in more than four years may earn incentive points for their school provided they are no older than 21 at the beginning of the academic year in which they exit.

1. The incentive points earned is the difference between those a student earned in the 4th year of high school and the points corresponding to the higher level at which the student exits high school in a subsequent year.

a. Students shall not be considered dropouts if they exit the school after earning points for their cohort.

D. Schools that re-enroll students who dropped out of school will earn incentive points if the "reclaimed" students:

1. were considered dropouts and were included as such in schools' accountability scores; and

2. are no older than 21 at the beginning of the academic year in which they are re-enrolled; and

3. complete/exit a second time with a GED or higher:

a. these "reclaimed" students shall not be considered dropouts a second time.

E. To insure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data (the index earned by the graduating class of 2006 will be used for 2007 accountability calculations).

Sample Graduation Index Calculation			
Student Count	Result	Points Per	Points
2	Regular Diploma w/2 Endorsements	240	480
8	Regular Diploma w/ Endorsement	180	1440
35	Regular Diploma	120	4200
10	GED	90	900
6	Skills Certificate or Certificate of Achievement	60	360
4	Attendee	30	120
15	Dropout	0	0
80 Total Students			7500
Attendee from prior year earned GED (90-30)			60
Attendee from prior year earned Skills Cert. (60-30)			30
Dropout from prior year earned Reg. Diploma (120-0)			120
Total Incentive Points			210
Total Points			7710
7710 + 80 =		Graduation Index	96.4

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 7. Subgroup Component

§701. Subgroup Component Indicators

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

ii. The subgroup improved or met the criterion on the additional academic indicator (attendance rate for-K-11 schools, and non-dropout rate through 2006 and graduation rate beginning in 2007 for schools with a 12th grade).

2. - 3. ...

4. For the non-proficient reduction portion of the safe harbor test, a comparison of current year assessment data to the previous year assessment data shall be used. For the additional academic indicator check for the safe harbor test and for the whole school check, attendance and dropout data from two years prior will be compared to data from three years prior. Beginning in 2007, a graduation rate shall replace use of the dropout data for the additional academic indicator.

5. To ensure high levels of reliability, Louisiana will apply a 99 percent confidence interval to the calculations of subgroup component determinations for the:

- a. AMO status test;
- b. reduction of non-proficient students (safe harbor test); and
- c. additional academic indicator status analyses.

6. Louisiana will not apply a confidence interval to improvement analyses for the additional academic indicator.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), amended LR 30:2445 (November 2004), LR 32:

§707. Safe Harbor

A. - B.2.a. ...

b. makes at least 0.1 percent improvement in attendance rate (for schools without a 12th grade) or non-dropout rate (through 2006 for schools with a 12th grade) from the previous year;

c. for schools with a 12th grade, the non-dropout rate shall be evaluated for students in grade 9 and above.

C. Beginning in 2007, a graduation rate shall replace the non-dropout rate for schools with a 12th grade. It will be calculated as described in §708.

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 32:

§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 panel of students beginning in 2007.

B. A panel of students is all first-time 9th graders in a given school in a specific year.

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

1. Students leaving a panel for legitimate reasons shall be exited from the panel (Exit Codes 7, 8, 9, 10, 12, 14, 16, 20, 21, 27, 28, 29, and 30 from §611 are legitimate).

2. Students with disabilities whose IEPs state that they will take longer than four 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. The 2007 graduation rate shall be calculated using the first-time 9th grade students from fall 2002. The results from this 2002 panel will be evaluated to establish a baseline graduation rate for the subgroup component.

E. Schools with a 12th grade will be evaluated for the first time for their graduation rate in the fall of 2007.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

§709. Failing the Subgroup Component

A. ...

B. A school in which all subgroups have passed the subgroup component must also have the school pass the additional academic indicator (AAI). A school passes the AAI when it has:

1. achieved a 90 percent attendance rate (for schools without a 12th grade)/90 percent non-dropout rate (through 2006 for schools with a 12th grade). (A 99 percent confidence interval is applied to the 90 percent attendance rate and 90 percent non-dropout rate check.); or

2. made at least 0.1 percent improvement in attendance rate (for schools without a 12th grade) or non-dropout rate (for schools with a 12th grade) from the previous year. Schools with a 12th grade will use a non-dropout rate through 2006;

3. beginning in 2007 for schools with a 12th grade, earned a sufficient graduation rate as described in §708 or improved the graduation rate by at least 0.1 percent.

NOTE: If a school in which all subgroups have passed the subgroup component does not pass the additional academic indicator, it shall not pass the subgroup component.

C. ...

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 30:2256 (October 2004), LR 32:

**Chapter 14. Academic Assistance
(formerly School Improvement 1)**

§1401. Levels of Academic Assistance

A. ...

B. Remedies Requires for Levels of Academic Assistance

Academic Assistance Level	Remedy
1	If SPS < 80.0 the district will assist the school with a needs assessment and in analyzing the data to determine strengths, weaknesses, goals, and objectives. Revised School Improvement Plan
2	District Assistance Team
3	Scholastic Audit (Year 1)
4	Add from Corrective Action List Scholastic Audit (Year 2)
5	Develop Reconstitution "light" plan
6	Implement Reconstitution "light" - Substantial school reform aimed at increasing the academic performance of low achieving subgroups.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1513 (July 2005), amended LR 32:

Chapter 15. School Improvement (formerly called Corrective Actions)

§1501. Levels of School Improvement

A. - C. ...

SI Level	Remedy	SPS Component Academically Unacceptable Schools		Subgroup Component AYP Analysis	
		Title I	Non-Title I	Title I	Non-Title I
SI 2	Revised School Improvement Plan	X	X	X	X
	School Choice	X	X	X	-
	District Assistance Team	X	X	X	X
SI 3	Supplemental Educational Services (SES)	X	-	X	-
	Schools are eligible for DE	X	X	-	-
	Scholastic Audit (Year 1)	X	X	X	X
SI 4	Add from Corrective Action List	X	X	X	X
	Scholastic Audit (Year 2)	X	X	X	X
	Develop reconstitution plan (eligible for DE Partnership)	X	X	-	-
SI 5	Implement reconstitution plan or lose school approval	X	X	-	-
	Develop Alternate Governance plan	-	-	X	-
	Develop Reconstitution "light" plan	-	-	-	X
SI 6	Alternate Governance	X	X	X	-
	Implement Reconstitution "light" - Substantial school reform aimed at increasing the academic performance of low achieving subgroups.	-	-	-	X

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2744 (December 2004), LR 31:1513 (July 2005), LR 31:2764 (November 2005), LR 32:

§1503. Entry into School Improvement

A. Schools shall enter school improvement by two methods of identification.

1. Any Academically Unacceptable school enters school improvement 2.

a. Beginning in 2005, schools with a Baseline SPS below 60.0 shall be considered Academically Unacceptable.

b. For 2006 only, schools with an SPS below 60, whose SPS was 60 or above in 2005, shall have SI requirements waived.

c. For 2007 only, 9-12 and combination schools that are Academically Unacceptable shall have SI requirements waived if their 2006 Baseline SPS was 60 or above and their 2007 Growth SPS is 60 or above.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2257 (October 2004), LR 30:2445 (November 2004), LR 31:1514 (July 2005), LR 32:

§1505. Exit from School Improvement

A. A school shall exit School Improvement when the fall accountability results indicate:

1. it is no longer Academically Unacceptable, and has not failed the Subgroup Component for 2 consecutive years;

2. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:1514 (July 2005), LR 32:

Chapter 17. Requirements for Schools in School Improvement (SI)

§1703. School Improvement 2 Requirements (SI 2)

A. - B.3. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004), LR 30:2745 (December 2004), LR 31:1515 (July 2005), LR 32:

§1704. School Improvement 3 Requirements

A. - E.3. ...

F. With the assistance of the District Assistance Team, the school shall revise its School Improvement Plan to address the findings of the Scholastic Audit that will be conducted by an external team assigned by the LDE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004), LR 30:2745 (December 2004), LR 31:1515 (July 2005), LR 32:

§1705. School Improvement 4 Requirements

A. - G. ...

H. With the assistance of the District Assistance Team, the school shall continue to implement its School Improvement Plan to address the findings of the Scholastic Audit that will be conducted by an external team assigned by the LDE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004), LR 30:2446 (November 2004), LR 31:1515 (July 2005), LR 31:2764 (November 2005), LR 32:

Chapter 21. State-Level School Improvement Tasks

§2101. State Support at Each Level

A. - A.4. ...

5. provide training for District Assistance Teams;
6. work to secure new funding and/or redirect existing resources to help implement their improvement plans;
7. approve school choice plans;
8. provide additional school improvement funds, as available.

B. - B.3. ...

4. ensure that an external Scholastic Audit is completed for all SI3 schools as funding is available. If funding is limited, SI3 schools will be prioritized from lowest SPS to highest SPS, and Scholastic Audits will be conducted in rank order until funding is exhausted.

C. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2748 (December 2003), amended LR 30:2745 (December 2004), LR 31:1516 (July 2005), LR 32:

Chapter 24. Recovery School District

§2401. Recovery School District

A. The Louisiana Legislature established the Recovery School District with the passage of R.S. 17:1990. A school is eligible for the Recovery School District under any of the following conditions.

1. The LEA fails to submit a reconstitution plan for a school in SI4 to BESE for approval.
2. A school's reconstitution plan is submitted to BESE but is deemed to be unacceptable.
3. A school in SI5 or 6 and/or the LEA fails to comply with the terms of a BESE approved reconstitution plan.
4. A school is labeled Academically Unacceptable for 4 consecutive years.

B. A school that enters the Recovery School District shall remain until:

1. it is no longer labeled Academically Unacceptable; and
2. BESE approves a proposal from the LEA for the return of the school that includes:

- a. provisions for the continuation of the programs that have provided the basis for the improved academic achievement of the students; and
- b. provisions providing for the continued employment of all persons employed by the Recovery School District or the operator of the school; and
- c. provisions for the means and timetable for the school's transition and return to the jurisdiction of the LEA.

C. When a school in the Recovery School District is still Academically Unacceptable after four years, BESE shall take one of the following actions.

1. Revoke all school approval.
2. Require the Recovery School District to terminate the operational arrangement and provide a different operational arrangement.

3. Return the school to the jurisdiction of the city, parish, or other local public school board or other public entity from which it was transferred.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 35. Inclusion of Alternative Education Students

§3503. Option I

A. The testing score, and beginning in 2007 with the Baseline SPS, the attendance, dropout, and graduation data for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing.

B. Students included in the GED/Skills Option program will be included in school accountability. They will be required to take the 9th grade Iowa Test (beginning in 2006, the Iowa Test is replaced by the iLEAP) or participate in LEAP Alternate Assessment Level 1 or Level 2 (LAA 1 or 2) while enrolled. All programs will be considered Option I for alternative education purposes, and student test score data, and beginning in 2007 with the Baseline SPS, the attendance, dropout, and graduation data will be sent back to the sending high schools and districts for accountability purposes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 32:

Chapter 41. Data Collection and Data Verification

§4101. Valid Data Considerations

A. An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance, dropout, and graduation data that exceeds a parameter or a range of parameters, which shall be determined by the LDE and approved by the SBESE. Irregular data shall be defined as any data, which appears to contradict results, which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

B. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exceptions to this policy are students who were sick, whose family member(s) died, or who were in protective custody during the test and re-testing periods and who have formal documentation for that period.

C. The LDE shall evaluate the accountability results each year to identify irregular data and Unusual Data Results.

1. The LDE will select a sample of schools to investigate.

2. Districts shall be notified of the schools with irregular or unusual data that they must investigate themselves.

a. The LDE will identify the specific areas of concern.

b. The District will provide a written report explaining the irregular or unusual data within 60 days of notification by the LDE.

D. If inaccurate, invalid, and/or undocumented data is discovered and was or will be used in the calculation of School Performance Scores or Subgroup Adequate Yearly Progress determinations, the LDE shall correct and/or void the data.

1. For example, if four students in fall 2005 are coded as "out-of-state" transfers, it is determined in August 2006 that no documentation exists to support this exit code, and the students are not found enrolled in another Louisiana school; these four students will be changed to dropouts and counted as such in the dropout adjustment and non-dropout rates in the final fall 2006 accountability results, and if applicable, in the appropriate cohort for any graduation index calculations beginning in 2007.

2. In any instance where the inaccurate, invalid, and/or undocumented data was used in a previous year's accountability results, the LDE will evaluate the impact of the data and recommend to BESE any repayment of rewards or school improvement funds indicated by the recalculation of accountability results.

E. The LDE will notify in writing the superintendent of the LEA associated with any school where data is corrected and/or voided or where rewards must be repaid.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:2446 (November 2004), LR 32:

§4103. NRT and CRT Data

A. For NRT and CRT data:

1. if there is evidence of irregular data or a UDR, the LDE shall require the LEA to investigate. The LEA shall report the results of its investigation to the State Superintendent of Education;

2. if the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation:

a. if the test data is determined to be inaccurate, invalid, and/or undocumented the LDE shall void or correct the data as described in §4101;

3. if the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), LR 32:

§4104. Attendance and Dropout/Exit Data

A. The LDE may review and validate attendance, dropout, and exit code data:

1. due to an Unusual Data Result or irregular data;

2. while at a school or district site primarily to investigate other data or records;

3. during a random data audit.

B. If attendance data reported to the LDE through the Student Information System is found to differ from that in the teacher roll books, the LDE shall void or correct the data to match the roll books as described in §4101.

C. If there is insufficient documentation to validate the use of any student exit codes, the LDE shall void or correct the data as described in §4101.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:

Chapter 43. District Accountability

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - B.2. ...

3. Each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students) within each district shall be evaluated separately on ELA and mathematics. In calculating the subgroup component for a district:

a. the alternate academic achievement standards for students participating in LAA 1 will be used, provided that the percentage of proficient LAA 1 students does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

i. the district fails to request the waiver; or

ii. the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 1;

b. the modified academic achievement standards for students participating in LAA 2 will be used, provided that the percentage of proficient LAA 2 students does not exceed 2.0 percent of all students in the grades assessed. If the district exceeds the 2.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

i. the district fails to request the waiver or;

ii. the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 2;

c. students participating in LAA 1 or LAA 2 shall be included in the special education subgroup;

d. LEP students shall participate in the statewide assessments:

i. scores shall not be included in AMO or improvement in Percent Proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

B.4. - E.2.b.Note ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004),

amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:

Chapter 45. Disaster Considerations for School and District Accountability

Reserved.

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., April 11, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state governmental units. The proposed changes define/outline/clarify the following: school performance score goals; calculating the SPS component incentive points; calculating a K-8 assessment index; calculating a 9-12 assessment index; state assessments and accountability; pairing/sharing of schools with insufficient test data; inclusion of schools; growth targets; defining a graduation index; determining a cohort for a graduation index; documenting a graduation index; calculating a graduation index; subgroup component indicators; safe harbor; calculating a graduation rate; failing the subgroup component; levels of academic assistance; levels of school improvement; entry into school improvement; exit from school improvement; school improvement requirements and state support at each level; recovery school district; inclusion of alternative education students; option considerations; valid data considerations; NRT and CRT data; attendance and dropout/exit data; and subgroup component adequate yearly progress; Disaster Consideration for School and District Accountability.
- 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.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0602#042

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.1103)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*, §1103, Compulsory Attendance (LAC 28:CXV). The proposed amendment would provide nurse practitioners, licensed by the state of Louisiana, with the authority to substantiate student absences. This revision is required to align the policy language in Bulletin 741, Section 1103, with the revisions made to R.S. 17:226 by the passage of Act 200 of the 2005 Regular Legislative Session.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 11. Student Services
§1103. Compulsory Attendance**

A. - H. ...

I. The only exception to the attendance regulation shall be the enumerated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance. Students shall be temporarily excused from the attendance regulation for the following reasons:

1. extended personal physical or emotional illness. Each LEA shall adopt policies regarding the requirement of a certificate from a physician or nurse practitioner licensed in the state in substantiation of the absence;
2. extended hospital stay as verified by a physician or dentist;
3. extended recuperation from an accident as verified by a physician, dentist, or nurse practitioner;
4. extended contagious disease within a family as verified by a physician or dentist; or
5. observance of special and recognized holidays of the student's own faith.

J. - M. ...

NOTE: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221; R.S. 17:226; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office that 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 effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., April 11, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to state or local governmental units.

The proposed policy would provide State of Louisiana licensed nurse practitioners the authority to substantiate student absences.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0602#034

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook
Adoption Policy and Procedure Manual
(LAC 28:XXXIII.101, 301, 305, 315,
505, 507, 701, 707, 717, and 901)

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 amendments to *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC 28:XXXIII). The proposed amendments:

1. revise the department's mailing address (§101.B);
2. replace the language throughout the bulletin related to state approved content standards to reflect the review and adoption of textbooks based on their alignment with SBESE-approved Louisiana Grade-Level Expectations [§§301 Definitions (Basal and Textbook); 305.B.1; 315.A.1, B.1, and (Note); 507.C.2.c and, G.1; 707.A; 717.B, and G];

3. update and modify the adoption cycle to reflect a year delay in the adoption of textbooks as a result of the hurricanes of 2005 and the review and adoption of K-12 Reading and Literature prior to the review and adoption of K-12 Language Arts as shown below (Chapter 9.Appendix A);

4. correct §505.A.1.a to reflect a former SBESE approval allowing local adoptions within six months instead of three months;

5. clarify textbook access options outlined in §505.A.2.d.i.(a) for districts to report access to student textbooks to take home; and

6. add a definition of the term *piloting* in §701.L.1. The term *piloting* refers to product testing and research in any school or school system in Louisiana by any company and/or its parent affiliate.

This action is required by action of the State Board of Elementary and Secondary Education, in exercising its administrative and oversight authority for the state textbook adoption process.

Title 28

EDUCATION

Part XXXIII. Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

Chapter 1. Purpose

§101. Introduction

A. ...

B. It is hoped that the policies and procedures contained in this bulletin will help local school districts to provide textbooks that will have a significant, positive impact on student achievement, student attitudes and behaviors, and on the interactions in the learning environment for students of all ages, abilities, backgrounds and areas of interest. Any interested citizen may request his or her name be placed on the mailing list for textbook adoption information (R.S. 17:415.1.A) by writing to:

State Department of Education
Division of School Standards, Accountability
and Assistance
P.O. Box 94064
Baton Rouge, LA 70804
Attn: Textbook Adoption Program

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:991 (May 2000), amended LR 32:

Chapter 3. General Provisions

§301. Definitions

* * *

Basal—student-based curricular materials (print or non-print) that encompass the SBESE-approved Louisiana Grade-Level Expectations for specified subject areas. These curricular materials are considered a major teacher and student resource for attainment of the state standards and benchmarks and for the locally designed and aligned curriculum and course.

* * *

Textbook—any medium or material (print or non-print), book, or electronic medium that constitutes the principal source for teaching and learning in a specified subject area. A textbook shall be a systematically organized core of stand alone instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the SBESE-approved Grade-Level Expectations or state curricular guides (e.g., home economics, foreign language, health, business education).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:

§305. Textbooks and Materials of Instruction

A. - A.1. ...

B. Adequate and Appropriate Instructional Materials

1. Instruction (at the local level) shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system and state adopted Grade-Level Expectations.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 29:124 (February 2003), LR 32:

§315. Establish Criteria and Procedure for Evaluation and Selection of Textbooks and Materials of Instruction

A. The following SBESE-approved definition shall serve as a framework for the review of textbooks and materials of instruction which are offered for adoption.

1. A *State-Approved Textbook*—a systematically organized core of instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the State-approved Grade-Level Expectations and state assessment as approved by the SBESE. This definition includes any medium or material (print or non-print), book, or electronic medium that constitutes the principal source of study for teaching in specified subject areas.

B. At a minimum, the following framework shall guide evaluation.

1. Textbooks and materials of instruction shall align with the standards and benchmarks of the State Grade-Level Expectations, State-approved curriculum guides, and state assessment program.

2. - 4. ...

Note: The SDE shall establish an appropriate evaluation instrument(s) that shall be used by State Textbook Adoption Committee members, and their local subcommittees, as tools for final decision-making. In addition to the above frameworks, additional evaluation criteria shall focus on alignment of proposed textbooks and materials with the SBESE-approved state Grade-Level Expectations/curriculum guides and assessment programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), amended LR 32:

Chapter 5. Local School System Responsibilities

§505. Local Implementation

A. Adequate and Appropriate Instructional Materials

1. Textbooks and materials of instruction for all curriculum areas at the local level shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system (see also, Bulletin 741, 1.070.00).

a. School systems shall make a formal adoption of textbooks within six months from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). Local school systems shall provide students with access to current textbooks that conform to minimum standards of quality.

2. - 2.c. ...

d. Access—A school system shall, based on input from local teachers, principals, administrators, and others, determine how access to textbooks in core subject areas will be made available to students. School systems must ensure that each child within the classroom will have equal access to any available instructional materials. School systems shall also inform each parent/guardian in writing at the beginning of each school year of the method of access to textbooks which has been selected for each course or grade level. A contact person and phone number should be provided.

i. Options for providing textbook access for students may include:

(a). textbooks provided for each student to take home.

2.d.i.(b). - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 32:

§507. Local Adoption Procedures

A. - C.2.b. ...

c. Local adoption committee members are to receive special training in textbook selection criteria (i.e., knowledge of subject area Grade-Level Expectations and assessments), voting procedure, and integrity of interaction with publishers.

D. - F.7. ...

G. Local Selection of Textbooks

1. An evaluation instrument must be used by local school districts. Alignment with State-adopted Grade-Level Expectations and state and local curriculum objectives, where applicable, shall be a primary consideration in the evaluation process. Local school districts may model state developed procedures and evaluation instruments.

G.2. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1443 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), LR 32:

Chapter 7. Publishers' Responsibilities

§701. Requirements for Publishers' Participation in State Textbook Adoption

A. - K. ...

L. The "piloting" of new materials in any school or school system prior to official review by the State Textbook Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

1. The term *piloting* refers to product testing and research in any school or school system in Louisiana by any company and/or its parent affiliate.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999), repromulgated LR 26:1002 (May 2000), amended LR 29:125 (February 2003), LR 32:

§707. Submission of Correlations to State-Approved Grade-Level Expectations/Curriculum Guides

A. Publishers are required to submit in writing detailed correlations to *State Grade-Level Expectations/Curriculum Guides* for subject/content areas under adoption by the specified time each year.

B. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999), repromulgated LR 26:1003 (May 2000), amended LR 32:

§717. Written Questions and Responses to Questions Regarding Textbooks Under Consideration

A. - B. ...

C. Questions may address the physical characteristics and layout; factual content of the book; relationship to State Grade-Level Expectations and assessment; organization, presentation and sequencing of content; and any other area specified for evaluation on the state evaluation form. Questions may not address items contained on the Ancillary Materials Submission Form, Free Materials Submission Form, including in-service offerings. Questions will be forwarded to publishers.

D. - F. ...

G. Each publisher shall be invited to a question/answer session during which time state committee members may seek further clarification to written responses provided by publishers or may pose additional questions for publishers' response. Publishers shall be allowed to discuss how their basal and teacher's editions align with the state Grade-Level Expectations and assessment program. Publishers may not address ancillary or free materials proposed for addition after SBESE approval of the basals.

H. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999), repromulgated LR 26:1004 (May 2000), amended LR 32:

Chapter 9. Appendix A

NOTE: Forms contained in the Appendix are subject to revision by SDE.

§901. Adoption Cycle

A. Louisiana State Textbook Adoption Cycle: Core Subject Areas are Adopted Every Seven Years

State Textbook Adoption Cycle			
2006-2007	2007-2008	2008-2009	2009-2010
Social Studies K-12	Reading and Literature K-12	Language Arts K-12	Career and Technical Education

2010-2011	2011-2012	2012-2013
Science K-12	Foreign Language	Mathematics K-12
Health and Physical Education	Handwriting	
Computer Education	Music and Fine Arts	

NOTE: Adoption schedule may follow current cycle (listed above) with changes made to follow and align with any planned revisions to state content standards, Grade-Level Expectations, and/or state assessment content.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1450 (August 1999), repromulgated LR 26:1005 (May 2000), amended LR 32:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office that 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 effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., April 11, 2006, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1794—State Textbook Adoption Policy and Procedure Manual**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed policy change clarifies the definition of "piloting", changes references from content standards to Grade-Level Expectations, updates the textbook adoption cycle, clarifies textbook access options, and updates the address. The estimated implementation cost for this rule change is \$135.00 (for printing and postage).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change should have no significant effect on state or local revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no measurable, anticipated cost or economic benefit to any person or non-governmental group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition or employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0602#033

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2005 Incorporation by Reference
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(OS068ft)

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 Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #OS068ft).

This proposed rule is identical to federal regulations found in 10 CFR 71 (Appendix A), January 1, 2005, and 40 CFR 117.3, 136, 266 (Appendix I-IX and XI-XIII), 302.4, 401, & 405-471, July 1, 2005, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding regulations in 10 CFR 71 (Appendix A), January 1, 2005, and 40 CFR 117.3, 136, 266 (Appendices I-IX and XI-XIII), 302.4, 401, and 405-471, July 1, 2005. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be incorporated by reference into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this proposed rule are to mirror the federal regulations in order to maintain equivalency.

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 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations.
Except as provided in Subsection B of this Section, the

following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3, July 1, 2005, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4, July 1, 2005, Table 302.4—List of Hazardous Substances and Reportable Quantities.

B. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2005, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2005, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2005, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2005, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099.Appendix E, respectively.

Appendix E. Risk-Specific Doses (10^{-5})

A. 40 CFR 266, Appendix V, July 1, 2005, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2005, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2005, is hereby incorporated by reference, except that in regulations

incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299.Appendix, Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must Be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2005, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2005, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2005, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2005, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2005, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Part IX. Water Quality

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

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2005 CFR, unless otherwise noted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2005, in its entirety, is hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2005, are hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. 10 CFR Part 71, Appendix A, January 1, 2005, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS068ft. Such comments must be received no later than March 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302,

Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS068ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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

Herman Robinson, CPM
Executive Counsel

0602#016

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2005 Incorporation by Reference—Air Quality
(LAC 33:III.111, 507, 1432, 2160, 3003,
5116, 5122, 5311, and 5901)(AQ258ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.111, 507, 1432, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ258ft).

This proposed rule is identical to federal regulations found in 40 CFR Parts 51 (Appendix M), 60, 61, 63, 70.6(a), and 93, Subpart A, July 1, 2005, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference (IBR) the corresponding federal regulations in 40 CFR Parts 51 (Appendix M), 60, 61, 63, 68, 70.6(a), and 93, Subpart A, July 1, 2005, into the Air Quality regulations. Exceptions to the IBR are explicitly provided in the regulations. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be incorporated by reference into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc. granted to Louisiana by the EPA. The basis and rationale for this rule are to mirror the federal regulations as they apply to Louisiana's affected sources.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact

on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Volatile Organic Compound (effective March 1, 1990)—any organic compound that participates in atmospheric photochemical reactions; that is, any organic compound other than those which the administrator of the U.S. Environmental Protection Agency designates as having negligible photochemical reactivity. VOC may be measured by a reference method, an equivalent method, or an alternative method. A reference method, an equivalent method, or an alternative method, however, may also measure nonreactive organic compounds. In such cases, an owner or operator may exclude the nonreactive organic compounds when determining compliance with a standard.

* * *

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 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2005. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be

grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal

**Implementation Plans of Transportation
Plans, Programs, and Projects Developed,
Funded, or Approved under Title 23
U.S.C. or the Federal Transit Act**

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, 2005, is hereby incorporated by reference with the exclusion of Section 105.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:697 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:640 (March 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**Chapter 21. Control of Emission of Organic
Compounds**

**Subchapter N. Method 43—Capture Efficiency Test
Procedures**

NOTE: This Subchapter was moved and renumbered from Chapter 61 (December 1996).

§2160. Procedures

Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2005, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2005, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are Subpart EEEE, "Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006," and Subpart FFFF, "Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004," promulgated on December 16, 2005, in the *Federal Register*, 70 FR 74870-74924.

B. - B.6. ...

7. The department's emission guideline plan, required by Section 111(d) of the Clean Air Act, for Other Solid Waste Incinerator Units includes 40 CFR 60.2980-60.3078 and Tables 1-5 (70 FR 74870-74924, December 16 2005). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.3014, the department shall accept accreditation approved by other states complying with 40 CFR 60.3014.

8. 40 CFR Part 60, Subpart B, Adoption and Submittal of State Plans for Designated Facilities, and 40 CFR Part 60, Subpart C, Emission Guidelines and Compliance Times, are not included in this incorporation by reference.

9. The minimum standards of the following emission guidelines of 40 CFR Part 60, and amendments to 40 CFR Part 60, that are incorporated by reference shall be applied to applicable units in the state.

40 CFR Part 60	Subpart Heading
	* * *
	[See Prior Text In Subparts Cb – DDDD]
Subpart FFFF	Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004 (70 FR 74870-74924, December 16, 2005)

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2005, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
	* * *
	[See Prior Text]

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2005, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are amendments to the EPA rule entitled, "National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)," promulgated on October 12, 2005, in the *Federal Register*, 70 FR 59402-59579.

B. - C.2. ...

3. 40 CFR Part 63, Subpart D, Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants; Subpart E, Approval of State Programs and Delegation of Federal Authorities; and Subpart J, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production, are not included in this incorporation by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2005, and specifically listed in the following table, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR Part 63	Subpart/Appendix Heading
	* * *
	[See Prior Text]

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2005.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212

(December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ258ft. Such comments must be received no later than March 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ258ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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

Herman Robinson, CPM
Executive Counsel

0602#037

NOTICE OF INTENT

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

Designated Uses and Criteria for Cote Gelee Wetland, Subsegment 060801-001 (LAC 33:IX.1123)(WQ064)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.Table 3 (Log #WQ064).

The proposed Rule establishes Cote Gelee Wetland as subsegment 060801-001, located east of Broussard. Site-specific criteria and designated uses have been established

for Cote Gelee Wetland based on a scientific study conducted from February 2003 to August 2004. Results of the study are summarized in a Use Attainability Analysis (UAA) report entitled "Broussard Wetland Wastewater Assimilation Use Attainability Analysis." LAC 33:IX.1123 contains numerical criteria and designated uses of water bodies and is being revised to include Cote Gelee Wetland, subsegment 060801-001. A UAA with supportive technical rationale has been developed that supports the implementation of a wastewater discharge and assimilation in Cote Gelee Wetland. This action is required to establish site-specific criteria and designated uses for Cote Gelee Wetland in the Water Quality Standards.

The UAA characterized the chemical, physical, and biological factors of Cote Gelee Wetland. Also included in the UAA are water quality analysis, sediment characterization, vegetation composition, hydrology, and productivity analysis. This data establishes base conditions and criteria to support water uses in the Cote Gelee Wetland. The UAA is located in the Standards, Assessment, and Nonpoint Source files in the Water Quality Assessment Division. According to the regulations, a UAA is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for this rule are to

establish numerical criteria for the new Cote Gelee Wetland, subsegment 060801-001, based on the Use Attainability Analysis.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of designated uses that are used in Table 3 under the subheading "Designated Uses."

- A—Primary Contact Recreation
- B—Secondary Contact Recreation
- C—Fish and Wildlife Propagation
- L—Limited Aquatic Life and Wildlife Use
- D—Drinking Water Supply
- E—Oyster Propagation
- F—Agriculture
- G—Outstanding Natural Resource Waters

4. Endnotes. Numbers in brackets, e.g. [1], in Table 3 refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
*** [See Prior Text in 010101 – 050901]									
Vermilion-Teche River Basin (06)									
*** [See Prior Text in 060101 – 060801]									
060801-001	Cote Gelee Wetland—Forested wetland located in Lafayette Parish, 2 miles east of Broussard, 2 miles northeast of U.S. Hwy. 90, and west of Bayou Tortue	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
*** [See Prior Text in 060802 – 120806]									

ENDNOTES:

[1] – [24] ...

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 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999),

LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ064. Such comments must be received no later than April 4, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 WQ064. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Designated Uses and Criteria for Cote Gelee Wetland, Subsegment 060801-001

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This proposed rule is expected to have no significant effect on state or local governmental expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is anticipated.

Herman Robinson, CPM
Executive Counsel
0602#019

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Designated Uses and Criteria for Luling Wetland,
Subsegment 020303-001
(LAC 33:IX.1123)(WQ062)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.Table 3 (Log #WQ062).

The proposed Rule establishes Luling Wetland as subsegment 020303-001, located west of St. Martinville. Site-specific criteria and designated uses have been established for Luling Wetland based on a scientific study conducted from August 2001 to May 2005. Results of the study are summarized in a Use Attainability Analysis (UAA) report entitled "Luling Wetland Wastewater Assimilation Use Attainability Analysis." LAC 33:IX.1123 contains numerical criteria and designated uses of water bodies and is being revised to include Luling Wetland, subsegment 020303-001. A UAA with supportive technical rationale has been developed that supports the implementation of a wastewater discharge and assimilation in Luling Wetland. This action is required to establish site-specific criteria and designated uses for Luling Wetland in the Water Quality Standards.

The UAA characterized the chemical, physical, and biological factors of Luling Wetland. Also included in the UAA are water quality analysis, sediment characterization, vegetation composition, hydrology, and productivity analysis. This data establishes base conditions and criteria to support water uses in the Luling Wetland. The UAA is located in the Standards, Assessment, and Nonpoint Source files in the Water Quality Assessment Division. According to the regulations, a UAA is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for this rule are to establish numerical criteria for the new Luling Wetland, subsegment 020303-001, based on the Use Attainability Analysis.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of designated uses that are used in Table 3 under the subheading "Designated Uses."

A—Primary Contact Recreation

- B—Secondary Contact Recreation
- C—Fish and Wildlife Propagation
- L—Limited Aquatic Life and Wildlife Use
- D—Drinking Water Supply
- E—Oyster Propagation
- F—Agriculture
- G—Outstanding Natural Resource Waters

4. Endnotes. Numbers in brackets, e.g. [1], in Table 3 refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
* * * [See Prior Text in 010101 – 010901]									
Barataria Basin (02) * * *									
[See Prior Text in 020101 – 020303]									
020303-001	Luling Wetland—Forested wetland located 1.8 miles south of U.S. Hwy. 90 at Luling, east of the Luling wastewater treatment pond, bordered by Cousin Canal to the west and Louisiana Cypress Lumber Canal to the south	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
* * * [See Prior Text in 020304 – 120806]									

ENDNOTES:

[1] – [24] ...

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 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ062. Such comments must be received no later than April 4, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302,

Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 WQ062. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Designated Uses and Criteria for Luling
Wetland, Subsegment 020303-001**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This proposed rule is expected to have no significant effect on state or local governmental expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No persons or non-governmental groups will be directly affected by the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is anticipated.

Herman Robinson, CPM
Executive Counsel
0602#017

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Designated Uses and Criteria for South Slough Wetland, Subsegment 040604-001 (LAC 33:IX.1123)(WQ063)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.Table 3 (Log #WQ063).

The proposed rule establishes South Slough Wetland as subsegment 040604-001, located southeast of Hammond. Site-specific criteria and designated uses have been established for South Slough Wetland based on a scientific study conducted from March 2003 to April 2005. Results of the study are summarized in a Use Attainability Analysis (UAA) report entitled "Hammond Wetland Wastewater Assimilation Use Attainability Analysis." LAC 33:IX.1123 contains numerical criteria and designated uses of water bodies and is being revised to include South Slough Wetland, subsegment 040604-001. A UAA with supportive technical rationale has been developed that supports the implementation of a wastewater discharge and assimilation in South Slough Wetland. This action is required to establish site-specific criteria and designated uses for South Slough Wetland in the Water Quality Standards.

The UAA characterized the chemical, physical, and biological factors of South Slough Wetland. Also included in

the UAA are water quality analysis, sediment characterization, vegetation composition, hydrology, and productivity analysis. This data establishes base conditions and criteria to support water uses in the South Slough Wetland. The UAA is located in the Standards, Assessment, and Nonpoint Source files in the Water Quality Assessment Division. According to the regulations, a UAA is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for this rule are to establish numerical criteria for the new South Slough Wetland, subsegment 040604-001, based on the Use Attainability Analysis.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of designated uses that are used in Table 3 under the subheading "Designated Uses."

- A—Primary Contact Recreation
- B—Secondary Contact Recreation
- C—Fish and Wildlife Propagation
- L—Limited Aquatic Life and Wildlife Use
- D—Drinking Water Supply
- E—Oyster Propagation
- F—Agriculture
- G—Outstanding Natural Resource Waters

4. Endnotes. Numbers in brackets, e.g. [1], in Table 3 refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
*** [See Prior Text in 010101 – 031201]									
Lake Pontchartrain Basin (04)									
*** [See Prior Text in 040101 – 040604]									

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
040604-001	South Slough Wetland—Forested freshwater and brackish marsh located 1.4 miles south of the City of Pontchatoula, directly east of I-55, extending to North Pass to the south and the Tangipahoa River to the east	B C	[23]	[23]	[23]	[23]	2	[23]	[23]

* * *

[See Prior Text in 040605 – 120806]

ENDNOTES:

[1]–[24] ...

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 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ063. Such comments must be received no later than April 4, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 WQ063. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Designated Uses and Criteria for South
Slough Wetland, Subsegment 040604-001**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This proposed rule is expected to have no significant effect on state or local governmental expenditures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is anticipated.

Herman Robinson, CPM
Executive Counsel
0602#018

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hazardous Waste Recyclable Materials
(LAC 33:V.105, 108, 109, 1501, 1705, 1717, 2247, 3001, 3873, 4101, 4103, 4105, 4107, 4109, 4111, 4113, 4115, 4117, 4119, 4121, 4123, 4125, 4127, 4129, 4131, 4133, 4135, 4139, 4141, 4143, 4145, and 4301)(HW089ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.105, 108, 109, 1501, 1705, 1717, 2247, 3001, 3873, 4101, 4103, 4105, 4107, 4109, 4111, 4113, 4115, 4117, 4119, 4121, 4123, 4125, 4127, 4129, 4131, 4133, 4135, 4139, 4141, 4143, 4145, and 4301 (Log #HW089ft).

This proposed Rule is identical to federal regulations found in 40 CFR 261.6 (2004), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule will reorganize LAC 33:V.Chapter 41 and repeal parts that have been incorporated into other chapters of the Hazardous Waste regulations (e.g., regulations regarding universal waste). This will eliminate the confusion of inconsistent regulations and make the state regulations consistent with the federal regulations. Upon review by the Environmental Protection Agency, inconsistencies were discovered with Chapter 41 in relation to equivalency with federal regulations and conflicting requirements in other chapters of the Hazardous Waste regulations. EPA recommended that the state delete the conflicting requirements and reestablish equivalency with the federal regulations. The rule also corrects references to sections of Chapter 41 in other parts of the Hazardous Waste regulations to reflect the reorganization of this Chapter. The basis and rationale of this proposed rule are to delete conflicting requirements and reestablish consistency with federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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. - K.2.b. ...

L. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

1. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4145 should be regulated under LAC 33:V.4105.B and C. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being

accumulated or stored together are incompatible. In making this decision, the administrative authority will consider the following factors:

a. - e. ...

2. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4145 under the provisions of LAC 33:V.4105.B and C, rather than under the provisions of LAC 33:V.4143:

L.2.a. - O.2.c.vi. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, 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:

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. - B. ...

C. When making the quantity determinations of this Section and LAC 33:V.Chapter 11, the generator shall include all hazardous waste that it generates, except hazardous waste that:

1. is exempt from regulation under LAC 33:V.105.D.3-6 and 8, 109.*Empty Container*.1, and 4105.A; or

2. ...

3. is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under LAC 33:V.4105.D; or

4. is used oil managed under the requirements of LAC 33:V.4105.A.3 and Chapter 40; or

C.5. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment,

Environmental Planning Division, LR 27:706, 716 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 32:

§109. Definitions

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

* * *

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

1. - 4.b.ii.(a). ...

(b). waste from burning any of the materials exempted from regulation by LAC 33:V.4105.A.1.c and d.i;

4.b.ii.(c).(i). - 6.b. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

A. - C.1. ...

2. the owner or operator of a facility managing recycled material described in LAC 33:V.4105.A (except to the extent they are referred to in LAC 33:V.Chapter 40 or LAC 33:V.4139, 4141, 4143, or 4145);

C.3. - H.13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 10:21266 (March 1995), LR 21:944 (September 1995), LR 23:565, 568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694, 1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:277 (February 2000), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005), LR 32:

Chapter 17. Air Emission Standards

Subchapter A. Process Vents

§1705. Applicability

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

2. For the owner or operator of a facility subject to the requirements of this Subchapter and who received a final permit under RCRA Section 3005 and LAC 33:V.Subpart I prior to December 6, 1996, the requirements of this Subchapter shall be incorporated into the permit when the permit is reissued under LAC 33:V.705 or reviewed under LAC 33:V.315. Until such date when the owner or operator receives a final permit incorporating the requirements of this Subchapter, the owner or operator is subject to the requirements of LAC 33:V.Chapter 43.

[NOTE: The requirements of this Subchapter apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4105.C. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:294 (March 2001), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Subchapter B. Equipment Leaks

§1717. Applicability

A. - F. ...

G. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at LAC 33:III.5122 (40 CFR Part 63, Subpart IIII), are not subject to the requirements of this Subchapter.

[NOTE: The requirements of this Subchapter apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4105.C. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998), LR 25:438 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:294 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 32:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements

A. - D. ...

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in

LAC 33:V.4139.B-D regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) is not required to notify the receiving facility, in accordance with Subsection B of this Section. With each shipment of such wastes the owner or operator of the recycling facility shall submit a certification described in Subsection C of this Section and a notice that includes the information listed in Subsection B of this Section (except the manifest number) to the Office of Environmental Services, Water and Waste Permits Division. The recycling facility shall also keep records of the name and location of each entity receiving the hazardous waste-derived product.

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 32:

Editor's Note: Repealed.

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

A. - C.2. ...

3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.A.1.d.ii-iii, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under LAC 33:V.108; and

C.4. - H. ...

NOTE: Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821, 835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 38. Universal Wastes

Subchapter E. Standards for Destination Facilities

§3873. Applicability

A. ...

B. The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with LAC 33:V.4105.D.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 41. Recyclable Materials

§4101. Applicability

A. - B. ...

C. A material that is used for a purpose for which it is manufactured or produced is not a recyclable material for purposes of this Chapter.

D. ...

E. Upon determination by the generator that any material held for use, reuse, or recycling is to be discarded, such material shall no longer be considered a recyclable material and shall be handled as otherwise required in these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§4103. Notification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4105. Requirements for Recyclable Material

A. Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities in Subsections B-E of this Section, except for the materials listed in Paragraphs A.1 and 2 of this Section. Hazardous wastes that are recycled will be known as *recyclable materials*.

1. The following recyclable materials are not subject to regulation under this Section and are not subject to the notification requirements of LAC 33:V.105 or Section 3010 of RCRA:

a. industrial ethyl alcohol that is reclaimed, except that, unless otherwise provided in an international agreement:

i. a person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, shall comply with the requirements applicable to a primary exporter in LAC 33:V.1113.D, G, and H, export such materials only upon consent of the receiving country and in conformance with the Louisiana State Acknowledgment of Consent as defined in LAC 33:V.1113, and provide a copy of the Louisiana State Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

ii. a transporter transporting a shipment for export shall not accept a shipment if he knows the shipment does not conform to the Louisiana State Acknowledgment of Consent, shall ensure that a copy of the Louisiana State Acknowledgment of Consent accompanies the shipment, and shall ensure that it is delivered to the facility designated by the person initiating the shipment;

b. scrap metal that is not excluded under LAC 33:V.105.D.1.m;

c. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under LAC 33:V.105.D.1.1);

d. the following recyclable materials:

i. hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil as long as the resulting fuel meets the used oil specification under LAC 33:V.4005 and as long as no other hazardous wastes are used to produce the hazardous waste fuel;

ii. hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining, production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, as long as the fuel meets the used oil fuel specification under LAC 33:V.4005; and

iii. oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, as long as the reclaimed oil meets the used oil fuel specification under LAC 33:V.4005.

2. The following recyclable materials are not subject to the requirements of this Section but are regulated under LAC 33:V.4139, 4141, 4143, and 4145, and all applicable provisions as provided in LAC 33:V.Chapters 1, 3, 5, 7, 27, 31, and 43:

a. recyclable materials used in a manner constituting disposal;

b. hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under LAC 33:V.Chapter 31 or 43.Subchapter N;

c. recyclable materials from which precious metals are reclaimed; and

d. spent lead-acid batteries that are being reclaimed.

3. Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of LAC 33:V.Subpart 1, but is regulated under LAC 33:V.Chapter 40. Used oil that is recycled includes any used oil that is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). The term includes, but is not limited to, oil that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

4. Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in LAC 33:V.1113.I.1.a) for the purpose of recovery is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B, if it is subject to either the manifesting requirements of LAC 33:V.Chapter 11 or to the universal waste management standards of LAC 33:V.Chapter 38.

B. Generators and transporters of recyclable materials are subject to the applicable requirements of LAC 33:V.Chapters 11 and 13 and the notification requirements of LAC 33:V.105, except as provided in Paragraph A.1 of this Section.

C. Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 9, 11, 15, 19, 21, 22, 23, 29, 33, 35, and 37, and Chapter 43.Subchapters A-K; and the notification requirements of LAC 33:V.105.A, except as provided in Subsection A of this Section. The recycling process itself is exempt from regulation, except as provided in Subsection E of this Section.

D. Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in Subsection A of this Section:

1. notification requirements of LAC 33:V.105.A;

2. LAC 33:V.905 and 907, dealing with the use of manifest and manifest discrepancies; and

3. Subsection E of this Section.

E. Owners or operators subject to LAC 33:V.Subpart 1 permitting requirements with hazardous waste management units that recycle hazardous wastes are subject to the requirements of LAC 33:V.Chapter 17 and Chapter 43.Subchapters Q-R.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), LR 24:1108 (June 1998), LR 24:1742 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§4107. Spills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), repealed LR 32:

§4109. Violations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 17:366 (April 1991), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

**Subchapter A. Special Requirements for Group I
Recyclable Materials—Repealed**

§4111. Applicability

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4113. Generator, Transporter, and Notification Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4115. Owners and Operators of Facilities that Store or Recycle Recyclable Materials

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:944 (September 1995), LR 22:21 (January 1996), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

**Subchapter B. Special Requirements for Group II
Recyclable Materials—Repealed**

§4117. Applicability

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:237 (April 1987), LR 13:433 (August 1987), LR 20:1000 (September 1994), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4119. Storage

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4121. Manifest Forms and Shipping Documents

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 17:366 (April 1991), LR 18:1256 (November 1992), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4123. Manifest Document Flow

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 17:366 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4125. Procedures Governing the Generator's Portion of the Manifest System

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 17:367 (April 1991), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4127. Procedures Governing the Transporter's Portion of the Manifest System

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4129. Procedures Governing the Portion of the Manifest System for the Recycle Facility

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4131. Recordkeeping

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 17:367 (April 1991), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4133. Personnel Training

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

§4135. Contingency Plan

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), repealed by the Office of the Secretary, Legal Affairs Division, LR 32:

**Subchapter C. Special Requirements for Group III
Recyclable Materials—Repealed**

**§4139. Recyclable Materials Used in a Manner
Constituting Disposal**

A. This Section applies to recyclable materials that are applied to or placed on the land without being mixed with any other substance or after being mixed or combined with any other substance. These materials will be referred to throughout this Section as *materials used in a manner that constitutes disposal*.

B. Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if:

1. the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means; and

2. such products meet the applicable treatment standards in LAC 33:V.Chapter 22.Subchapter A (or applicable prohibition levels in LAC 33:V.2209 or 2215, where no treatment standards have been established), or Section 3004(d) of RCRA for each recyclable material (i.e., hazardous waste constituent) that they contain.

C. Fertilizers that contain recyclable materials are not subject to regulation provided that:

1. they are zinc fertilizers excluded from the definition of *solid waste* according to LAC 33:V.105.D.1.u; or

2. they meet the applicable treatment standards in LAC 33:V.2223 for each hazardous waste that they contain.

D. Anti-skid/de-icing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in Subsection C of this Section and remain subject to regulation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), repromulgated LR 22:100 (February 1996), amended LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1684 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

**§4141. General Requirements for Recyclable Materials
Used in a Manner Constituting Disposal**

A. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to all the requirements of LAC 33:V.Chapters 11 and 13, and the notification requirements under Section 3010 of RCRA and LAC 33:V.105.

B. Owners and operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 23, 29, 33, 35, and 37, and the notification requirements of Section 3010 of RCRA and LAC 33:V.105.

C. Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, and 37, and the notification requirements of Section 3010 of RCRA and LAC 33:V.105. These requirements do not apply to products that contain these recyclable materials under the provisions of LAC 33:V.4139.B.

D. The use of waste or used oil or other material that is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability) for dust suppression or road treatment is prohibited.

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

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

**§4143. Recyclable Materials Utilized for Precious Metal
Recovery**

A. Applicability. This Section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, and any combination of these.

B. Requirements. Persons who generate, transport, or store recyclable materials that are regulated under this Section are subject to the following requirements:

1. all such persons shall comply with the notification requirements under Section 3010 of RCRA and LAC 33:V.105;

2. generators shall operate in accordance with LAC 33:V.Chapter 11;

3. transporters shall operate in accordance with LAC 33:V.Chapter 13;

4. persons who store shall operate in accordance with LAC 33:V.Chapter 9; and

5. persons who export precious metals to or import precious metals from designated OECD member countries for recovery are subject to the requirements of LAC 33:V.Chapter 11.Subchapter B and LAC 33:V.4311. Persons who export precious metals to or import precious metals from non-OECD countries for recovery are subject to the requirements of LAC 33:V.1113 and 1123.

C. Persons who store recycled materials regulated under this Section shall keep the following records to document that they are not accumulating these materials speculatively, as defined in LAC 33:V.109:

1. the volume of these materials stored at the beginning of the calendar year;

2. the amount of these materials generated or received during the calendar year; and

3. the amount of these materials remaining at the end of the calendar year.

D. Recyclable materials that are regulated under this Section that are accumulated speculatively are subject to all applicable provisions of these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998),

amended by the Office of the Secretary, Legal Affairs Division, LR 32:

§4145. Spent Lead-Acid Batteries Being Reclaimed

A. Applicability. If you generate, collect, transport, store, or re-generate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the Universal Waste rule in LAC 33:V.Chapter 38.

If Your Batteries:	And If You:	Then You:	And You:
1. will be reclaimed through regeneration (such as by electrolyte replacement);		are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1 and 49, and LAC 33:V.1103 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapters 1 and 49 and LAC 33:V.1103 and 3105, Table 1.
2. will be reclaimed other than through regeneration;	generate, collect, and/or transport these batteries;	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1 and 49, and LAC 33:V.1103 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapters 1 and 49 and LAC 33:V.1103 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.
3. will be reclaimed other than through regeneration;	store these batteries, but you aren't the reclaimer;	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1 and 49, and LAC 33:V.1103 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapters 1 and 49 and LAC 33:V.1103 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.
4. will be reclaimed other than through regeneration;	store these batteries before you reclaim them;	must comply with LAC 33:V.4145.B and, as appropriate, other regulatory provisions described in LAC 33:V.4145.B;	are subject to LAC 33:V. Chapter 49 and LAC 33:V.1103 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.
5. will be reclaimed other than through regeneration;	don't store these batteries before you reclaim them;	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1 and 49 and LAC 33:V.1103 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapter 49 and LAC 33:V.1103 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.

B. Requirements. The requirements of this Section apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

1. For interim status facilities, you must comply with:
 - a. notification requirements under Section 3010 of RCRA and LAC 33:V.105;
 - b. all applicable provisions in LAC 33:V.Chapter 43, except LAC 33:V.4313 (waste analysis), and 4353 and 4355 (dealing with the use of the manifest and manifest discrepancies); and
 - c. all applicable provisions in LAC 33:V.Chapters 3, 5, and 7.
2. For permitted facilities, you must comply with:
 - a. notification requirements under Section 3010 of RCRA and LAC 33:V.105;
 - b. all applicable provisions in LAC 33:V.Chapter 15, except LAC 33:V.1519, 1521, 1523, 1525, 1527, 1529, and 1531;
 - c. all applicable provisions in LAC 33:V.Chapter 9, except LAC 33:V.905 and 907 (dealing with the use of the manifest and manifest discrepancies); and

d. all applicable provisions in LAC 33:V.Chapters 3, 5, 7, 19, 21, 23, 29, 33, 35, and 37.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), LR 23:579 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

Chapter 43. Interim Status
§4301. Purpose and Applicability

- A. - C.4. ...
5. the owner and operator of a facility managing recyclable materials described in LAC 33:V.4105.A.1-3, except to the extent they are referred to in LAC 33:V.Chapter 40 or LAC 33:V.4139, 4143, or 4145;
- C.6. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:2498 (November 2000), LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 31:3121 (December 2005), LR 32:

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW089ft. Such comments must be received no later than March 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW089ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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

Herman Robinson, CPM
Executive Counsel

0602#015

NOTICE OF INTENT

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4743)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

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

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4743. Training Center Records

A. Each accredited training center shall develop and maintain a records management program consistent with state law (R.S. 44:411) and its own department policies, where appropriate.

B. The training center must, as part of its record management program, retain its training records for a minimum period of at least five years so its mandated POST comprehensive performance review can be conducted as required by R.S. 40:2404(5).

C. Record retention and disposal schedules shall be continuously updated as part of the training center's record management program.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

Interested persons may submit written comments on this proposed Rule no later than March 25, 2006 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will have minimal impact on expenditures for state or local governmental units. Any expenditures would be limited to storage costs such as filing cabinets or lockers. In addition, several of the academies are not affiliated with either state or local government units, and so there would be no fiscal impact.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rule will have minimal impact on expenditures for those academies not affiliated with state or local government.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Michael A. Ranatza
Executive Director
0602#098

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Indigent Defense Assistance Board

Funding of Expert Witness, Specialized Scientific Testing, and Other Ancillary Services for Indigents Convicted of Capital Crimes (LAC 22:XV.Chapter 2)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and in order to implement R.S. 15:151, et seq., the Louisiana Indigent Defense Assistance Board hereby gives notice of its intent to adopt rules and regulations relative to funding of expert witnesses, specialized scientific testing and other ancillary services for indigents convicted of capital crimes in Louisiana.

These rules and guidelines are for funding of expert witnesses, specialized scientific testing, and other ancillary services for indigents convicted of capital crimes in Louisiana pursuant to R.S. 15:151 et seq. The purpose of these guidelines is to provide a method of delivery of funds for reasonably necessary services required to provide indigents sentenced to death with representation mandated by the Constitution of the United States and the Constitution and laws of the State of Louisiana. The Louisiana Indigent Defense Assistance Board has adopted this Rule pursuant to R.S. 15:151.2 (E) and (F).

The Louisiana Indigent Defense Assistance Board approved a Rule for the funding of expert witnesses, specialized scientific testing and other ancillary services for indigents convicted of capital crimes at its meeting held December 14, 2005.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XV. Indigent Defense Assistance Board

Chapter 2. Funding of Expert Witness, Specialized Scientific Testing, and Other Ancillary Services for Indigents Convicted of Capital Crimes

§201. Eligibility Criteria

A. To the extent funds are available, funding of expert witnesses, specialized scientific testing and other ancillary services is limited to persons who meet indigency standards pursuant to R.S. 15:147.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Indigent Defense Assistance Board, LR 32:

§203. Application

A. Applications on behalf of indigents sentenced to death for funding of reasonably necessary services of expert witnesses, cost of specialized scientific testing and other ancillary services associated with legal representation mandated by the Constitution of the United States and the Constitution and laws of the State of Louisiana shall be in writing and include the following:

1. name of indigent seeking funding;
2. a statement of justification of the need for services of an expert witness, specialized scientific testing, and/or other ancillary services;

3. name of expert witness or entity conducting specialized scientific testing or other ancillary services; and

4. estimated cost of fees for the services requested.

B. Any applications made by private counsel on behalf of a defendant sentenced to death for funding of reasonably necessary services of expert witnesses, cost of specialized scientific testing and other ancillary services based on partial indigency shall make application in accordance with Subsection A above. Additionally, counsel for the applicant must reveal all financial arrangements regarding representation.

C. All information contained in applications for funding that are subject to attorney client privilege shall remain privileged and confidential.

D. All applications are subject to guidelines for compensation of expert witnesses, cost of specialized scientific testing and other ancillary services set by the Louisiana Indigent Defense Assistance Board.

E. All applications made pursuant to this Section are subject to the availability of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Indigent Defense Assistance Board, LR 32:

§205. Review of Applications for Funding of Expert Witness and Specialized Scientific Testing

A. The review of applications for funding of expert witnesses specialized scientific testing and/or other ancillary services by indigents sentenced to death will be conducted by a non-profit corporation specializing in the representation of indigents in capital post-conviction proceedings designated by the Louisiana Indigent Defense Assistance Board, hereinafter referred to as Capital Post-Conviction Program. The Capital Post-Conviction Program shall take action upon an application for funding within 30 days of receipt of the application either by approval of the application, denial of the application, or by the request of additional information regarding the application. Should the Capital Post-Conviction Program request additional information from the applicant, the Capital Post-Conviction Program shall take action by approval or denial of the application within 30 days of the receipt of the additional information requested. The Capital Post-Conviction Program will use the *ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (2003) for evaluation of all applications. Final approval of applications under this provision is subject to the availability of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Indigent Defense Assistance Board, LR 32:

§207. Appeals Procedure

A. Should an application for funding under §205.A be denied in part or full, the applicant has 30 days from the date of the letter notifying applicant of denial to request in writing that the application be reviewed by the director of the Louisiana Indigent Defense Assistance Board. Decisions of the director are final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Indigent Defense Assistance Board, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is a function of the state only.

Interested persons may submit written opinions, data, and/or comments on this proposed Rule no later than March 10, 2005, at 5 p.m. to Marsha Austtun Oliver, Staff Attorney, Louisiana Indigent Defense Assistance Board, 1010 Common Street, Suite 2710, New Orleans, LA 70112.

Edward R. Greenlee
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Funding of Expert Witness, Specialized Scientific Testing, and Other Ancillary Services for Indigents Convicted of Capital Crimes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation costs of the proposed rule will result in expenditures of \$300,000 annually for the Indigent Defense Assistance Board, assuming funding of the Board will remain at the same level for subsequent fiscal years. The expenditures will provide funding of expert witnesses, specialized scientific testing and other ancillary services associated with the representation of indigents convicted of capital crimes in Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not have any effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are little or no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A small number of entities that provide the services covered by the proposed rule may experience a slight increase in commerce and may possibly require additional employees as

a result. Competition and employment in the public and private sectors would not be significantly affected.

Marsha Austtun Oliver
Staff Attorney
0602#062

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Louisiana Community Development
Financial Institution Program
(LAC 10:XV.Chapter 17)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 51:3089, the Commissioner of the Office of Financial Institutions gives notice of intent to promulgate a Rule to provide for the implementation and administration of Louisiana Community Development Financial Institution Act (R.S. 51:3081 et seq.). The proposed Rule defines relative terms, establishes the application and certification process, establishes the tax credit allocation process, establishes the requirements for continuance of certification and decertification, establishes fees and assessments to cover regulatory costs, as well as other necessary regulations. There is no family impact associated with this proposed Rule, as provided for in R.S. 49:972.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

All interested persons are invited to submit written comments on this proposed rule no later than 4:30 p.m., March 20, 2006, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, Louisiana 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA 70809.

John Ducrest, CPA
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Community Development Financial Institution Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local governmental units associated with this proposal. Current administrative costs will be reallocated to include programs associated with the Louisiana Community Developmental Financial Institution (LCDFI) Act (LSA-R.S. 51:3081 et seq.) Administrative costs associated with performing the program's regulatory function shall be funded by assessments and fees collected from the program participants. The LCDFI Act provides the Commissioner of Financial Institutions the authority to promulgate rules necessary to establish a reasonable fee schedule to fund the cost of program administration. The proposed rule establishes a fee schedule

that includes a variable annual assessment to cover any expenses that exceed collected fees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The fiscal impact of this new program cannot be fully determined. Investors into Louisiana Community Development Financial Institutions will receive income tax credits calculated at 75 percent of their investment, which can be carried forward indefinitely, as a result of the LCDFI Act. The LCDFI Act allows for a reduction in tax revenues in the fiscal years of 2005-2006 through 2006-2007 by tax credits of not greater than \$5 million in total for both fiscal years combined. However, the actual amount of reduced tax revenue will depend on the number of investors and the amount of each investment. The program is designed to create and/or expand Louisiana entrepreneurial businesses in economically distressed areas. Therefore, it is reasonable to assume that tax revenues may also increase with the creation and expansion of these businesses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Investors in LCDFIs will receive income tax credits on their investments. The investment credit is to be calculated as 75 percent of their investment. As a result of the investment, investor capital will be available for Louisiana entrepreneurial businesses operating in low-income communities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program will have a positive effect on competition and employment. This program will encourage the development and expansion of Louisiana entrepreneurial businesses operating in low-income communities by providing access to investor capital which otherwise might not be available. The state economy will be stimulated, new jobs will be created, and existing jobs will be retained.

John Ducrest, CPA
Commissioner
0602#047

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Selection and Use of Clinical Facilities
(LAC 46:XLVII.3529)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S.49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the board by R.S.37:918 intends to adopt rules amending the Professional and Occupational Standards pertaining to selection and use of clinical facilities. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

**Chapter 35. Nursing Education Programs
§3529. Selection and Use of Clinical Facilities**

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the appropriately designated agency for Medicare/Medicaid. In addition, hospitals should be accredited by the Joint

Commission on the Accreditation of Health Care Organizations (JCAHO). Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency as appropriate.

B - F. ...

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 3:189 (April 1977), amended LR 10:1026 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing LR 15:1080 (December 1989), LR 16:133 (February 1990), LR 19:1149 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2791 (December 2000), repromulgated LR 27:852 (June 2001), amended LR 32:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed Rule related to selection and use of clinical facilities will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 5207 Essen Lane, Suite 6, Baton Rouge, LA 70809. The deadline for receipt of all written comments is 4:30 p.m. on March 10, 2006.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Selection and Use of Clinical Facilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that no additional staff or operating expenses will be needed to implement these changes. Change is editorial only and seeks to delete the name of an agency that no longer exists. The only cost for implementation is for the publication of the rule change in the Louisiana Register estimated to be approximately \$300 in fiscal year 2005/06.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to affected persons or non-governmental groups. Implementation of the proposed rule clarifies that the name of the approval/accreditation agencies for health care agencies used for clinical education shall be the appropriately designated agency for Medicare/Medicaid instead of the Health Care Financing Administration (HCFA). Additionally, the proposed rule technically corrects the "Joint Commission of Accredited Health Organizations" to read the "Joint Commission on the Accreditation of Health Care Organizations".

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0602#010

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**

Facility Need Review
(LAC 48:I.12501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend LAC 48:I.12501 as authorized by R.S. 40:2116 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.

Act 341 of the 2005 Regular Session of the Louisiana Legislature amended R.S. 40:2116 to eliminate the need for approval through the facility need review process for the emergency replacement of existing nursing facilities destroyed by fire or as a result of a natural disaster, and for facilities owned by a government agency which require replacement as a result of a potential health hazard.

In compliance with the directives of Act 341, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule which established provisions governing the exemption from the facility need review process for emergency replacement of facilities destroyed by fire, a natural disaster, or potential health hazard (*Louisiana Register*, Volume 32, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. - G.14. ...

H. Exemptions from the facility need review process shall be made for:

1. a nursing facility which needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or

2. a nursing facility and/or facility building owned by a government agency which is replaced due to a potential health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:

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

public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Facility Need Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 05-06. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$102 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the January 20, 2006 Emergency Rule, proposes to establish provisions governing the exemption from the Facility Need Review process for emergency replacement of existing nursing facilities destroyed by fire, a natural disaster, or potential health hazard (approximately 284). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for FY 05-06, FY 06-07 and FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Director
0602#071

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**

Home Health Agencies—Emergency Preparedness
(LAC 48:I.9121)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9121 as authorized by R.S. 36:254 and R.S. 40:2116.31-40. 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 adopted a Rule revising the regulations governing the licensure of home health agencies in February of 1995 (*Louisiana Register*, Volume 21, Number 2). This Rule was subsequently amended in November of 1996 to revise the provisions contained in §§9165-9169, 9173, 9177 and 9193 (*Louisiana Register*, Volume 22, Number 11) and in December 2001 to amend provisions of the February 1995 and November 20, 1996 Rules (*Louisiana Register*, Volume 27, Number 12). The December 20, 2001 Rule was amended by Emergency Rule to revise the provisions governing emergency preparedness requirements for home health agencies (*Louisiana Register*, Volume 31, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 15, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in Louisiana R.S. 49:972 by assuring continued access to home health services in the event of a declared disaster.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 91. Minimum Standards for Home Health Agencies

§9121. Emergency Preparedness

A. The home health agency shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the home health agency's ability to provide care and treatment or threaten the lives or safety of its clients. The home health agency is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency clients who require community assistance as well as for those with available caregivers to another location;
2. the delivery of essential care and services to agency clients whether they are in a shelter or other locations;
3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions;
4. a plan for coordinating transportation services required for evacuating agency clients to another location; and
5. assurance that the agency will notify the client's family or caregiver if the client is evacuated to another location.

C. The home health agency's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The home health agency's performance during the activation of the plan shall be evaluated and documented.

The plan shall be revised if the agency's performance during an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the home health agency's plan by utilizing community wide resources.

E. As a result of an evacuation order issued by the parish Office of Emergency Preparedness (OEP), it may be necessary for a home health agency to temporarily relocate outside of its licensed geographic service area. In such a case, the agency may request a waiver to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients and/or other evacuees of the affected areas. The agency must provide documentation as required by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2249(December 2001), LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home Health Agencies Emergency Preparedness

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 05-06. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$170 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the October 15, 2005 Emergency Rule, proposes to revise the provisions

governing emergency preparedness requirements for home health agencies (approximately 229). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for FY 05-06, FY 06-07 and FY 07-08.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Director
0602#077

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**

Intermediate Care Facilities for the Mentally Retarded—Community Homes Licensing—Emergency Preparedness (LAC 48:I.51188)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.51188 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. 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 promulgated a Rule governing licensing requirements for community homes for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 13, Number 4). The April 20, 1987 Rule was amended by Emergency Rule to adopt provisions governing emergency preparedness requirements for community homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR) (*Louisiana Register*, Volume 31, Number 11). This proposed Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in Louisiana R.S. 49:972 by assuring the safety and continued care and treatment of community home residents in the event of a declared disaster.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 51. Licensing Requirements for Community Homes

§51188. Emergency Preparedness

A. The community home, also known as an intermediate care facility for the mentally retarded (ICF/MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the community home's ability to provide care and treatment or threatens the lives or

safety of the community home residents. The community home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the community home shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the community home or to another location;

2. the delivery of essential care and services to community home residents, whether the residents are housed off-site or when additional residents are housed in the community home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the community home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

C. The community home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The community home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the community home's performance during the planned drill.

D. The community home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a community home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the community home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the community home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a community home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the community home may be reopened.

G.1. Before reopening at its licensed location, the community home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be

attached to the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the community home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. If it is necessary for a community home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the community home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Paragraphs I.1-2.

I. The permanent relocation of community home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

1. the new location has either the same number or fewer of the previously licensed beds; and

2. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time

all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Intermediate Care Facilities for the Mentally Retarded—Community Homes Licensing—Emergency Preparedness**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for FY 05-06, 06-07 and 07-08. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$272 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the October 18, 2005 Emergency Rule, proposes to adopt provisions governing emergency preparedness requirements for community homes, also known as intermediate care facilities for the mentally retarded (approximately 357). It is anticipated that implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition or employment.

Jerry Phillips
Director
0602#073

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

Intermediate Care Facilities for the Mentally
Retarded—Group Homes Licensing—Emergency
Preparedness (LAC 48:I.63188)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.63188 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. 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 promulgated a Rule governing licensing requirements for group homes for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 13, Number 4). The April 20, 1987 Rule was amended by Emergency Rule to adopt provisions governing emergency preparedness requirements for group homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR) (*Louisiana Register*, Volume 31, Number 11). This proposed Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in Louisiana R.S. 49:972 by assuring the safety and continued care and treatment of group home residents in the event of a declared disaster.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 63. Licensing Requirements for Group Homes

§63188. Emergency Preparedness

A. The group home, also known as an intermediate care facility for the mentally retarded (ICF/MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the group home's ability to provide care and treatment or threatens the lives or safety of the group home residents. The group home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the group home shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the group home or to another location;

2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the group home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the group home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

C. The group home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The group home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the group home's performance during the planned drill.

D. The group home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a group home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the group home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the group home is in compliance with the licensing standards in the areas of the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services, and necessary supplies.

2. If a group home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the group home may be reopened.

G.1. Before reopening at its licensed location, the group home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the group home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. If it is necessary for a group home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the group home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Paragraphs I.1. and 2.

I. The permanent relocation of group home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

1. the new location has either the same number or fewer of the previously licensed beds; and

2. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for the Mentally Retarded—Group Homes Licensing—Emergency Preparedness

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for FY 05-06, 06-07 and 07-08. It is anticipated that \$476 (\$238 SGF and \$238 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$238 will be expended in FY 05-06 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the October 18, 2005 Emergency Rule, proposes to adopt provisions governing emergency preparedness requirements for group homes, also known as intermediate care facilities for the mentally retarded (approximately 126). It is anticipated that implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition or employment.

Jerry Phillips
Director
0602#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

Intermediate Care Facilities for the Mentally Retarded—Residential Homes Licensing—Emergency Preparedness (LAC 48:I.7927)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.7927 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. 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 promulgated a Rule governing licensing requirements for residential homes for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 13, Number 4). The April 20, 1987 Rule was amended by Emergency Rule to adopt provisions governing emergency preparedness requirements for residential homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR) (*Louisiana Register*, Volume 31, Number 11). This proposed Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in Louisiana R.S. 49:972 by assuring the safety and continued care and treatment of residential home residents in the event of a declared disaster.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Licensing Requirements for Residential Homes

§7927. Core Requirements

A. - G.6. ...

H. Emergency Preparedness

1. The residential home, also known as an intermediate care facility for the mentally retarded (ICF-MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the residential home's ability to provide care and treatment or threatens the lives or safety of the residential home residents. The residential home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

2. At a minimum, the residential home shall have a written plan that describes:

- a. the evacuation of residents to a safe place either within the residential home or to another location;
- b. the delivery of essential care and services to residential home residents, whether the residents are housed off-site or when additional residents are housed in the residential home during an emergency;
- c. provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the residential home or at another location;
- d. a plan for coordinating transportation services required for evacuating residents to another location; and
- e. procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

3. The residential home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The residential home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the residential home's performance during the planned drill.

4. The residential home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

5. The plan shall be available to representatives of the Office of the State Fire Marshal.

6.a. In the event a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding, or power outages longer than 48 hours, the residential home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

i. The purpose of these surveys is to assure that the residential home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

ii. The Health Standards Section will determine the facility's access to the community service infrastructure such as hospitals, transportation, physicians, professional services, and necessary supplies.

b. If a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed

location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the residential home may be reopened.

7. Before reopening at its licensed location, the residential home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

8. Before reopening, the residential home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

9. If it is necessary for a residential home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the residential home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Subparagraphs 10.a-b.

10. The permanent relocation of residential home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

a. the new location has either the same number or fewer of the previously licensed beds; and

b. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Intermediate Care Facilities for the
Mentally Retarded—Residential Homes
Licensing—Emergency Preparedness**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for FY 05-06, 06-07 and 07-08. It is anticipated that \$476 (\$238 SGF and \$238 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is anticipated that \$238 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule, which continues the provisions of the October 18, 2006 Emergency Rule, proposes to adopt provisions governing emergency preparedness requirements for residential homes, also known as intermediate care facilities for the mentally retarded (approximately 20). It is anticipated that implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition or employment.

Jerry Phillips
Director
0602#078

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facility Minimum Licensing
Standards—Emergency Preparedness
(LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. 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 promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1). The January 20, 1998 Rule was amended by Emergency Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 31, Number 11). This proposed Rule is being promulgated to continue the provisions of the October 18, 2005 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by assuring the safety and continued care and treatment of nursing facility residents in the event of a declared disaster.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the nursing facility shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the nursing facility or to another location;
2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family or responsible representative if the resident is evacuated to another location.

C. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The nursing facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the planned drill.

D. The nursing facility's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards in the areas of the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the nursing facility may be reopened.

G.1. Before reopening at its licensed location, the nursing facility must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the nursing facility must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:49 (January 1998), amended LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facility Minimum Licensing Standards—Emergency Preparedness

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for FY 05-06, 06-07 and 07-08. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 05-06. It is

anticipated that \$204 will be expended in FY 05-06 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the October 18, 2005 Emergency Rule, proposes to adopt provisions governing emergency preparedness requirements for nursing facilities (approximately 284). It is anticipated that implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition or employment.

Jerry Phillips
Director
0602#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Third Party Liability—Data Match with Insurance Carriers
(LAC 50:1.8333)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:1.8333 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 44:14 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.

Act 866 of the 1986 Regular Session of the Louisiana Legislature required every person authorized to issue a hospital or medical expense policy, a hospital or medical service contract, an employee welfare benefit plan, a health and accident insurance policy, or any other insurance contract of this type to provide the Department of Health and Hospitals (DHH) a monthly list of information on their insureds so the department could determine if any insured received services administered by the department, and on whose behalf, the department may be entitled to receive insurance benefits.

In compliance with the directives of Act 866, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to adopt provisions that require insurance companies to provide information on their insureds monthly (*Louisiana Register*, Volume 32, Number 1). The bureau now proposes to continue the provisions of the January 1, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family

functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 83. Third Party Liability

Subchapter C. Data Match with Insurance Carriers

§8333. General Provisions

A. All insurance companies authorized to issue a hospital or medical expense policy, a hospital or medical service contract, an employee welfare benefit plan, a health and accident insurance policy, or any other insurance contract of this type in this state shall provide a monthly list of information to the Department of Health and Hospitals on all members who hold a comprehensive health contract.

B. The payor shall submit to DHH an initial, secure, encrypted electronic file of all members who hold comprehensive health contracts with:

1. effective dates as of the date of promulgation of this Subchapter C; and
2. processed dates before that same date.

C. The department shall treat all data in a confidential manner and protect it in accordance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 privacy and security rules. Further, the department shall, in a manner compliant with the HIPAA privacy and security rules, return or destroy all copies of the payor's data immediately following the match process.

D. The department shall provide a standard protocol in accordance with nationally accepted standards, and in a manner compliant with the Health Insurance Portability and Accountability Act of 1996, by which the electronic file shall be transmitted between DHH and the payor.

E. The provisions of this §8333 shall not apply to any insured whose indemnity policy benefits pay less than \$25 a day in hospital or medical benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 44:14, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Third Party Liability—Data Match with
Insurance Carriers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that implementation of this proposed rule will result in an estimated net cost avoidance to the state of \$145,535 for FY 05-06, \$303,897 for FY 06-07 and \$313,013 for FY 07-08. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will reduce federal revenue collections by \$341,388 for FY 05-06, \$699,725 for FY 06-07 and \$720,717 for FY 07-08. \$136 is included in FY 05-06 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 proposed rule, which continues provisions of the January 1, 2006 Emergency Rule, requires insurance companies (approximately 100) to provide information on their insureds monthly so the Department can determine if any insured received services administered by the Department, and on whose behalf, the Department may be entitled to receive insurance benefits. It is anticipated that the impact to insurance companies will be negligible as most companies have the capability to comply with the proposed rule. It is anticipated that implementation of this proposed rule will result in cost avoidance of \$487,195 for FY 05-06, \$1,003,622 for FY 06-07 and \$1,033,730 for FY 07-08.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Jerry Phillips
Director
0602#070

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Waivers—Family Planning
(LAC 50:XXI.Chapters 201-207)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XXI.Chapters 201-207 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to implement a family planning research and demonstration project under the authority of a Section 1115 waiver. This waiver will provide family planning services to women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant. The services provided will offer women in the targeted population the opportunity to decide when to start a family, to space children based on health concerns and on education and economic goals.

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 by improving access to family planning services for women in the target population and because of the physical, mental, and emotional well-being which will result from the ability to plan pregnancies.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Waivers
Subpart 13. Family Planning Waiver**

Chapter 201. General Provisions

§20101. Purpose

A. The Family Planning Waiver will increase access to family planning services for women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant.

B. The primary goals of the Family Planning Waiver are to:

- 1. increase access to services which will allow management of reproductive health;
- 2. reduce the number of unintended pregnancies; and
- 3. decrease Medicaid expenditures from prenatal and delivery related services for women in the target population.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§20103. Enrollment

A. Family Planning Waiver services will be available to eligible women according to the following enrollment caps.

1. For the first year, priority will be set to enroll up to 25,000 women whose LaMOMS certifications have closed within the last 30 days.

a. On a first-approved basis, up to 50,000 additional women who are not eligible for participation in the priority group established in Paragraph A.1 above may be enrolled until a cap of 75,000 enrollees has been reached for the first waiver year. Enrollment caps cannot be exceeded.

2. For the second year, priority will be set to enroll up to 22,250 women whose LaMOMS certifications have closed within the last 30 days.

a. On a first-approved basis, additional enrollees, including those established in Paragraph A.2 above, will be

allowed to enroll until a cap of 110,250 enrollees has been reached for the second waiver year. Enrollment caps cannot be exceeded.

B. Additional enrollment caps for subsequent years will be published in Potpourri notices.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 203. Eligibility

§20301. Recipient Qualifications

A. Family Planning Waiver services shall be provided to women who:

1. are 19 through 44 years of age;
2. have family income below 200 percent of the federal poverty level;
3. would be eligible for Medicaid, based on income, if pregnant; and
4. are not eligible for inclusion in any other Medicaid program or State Children's Health Insurance Program (CHIP).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 205. Services

§20501. Covered Services

A. Services provided in the family planning waiver include:

1. annual medical exams;
2. necessary lab tests; and
3. contraceptive services, including sterilizations and Food and Drug Administration (FDA) approved family planning pharmaceuticals, devices, methods or 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 32:

§20503. Service Limits

A. There is a limit of four visits per calendar year for services rendered by a physician, nurse practitioner, physician assistant, or nurse.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

§20505. Service Delivery

A. Family planning services shall be delivered through any enrolled Medicaid provider whose scope of practice includes family planning services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Chapter 207. Reimbursement

§20701. Reimbursement Methodology

A. Reimbursement for family planning services shall be based on current Louisiana Medicaid fee-for-service rates for family planning clinic services.

B. Any services covered under a recipient's private health insurance plan will not be covered by the family planning waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2006 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Waivers—Family Planning

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 a programmatic impact on the expenses of the state of \$204 for FY 05-06, \$2,487,997 for FY 06-07, and \$3,634,500 for FY 07-08. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 05-06 for the state's administrative expense for promulgation of this proposed rule and the final rule. These expenditures are currently being used for family planning services in the Office of Public Health and will be transferred to the Medicaid Program for use as state matching funds (10 percent match rate) to implement the waiver program to serve a larger population. There will be no net increase to expenses from the State General Fund.

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 \$204 for FY 05-06, \$22,391,971 for FY 06-07, and \$32,710,501 for FY 07-08. It is anticipated that \$204 will be expended in FY 05-06 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 proposed rule establishes a family planning services waiver for women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant (approximately 226,000 women over a five year period). It is anticipated that implementation of this proposed rule will increase program expenditures for family planning services by approximately \$24,879,968 for FY 06-07 and \$36,345,001 for FY 07-08.

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
Director
0602#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Crime Victims Services Bureau
(LAC 22:I.Chapter 23)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the entire contents of Chapter 23, Crime Victims Services Bureau.

The Department of Public Safety and Corrections hereby gives notice of its intent to amend and clarify the secretary's current regarding the Crime Victims Services Bureau.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 23. Crime Victims Services Bureau

§2301. Purpose

A. To establish the primary functions of the Crime Victims Services Bureau, a public service implemented through the Secretary's Office, which enables victims of crime and others directly affected by that crime to register for notification of key events specified in law and policy, facilitates general access to information helpful to crime victims, and supports development of programming responsive to the needs and wishes of crime victims and others injured by the criminal acts of persons under the state's authority.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:409 (March 2001), amended LR 29:2502 (November 2003), LR 32:

§2303. Applicability

A. Deputy Secretary, Chief of Operations, Undersecretary, Assistant Secretary, Wardens, Director of Probation and Parole, Board of Parole, and Board of Pardons.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:409 (March 2001), amended LR 29:2502 (November 2003), LR 32:

§2305. Definitions

Designated Family Member—a family member or a legal guardian of a minor victim, a homicide victim, or a person who is disabled—such designation usually made by local authorities.

Other Designated Persons—persons not included above who wish to register because of a relationship or other

circumstances involving the inmate—e.g., estranged or ex-spouse, previously battered companion, concerned neighbor, arresting officer, prosecuting district attorney.

Victim—a person against whom a felony offense has been committed.

Victim's Family—spouse, parent, child, stepchild, sibling, or legal representative of the victim, except when that person is in custody for an offense or is the defendant.

Victim Notice and Registration Form—a form promulgated by the Louisiana Commission on Law Enforcement (LCLE) and provided by a judicial or law enforcement agency, or a form available from the department (attached), on which a person may indicate a request to be afforded the rights prescribed in law and/or policy for victims, witnesses, and other designated persons. In the context of this regulation, the term also includes letters requesting notification about an inmate's movement through the system and can include victim requests made by telephone or identified in presentence, preparole, or other investigative reports in the department's possession.

Witness—a person who has relevant information about a crime that was committed and who, consequently, could be or has been called as a witness for the prosecution.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:409 (March 2001), amended LR 29:2502 (November 2003), LR 32:

§2307. Policy

A. For many years correctional systems focused primarily on the custody, care, and control of the inmates placed under its authority. During the 1990s, victim advocacy groups came forward to remind justice system officials that crime does not injure only or even primarily "the state." Crime injures individual human beings. So, to be truly effective, the justice system must include the fact that a crime has hurt someone and then must develop appropriate ways to respond to and mitigate that injury. This is our challenge. It is the secretary's policy to ensure compliance with all laws governing the rights of victims and witnesses and, through operations of the Crime Victims Services Bureau, to facilitate access to those rights and encourage programming throughout the agency to enhance responsiveness to victims by staff and inmates. This policy will be supported by staff education and will include new programming in the areas of victim impact classes for inmates and victim-initiated victim-offender dialogue.

B. To achieve these ends the department will collaborate with other justice system agencies, victim advocacy groups, and other community-based organizations, and will incorporate responsiveness to the victim's role into the department's offender reentry initiatives.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2502 (November 2003), LR 32:

§2309. General Procedures

A. In the event that an inmate is recommended for a non-medical or medical furlough, medical parole, or work release, the warden shall determine whether there is a victim

notice and registration form on file and shall so note when submitting a recommendation to the secretary. The warden should indicate the city or town of residence of any registered victim.

B. The department will maintain a toll-free telephone line to the Crime Victims Services Bureau. The bureau will help callers register for notification and find answers to questions, and will refer callers to other units within the agency, the Board of Parole, the Board of Pardons, the prosecuting district attorney, and/or other crime victim programs and agencies.

C. When a victim notice and registration form is received in any unit of the department, staff will respond timely and in a manner consistent with the requirements of this and other department regulations governing release of information and victims' and witnesses' rights. However, the filing of a victim notice and registration form by an incarcerated adult shall not enable that individual to receive information about another individual incarcerated under the department's authority.

D. As provided by law, a victim or a designated family member may use the victim notice and registration form promulgated by LCLE to indicate their wish to review and comment on information in the postsentence report relating to the crime against the victim. The Division of Probation and Parole will oversee access to this information.

E. Additional assistance is available to employees who are victimized while on duty or on personal time, as described in Department Regulation No. A-02-024 "Critical Incident Stress Management Program."

F. Persons receiving unsolicited communications by telephone or mail from inmates in state custody may contact the Crime Victims Services Bureau for assistance in having the contacts stopped. The bureau will work with the appropriate warden to see that reasonable and necessary steps are taken to address the situation. This may involve disciplinary action, including loss of good time.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003), LR:32:

§2311. Confidentiality

A. Both the information contained in a victim notice and registration form and the fact that a notification request has been made are confidential. Pursuant to provisions of R.S. 15:574.12, staff may answer inquiries from judicial and law enforcement agencies. Any other inquiries from outside the department about who is registered or whether a particular inmate has a registered victim should be referred to the Crime Victims Services Bureau.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003), LR 32:

§2313. Restitution

A. When restitution is required as a condition of probation, parole, or work release, such cash or service shall be monitored and/or collected by the Division of Probation and Parole.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003), LR 32:

§2315. Parole and Pardon Hearings and Related Matters

A. The Board of Parole and the Board of Pardons will comply with all laws regarding written notification prior to scheduled hearings, including the requirement that notice be given to all persons who file a victim notice and registration form and to the appropriate district attorney. Notifications regarding pending hearings shall be made through action of the Division of Probation and Parole or the Board of Pardons, as appropriate.

B. As provided in law, when a hearing is scheduled by either board, the victim or victim's family shall be allowed to make written and oral statements concerning the impact of the crime and to rebut statements or evidence introduced by the inmate. The victim or victim's family, a representative of a victim advocacy group, and the district attorney or his representative may appear before the boards in person, via teleconference, or by telephone from the district attorney's office.

C. As provided in law, the Pardon Board will notify the Crime Victims Services Bureau before hearing an applicant.

D. Wherever Parole Board or Pardon Board hearings are held, all reasonable steps will be taken to see that victims and their family members and inmates and their family members do not have direct contact before or after the hearing. This practice should, where possible, begin at the entrance to the hearing site and include provision of a separate waiting area and access to separate restroom facilities. Hearing sites are also encouraged to provide victim access to a staff person who can explain the hearing process and answer other questions.

NOTE: Parole Board and Pardon Board procedures provide detailed information about each board's policies and practices.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003), LR 32:

§2317. Notifications

A. When a victim notice and registration form is received, it shall become part of the inmate's permanent record. For an incarcerated inmate, the Notes section of the stamp format shall be marked to indicate the existence of a notification request.

B. The Crime Victims Services Bureau will acknowledge receipt of each victim notice and registration form with a letter that includes the possible release dates of the inmate named on the form.

C. When the department receives a victim notice and registration form regarding an inmate sentenced on or after August 15, 1997, the department must provide the inmate's projected release dates to the victim and the sentencing court within 90 days of the inmate's commitment date. If those dates are not available when the bureau receives the registration form, the bureau will flag inmate records staff about the response deadline and will send projected release dates when they are available.

D. Persons who have filed a victim notice and registration form shall be notified by mail of the following events involving the inmate(s) they have registered for: a court appearance that subsequently affects sentence length, approval for furlough of any kind, placement on a Risk Review Panel docket, transfer to work release, and release from prison. Release from prison includes parole, medical parole, diminution of sentence to parole supervision, diminution of sentence, full term, court ordered release (which includes release to another jurisdiction, including parish jail), and death while incarcerated.

1. The notifications included in the paragraph above shall be made by certified mail, except when the notice involves medical parole, consideration for Risk Review, or transfer to work release.

2. Notice of transfer to work release should be mailed on the day of the inmate's approval or transfer. If the inmate is a sex offender, law requires notice ten days prior to transfer.

3. Notice of furlough and scheduled release from prison should be mailed in time to allow persons requesting notice to receive the notice before the inmate is furloughed or released. If the inmate is a sex offender, law requires notice ten days prior to furlough or release.

4. Notice involving an inmate due for immediate release should be by telephone, followed by a letter confirming release.

E. Responsibility for notifications involving placement on a Risk Review docket shall be the Risk Review Panel chairman or designee.

F. Responsibility for all other notifications listed in Subsection D shall be as follows:

1. the warden of the state-owned institution where the inmate is assigned;

2. the warden of Elayn Hunt Correctional Center, David Wade Correctional Center, or Louisiana Correctional Institute for Women, as appropriate, if the inmate is assigned to the State Police Barracks, a local jail facility, a correctional institution in another jurisdiction, or a non-secure adult contract work release program;

3. the Chief of Operations or designee if the inmate is in a local jail facility and is transferred to a non-contract (sheriff's) work release program.

G. In the event that an inmate named on a victim notice and registration form escapes from institutional custody, registered persons shall be notified immediately at the most current address or phone number on file by the most reasonable and expedient means possible. When the inmate is recaptured, written notice shall be sent within 48 hours of regaining custody.

1. If a mistaken calculation is discovered after projected release dates have been sent to a victim, the unit that makes the correction will send a letter providing corrected release dates to all registered victims. This provision does not include changes to an inmate's diminution of sentence date resulting from earning or losing good time credits. However, if educational good time is credited after letters have been sent to inform registered victims of an inmate's pending release, a second letter should be sent or a telephone call made to inform victims of the new release date. The second letter need not be certified.

H. When an institution receives an inmate whose file already contains a victim notice and registration form, the institution is encouraged to send an acknowledgment letter to all registered victims in the file.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:411 (March 2001), amended LR 29:2504 (November 2003), LR 32:

§2319. CAJUN II Procedures

A. Any addition of or modification to a victim record in CAJUN must be supported by written documentation filed with the Crime Victims Services Bureau and included in the inmate's institutional record or, if the inmate is under supervision when a new form or a revision is received, in the inmate's master record in the supervising district.

B. The unit or office that receives an initial victim notice and registration form or a revision shall be responsible for entering the victim information in CAJUN and sending a copy of the form to the Crime Victims Services Bureau. Forms received first by the Crime Victims Services Bureau or directed there from the Parole Board or the Division of Probation and Parole will be entered by the bureau and copied to other units as needed.

C. Any victim notice and registration form, promulgated by LCLE and received by the bureau, will also be copied by the bureau to the probation and parole district serving the court in which the inmate was sentenced.

D. If a person who has previously filed a victim notice and registration form withdraws his request, he must do so in writing, after which his individual victim record in CAJUN will be modified so that CAJUN will not generate notification letters.

E. When a victim notice and registration form is on record, the following applies.

1. The request will remain active until the inmate's CAJUN file is inactivated. When the file is inactivated, CAJUN will automatically code existing victims "I" (inactive). The inactive flag will prevent CAJUN from generating letters to those victims. If the inmate is sentenced to additional time before his file is inactivated, registered victims will remain active on the record.

2. If an inmate is released before his full term date and subsequently returned to institutional custody, the victim will not be notified of the return but will be notified of subsequent actions as provided in this regulation.

NOTE: A "Y" in the CVNR field on the master inquiry screen indicates that there is a victim who must be notified.

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:411 (March 2001), amended LR 29:2504 (November 2003), LR 32:

§2321. Rights of Victim's Family When an Inmate's Sentence is Death

A. At least 10 days prior to an execution, the secretary shall give written notice or verbal notice (followed by written notice placed in the United States mail within five days thereafter) of the time, date, and place of the execution to the victim's parents or guardian, spouse, and any adult children who have indicated they desire notice. A minimum

of two representatives of the victim's family shall have the right to be present.

B. A complete explanation of the department's responsibilities in instances where an inmate has been sentenced to death appears in Department Regulation No. C-03-001 "Death Penalty."

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:412 (March 2001), amended LR 29:2505 (November 2003), LR 32:

§2327. Louisiana Department of Public Safety and Corrections Victim/Witness Notification Request Form

Louisiana Department of Public Safety and Corrections
Victim/Witness Notification Request Form

As an individual affected by the criminal acts of another person, you have a right to participate in the criminal justice system. If the individual who committed the crime has been sentenced to state custody and you want information about his status or the department's policies and programs or your rights and responsibilities, you may contact the Crime Victims Services Bureau. You may also consult the agency's web site at www.doc.louisiana.gov .

If you would like to register to be notified should the inmate who committed the crime that involved you make a successful court appeal, be furloughed, be released to the community on work release or parole supervision, escape, or be scheduled for a parole or pardon hearing, complete this form and mail it to the address below.

Your request will be kept confidential.

Crime Victims Services Bureau
P.O. Box 94304, Baton Rouge, LA 70804-9304
Telephone Numbers: in Baton Rouge area - 342-6223;
long distance, toll-free - 888-342-6110

To receive notification as agreed, you must maintain a correct address and/or telephone number with the Bureau.

Person requesting Name of direct victim notification: _____ (if not the same) _____
Address: _____ Telephone No. H (____) _____
_____ W (____) _____

You are (check one): Direct victim of offense Witness to offense
 Parent/Guardian of victim Other (explain): _____
Relationship to inmate (if any): _____
Inmate's name: _____ Inmate's DOC # _____
Inmate's DOB: _____ Offense** _____

** If the offense was a sex offense, was the victim under age 18 at the time the crime was committed?
 No Yes If Yes, give victim's DOB (/ /) & age at the time of the crime: _____
Length of Sentence: _____ Date of Sentencing: _____
Parish of Conviction /Judicial District/and Court Docket No.: _____

Are you or any of your family members employed by the Department of Public Safety and Corrections at a state prison? If yes, please indicate which facility: _____

A 24-hour inmate locator service is available through the Louisiana Automated Victim Notification System (LAVNS). Call toll free 866-528-6748 or go to www.vinelink.com.

------(for agency use)-----

Date request received in DPS&C: _____ By whom? _____

AUTHORITY NOTE: Promulgated by the Secretary of the Department of Public Safety and Corrections in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 32:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement:

Amendment of the current LAC 22:I.2301, 2303, 2305, 2307, 2309, 2311, 2313, 2315, 2317, 2319, 2320, 2327, Crime Victims Services Bureau, by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and right of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings, and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the in the proposed Rule amendment

Interested parties may submit written comments until 4:30 p.m., March 10, 2006, to Melinda L. Long, Esq., Department of Public Safety and Corrections, Office of Adult Services, 504 Mayflower Street, Baton Rouge, LA 70804.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Crime Victims Services Bureau**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs or savings to state or local governmental units. The proposed rule changes will codify current department practices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux
Undersecretary
0602#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Health Insurance Credit for Contractors of Public Works (LAC 61:I.1195)

Under the authority of R.S. 47:287.759, R.S. 47:287.785, R.S. 47:1511, R.S. 47:1601, and R.S. 47:1603, 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.1195 relative to the administration of the health insurance credit for contractors of public works.

The purpose of this regulation is to explain the procedure employed for the administration of the health insurance credit allowed for public works contractors by R.S. 47:287.759 as enacted by Act 504 of the 2005 Regular Session of the Legislature.

The full text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed adoption of LAC 61:I.1195, regarding the health insurance credit for contractors of public works 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, P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Wednesday, January, 25, 2006. A public hearing will be held on Thursday, January, 26, 2006, at 2 p.m. in the River Room located on the seventh 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: Health Insurance Credit for Contractors of Public Works

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed regulation, which explains the procedure to implement Act 504 of the 2005

Regular Legislative Session (SB 351) for purposes of the corporation income tax, will have no impact on the agency's costs.

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)

The proposed regulation explains the procedure to implement Act 504 of the 2005 Regular Legislative Session (SB 351). Act 504 is estimated to reduce State General Fund revenues by an amount not greater than \$3 million in Fiscal Years 2005/06, 2006/07, and 2007/08. The portion of these total fiscal effects associated with this specific proposed regulation implementing that Act is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Statutory changes related to Act 504 of the 2005 Regular Legislative Session will decrease the tax payments of public works construction contractors who furnish certain health insurance coverage to their employees by an amount not greater than \$3 million in Fiscal Years 2005-06, 2006-07, and 2007-08. Tax reductions for affected businesses associated with this specific proposed regulation implementing that Act are indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0602#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Taxable Transactions for Hotel Services (LAC 61:I.4301)

The Department of Revenue, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the authority of R.S. 47:1511, hereby gives notice of its intent to amend and adopt LAC 61:I.4301 relative to sales tax applicable to transactions for hotel services.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed amendment and adoption of LAC 61:I.4301, regarding applicable sales taxes to transactions for hotel services should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Raymond Tangney, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Wednesday, March 22, 2006. A public hearing will be held on Wednesday, March 29, 2006, at 2 p.m. in the Magnolia Room located on the seventh 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: Taxable Transactions for Hotel Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed sales tax regulation will have no impact on the agency's costs. The proposed regulation amends the current regulation to clarify transactions subject to sales tax on hotel services under existing law.

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)

It is estimated that local governments will receive additional revenue totaling \$13,260,665 per year beginning February 1, 2006. Tax revenue collected for state sales tax imposed on the taxable service of furnishing sleeping rooms, cottages, and cabins by hotels is distributed back to the local governments where the hotels are located. State tax revenue attributed to guests not previously taxed is estimated at \$3,048,698 yearly and local tax revenue attributed to guests not previously taxed is estimated at \$10,211,966 yearly.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No person or guest that has previously avoided sales tax by paying monthly in advance will qualify as a permanent resident who permanently resides within a hotel as a home unless the requirements of the regulation are met. Hotels that do not provide the permanent attributes of a home, including full kitchens, do not satisfy the physical properties necessary to be considered as providing permanent residences. Residents of qualifying hotels must have executed a valid lease for a period of no less than one year and permanently reside therein. Guests who are not permanent hotel residents will be subject to the local occupancy tax, 2 percent state sales tax, and 4.37 percent average local tax on their room rental if the hotel is in Orleans or Jefferson parishes, and local occupancy tax, 4 percent state sales tax, and 4 percent average local tax in the remaining parishes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0602#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Telephone Company Property Assessment Relief Fund
(LAC 61:I.1905)**

Under the authority of R.S. 47:6014 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.1905 concerning the deposits to be made to the Telephone Company Property Assessment Relief Fund.

Revised Statute 47:6014(E) provides that the state sales tax collections from the furnishing of interstate telecommunication services shall be deposited to this fund. Interstate telecommunication services are no longer easily distinguishable in the market from intrastate services. Since the fund was established in 2000, the data that the department receives from filers to enable deposits into the fund has become increasingly less reliable insofar as categorizing telecommunication sales tax revenues between interstate revenues and intrastate revenues.

To a continuously increasing extent, dealers in landline and wireless telecommunication services are providing packages of minutes or unlimited service that include both intrastate and interstate calling capability. Since these packages cannot be separated into interstate and intrastate components, the providers are necessarily collecting the 3 percent state sales tax that applies to intrastate telecommunication on the prices charged for the packages. Since there is no easily feasible means for dealers to determine the portions of their packages that apply to interstate calling, no portion of the 3 percent tax collected on these intrastate-interstate packages is being deposited into the fund.

Acts 2005, No. 266 directs the Secretary of Revenue to utilize data published by the Federal Communications Commission to determine the amounts of state sales taxes to be deposited to the fund. This proposed Rule will provide for the amount of tax collections to be deposited into the fund.

Title 61

REVENUE AND TAXATION

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

Chapter 19. Miscellaneous Tax Exemptions

**§1905. Telephone Company Property Assessment Relief
Fund**

A. Telephone companies are allowed a credit for 40 percent of the total ad valorem taxes paid to political subdivisions of Louisiana on their public service properties that are assessed by the Louisiana Tax Commission at 25 percent of fair market value.

B. The credit can be taken against the following state taxes:

1. individual income tax;
2. corporation income tax; and
3. corporation franchise tax.

C. The monies to pay the credits will be taken from Telephone Company Property Assessment Relief Fund.

D. The state sales taxes collected on interstate telecommunication services will be deposited into the Telephone Company Property Assessment Relief Fund.

1. The amount state sales taxes collected on interstate telecommunications will be determined by the secretary using industry data available at the time the fund was originally created and was published by the Federal Communications Commission.

2. Based on the industry data published by the Federal Communications Commission in 1998, which was the latest available data at the time that the fund was created in 2000, 36 percent of telephone revenues in Louisiana from end-users were from interstate calling.

3. Accordingly, the Secretary of Revenue has notified the state Treasurer that 36 percent of the sales tax revenue collected on telecommunication services shall be deposited to the Telephone Company Property Assessment Relief Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6014 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our Legislative oversight committees.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, March 28, 2006. A public hearing will be held on Thursday, March 30, 2006, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Telephone Company Property Assessment Relief Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule provides for monies to be deposited into the Telephone Company Property Assessment Relief Fund in accordance with Act 266 of the 2005 Regular Legislative Session, which directs the Secretary of Revenue to utilize data published by the Federal Communications Commission to determine the amounts of state sales taxes to be deposited to the fund. Implementation of this proposed rule will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule, which provides for monies to be deposited into the Telephone Company Property Assessment Relief Fund, will result in a reduction of general fund tax collections and an increase in deposits to the Telephone Company Property Assessment Relief Fund. Based on the sales tax data reported for fiscal year ending June 30, 2005, the reduction to the general fund and the additional amount deposited into the Telephone Company Property Assessment Relief Fund is estimated to be \$18 million annually. This proposed rule will have no effect on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule will ensure that monies are available to fully fund the tax credits allowed to telephone companies whose public service properties are assessed by the Louisiana Tax Commission at 25 percent of fair market value.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition or employment.

Cynthia Bridges
Secretary
0602#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Teachers' Retirement System

Credit for Involuntary Furlough
Credit for Leave without Pay
(LAC 58:III.401)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) adopted the following Notice of Intent to implement the provisions of the R.S. 11:163(A)(2)(a) and (C)(2). This provision provides for public employees placed on involuntary furlough or leave without pay (LWOP) due to a gubernatorially declared disaster or emergency to continue to earn service credit in

their retirement systems by making employee and employer contributions. These purchases may be paid to either TRSL or the employer and then remitted to TRSL.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana

Chapter 4. Purchase of Service Credit

§401. Purchase of Service Credit for Involuntary Furlough or Leave without Pay (LWOP) Due to Gubernatorially Declared Disaster/Emergency

A. General Provisions. If a TRSL member is on involuntary furlough or LWOP anytime during the period of August 29, 2005 through June 30, 2006, due to a gubernatorially declared disaster or emergency, he may purchase service and salary credit for each day of service he was on involuntary furlough or LWOP during this period under this provision if such service is not credited to his account.

1. TRSL members eligible to purchase service and salary credit under this rule must make application to TRSL prior to remitting any funds.

2. TRSL must receive certification from the member's employer as follows:

a. the member was or is on involuntary furlough or on LWOP due to a gubernatorially declared disaster or emergency;

b. the period of time during which the member was or is on involuntary furlough or LWOP due to a gubernatorially declared disaster or emergency; and

c. the member's full time salary as of August 29, 2005.

3. Invoices calculated under this provision will include interest charges at 15 day intervals should the payment become delinquent in accordance with R.S. 11:281.

4. Monthly payments must be paid after the close of month being purchased. For example: payments due for the month of February 2006 must be paid after February 28, 2006.

5. Payments to purchase service and salary credit cannot be made in advance. For example, an invoice issued in December 2005 for the January 2006's service and salary credit cannot be paid in December 2005.

6. DROP and Active-DROP members are not allowed to purchase service credit in accordance with R.S. 11:728(A).

7. Members may purchase all credit or partial credit while on involuntary furlough or LWOP.

B. Methods of Payment

1. Members may make payment on a month-by-month basis or make a lump sum payment.

2. Payments may be in the form of a direct payment from the member or a direct trustee-to-trustee transfer from a qualified plan or IRA.

3. Should a member elect to make payments through his employer, the employer is required to remit the payments to TRSL, along with a Report of Members Purchasing Declared Disaster/Emergency Leave. This separate report must include the member's name, Social Security number, the month/year being purchased, the full-time monthly salary rate, the months of contract, employee contributions

and interest, employer contributions and interest, and the date the member made payment to the employer.

4. Employers who do not remit the employee and employer contributions paid by the member in accordance with R.S. 11:281 will be liable for any delinquent interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:163 (A)(2)(a) and (C)(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System of Louisiana, LR 32:

Family Impact Statement

The proposed amendment of LAC 58:III.401 concerns the purchase of service credit. This regulation should not have any known or foreseeable impact as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no know or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may comment on the proposed Rule in writing by April 7, 2006, to Dana L. Vicknair, Assistant Director, Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Maureen H. Westgard
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Credit for Involuntary Furlough; Credit for Leave without Pay

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local government units. This rule allows members of the Teachers' Retirement System of Louisiana placed on involuntary furlough or leave without pay (LWOP) due to gubernatorially declared disaster or emergency to continue to earn service credit in the retirement system by making employee and employer contributions. These purchases may be paid to either the retirement system or the employer and then remitted to the retirement system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units. No revenue is currently being collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Purchase of service credit provisions have been modified to allow eligible members of the Teachers' Retirement System of Louisiana, to purchase service credit lost due to a gubernatorially declared disaster or emergency by paying the employee and employer contributions that would have been paid. The additional cost to the member making a purchase of

service under this provision is the employer contributions. This cost would normally be borne by the employer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Maureen H. Westgard
Director
0602#012

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Teachers' Retirement System**

Deferred Retirement Option Plan—Distributions
Provided for by the Gulf Opportunity Zone Act of 2005
(LAC 58:III.510)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of the Teachers' Retirement System of Louisiana hereby advertises its intention to amend policies governing the withdrawal of funds from Deferred Retirement Option Plan (DROP) accounts in accordance with certain provisions of the United States Gulf Opportunity Zone Act of 2005. This Act allows for distributions, from a public pension plan qualified under the provisions of the Internal Revenue Code, Section 401(a), to be made by retirees residing in the Hurricane Katrina, Hurricane Rita, and Hurricane Wilma disaster areas. These distributions will be allowed through December 31, 2006 without penalty.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed amendment of LAC 58:III.510 concerns the amending of policies governing the withdrawal of funds from Deferred Retirement Option Plan (DROP) accounts in accordance with certain provisions of the United States Gulf Opportunity Zone Act of 2005. 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.

Interested persons may comment on the proposed Rule in writing by April 7, 2006, to Dana L. Vicknair, Assistant Director, Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Maureen H. Westgard
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Deferred Retirement Option
Plan—Distributions Provided for by the Gulf
Opportunity Zone Act of 2005**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local government units. This amended rule allows Deferred Retirement Option Plan (DROP) retirees to withdraw part of their DROP account in addition to the available options currently available with no early withdrawal penalty and to defer federal income taxes for up to 3 years as provided for under the United States Gulf Opportunity Zone Act of 2005.

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. No revenue is currently being collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No change is being made to the method by which DROP account balances and interest payments are being calculated. The withdrawal schedule is being made more flexible in accordance with the United States Gulf Opportunity Zone Act of 2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment because no changes are being made in the compensation or fringe benefits being paid to DROP participants/retirees.

Maureen H. Westgard
Director
0602#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

General and Wildlife Management Area Hunting
Regulations (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

**§111. General and Wildlife Management Area
Hunting Rules and Regulations**

A. - C.10.g. ...

11. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with a bow and arrow, shotgun, muzzleloader, or centerfire firearm. A big game

licensee shall not take more than two bobcats per calendar year. This regulation applies only to property that is privately owned and does not apply to state wildlife management areas and refuges, the Kisatchie National Forest, federally owned refuges and lands owned by the Corps of Engineers.

D. - D.12.b.xii. ...

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain a Deer Tag Harvest Card and have this on their possession when hunting deer. Immediately upon harvesting a deer, the hunter must document the kill on the Deer Tag Harvest Card. All hunters must file a deer harvest report with the department at the end of the season, even if no deer were harvested.

2. One antlered and one antlerless deer per day (when legal) except of National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP and LADT does not count in the season bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll, Plaquemines, St. Bernard and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (wildlife management areas, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and except in Thistlethwaite Wildlife Management Area where a legal buck shall be defined as deer with at least 4 points on one side or a deer with unbranched antlers commonly referred to as spikes (no minimum length). To be counted as a point, a projection must be at least 1 inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

4. Deer hunting restricted to legal bucks only, except where otherwise allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons

that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. Areas not specifically designated as open are closed.

10. Muzzleloader Segment: (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on public areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

11. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (See Schedule).

a. Bow and Arrow Regulations: Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that

hand held releases are lawful and except disabled persons with a crossbow permit and individuals who are 60 years of age or older may use a bow drawn, held or released by mechanical means;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight;

(e). to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however, the restrictions in this paragraph shall not apply to any person who has lost one or more limbs.

12. Hunter Orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

13. Special Handicapped Either-Sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

14. Special Youth Deer Hunt on Private Lands (Either-Sex). See regulations pamphlet for dates. Youths under the age of 16 only. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt.

F. - F.5.a. ...

6. Area 6

a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49;

ii. Evangeline—that portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte;

iii. Iberia—East of U.S. 90;

iv. Lafayette—East of I-49 and U.S. 90;

v. Livingston—South of I-12;

vi. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

vii. St. Landry—East of U.S. 167;

viii. St. Mary—North of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;

ix. St. Tammany—that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

x. Tangipahoa—South of I-12;

xi. West Feliciana—West of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—North of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport;

ii. Plaquemines—East of the Mississippi River;

iii. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;

v. St. John—South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac;

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103;

vii. New High Water Benchmark Closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of Interstate 10, west of the East Guide Levee, east of the West Guide Levee, and north of U.S. Highway 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—South of La. 14 and west of U.S. Hwy. 90;

ii. St. Mary—all except that portion north of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

F.8. - G.5.m. ...

n. All hunters except waterfowl hunters and mourning dove hunters (including archers and small game

hunters) on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel. Also all persons afield during hunting seasons are encouraged to display "hunter orange".

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" above or around their blinds which is visible from 360 feet.

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. Either-sex unless otherwise specified. See WMA deer schedule.

6. - 17.zz. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:

Public hearings will be held throughout the state during the weeks of March 13, 2006 and March 20, 2006. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed Rule until Thursday, May 4, 2006 to Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent

will have no impact on the six criteria set out at R.S. 49:972(B).

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General and Wildlife Management Area
Hunting Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule amends permanent rules and regulations for the state at large as well as Wildlife Management Areas. The establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are 9.0-10.0 million dollars annually. Additionally, hunting and related activities generate approximately \$31 million in state sales and income tax and \$23.9 million in local sales tax revenues annually (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 275,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates approximately \$599 million in revenue annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides an estimated 9,475 jobs (Southwick Associates, 2005). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Dwight Landreneau
Secretary
0602#025

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Resident Game Hunting Seasons
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season, 2006-2007 and 2007-2008 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:

§103. Resident Game Birds and Animals 2006-2007, 2007-2008

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	2006-2008 Season Dates	Daily Bag Limit	Possession Limit
Quail	Opens: 3rd Saturday of November Closes: Last Day of February	10	20
Rabbit and Squirrel	Opens: 1st Saturday of October Closes: Last Day of February	8	16
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered bucks and 3 antlerless deer)

C. 2006-2008 Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	Opens: 1st day of Oct. Closes: Last day of Jan.	Opens: 2nd Sat. of Nov. Closes: Fri. after 2nd Sat. of Nov. Opens: Mon. after the next to last Sun. of Jan. Closes: Last Sun. of Jan.	Opens: Sat. before Thanksgiving Day Closes: Fri. before 2nd Sat. of Dec. Opens: Mon. after 1st Sat. of Jan. Closes: next to last Sun. of Jan.	Opens: 2nd Sat. of Dec. Closes: Sun. after 1st Sat. of Jan.
2	Opens: 1st day of Oct. Closes: Last day of Jan.	Opens: Next to last Sat. of Oct. Closes: Fri. before last Sat. of Oct. Opens: Mon. after 2nd Sat. of Jan. Closes: Sun. after 3rd Sat. of Jan.	Opens: Last Sat. of Oct. Closes: Fri. before 2nd Sat. of Dec.	Opens: 2nd Sat. of Dec. Closes: Sun. after 2nd Sat. of Jan.
3	Opens: 3rd Sat. of Sept. Closes: Jan. 15	Opens: 2nd Sat. of Oct. Closes: Fri. before 3rd Sat. of Oct. Opens: Mon. after Thanksgiving Day Closes: Fri. before 1st Sat. of Dec.	Opens: 3rd Sat. of Oct. Closes: Sun. after Thanksgiving Day Opens: 1st Sat. of Dec. Closes: Sun. after 1st Sat. of Jan.	
4	Opens: 1st day of Oct. Closes: Last day of Jan.	Opens: 1st Sat. of Nov. Closes: Fri. before 2nd Sat. of Nov. Opens: Mon. after 1st Sat. of Jan. Closes: Mon. after 2nd Sat. of Jan.	Opens: 2nd Sat. of Nov. Closes: Sun. after 1st Sat. of Jan.	
5	Opens: 1st day of Oct. Closes: Last day of Jan.	Opens: 2nd Sat. of Nov. Closes: Fri. before 3rd Sat. of Nov. (BUCKS ONLY) Opens: Day after Christmas Day Closes: Jan. 1st (BUCKS ONLY)	Opens: Day after Thanksgiving Day Closes: Sun. after 2nd Sat. of Dec.	
6	Opens: 1st day of Oct. Closes: Feb. 15 (1st 15 days are BUCKS ONLY)	Opens: 2nd Sat. of Nov. Closes: Fri. before 3rd Sat. of Nov. Opens: Mon. after the next to last Sun. of Jan. Closes: Last Sun. of Jan.	Opens: Sat. before Thanksgiving Day Closes: Fri. before 2nd Sat. of Dec.	Opens: 2nd Sat. of Dec. Closes: Next to last Sun. of Jan.
7	Opens: 1st day of Oct. Closes: Last day of Jan.	Opens: 2nd Sat. of Oct. Closes: Fri. before 3rd Sat. of Oct. Opens: 1st Sat. of Nov. Closes: Fri. before 2nd Sat. of Nov.	Opens: 3rd Sat. of Oct. Closes: Fri. before 1st Sat. of Nov. Opens: 2nd Sat. of Nov. Closes: Sun. after Thanksgiving Day	Opens: Mon. after Thanksgiving Day Closes: 1st Sun. after Christmas Day
8	Opens: 3rd Sat. of Sept. Closes: Jan. 15	Opens: 2nd Sat. of Oct. Closes: Fri. before 3rd Sat. of Oct. Opens: Mon. after Thanksgiving Day Closes: Fri. before 1st Sat. of Dec.	Opens: 3rd Sat. of Oct. Closes: Sun. after Thanksgiving Day	Opens: 1st Sat. of Dec. Closes: Sun. after 1st Sat. of Jan.

D. Modern Firearm Schedule (Either-Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
East Carroll	Area 4 portion	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
	Area 4	Nov. 11-12, 24-26, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line
Orleans		None
Plaquemines	Area 6	None
St. Bernard	Area 6	None
West Carroll	Area 5	Nov. 24-25, 26

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Jan. 31	Nov. 1-7 Dec. 1-7 Jan. 1-7

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

G. Promotional Hunting Days

1. The following dates are established as promotional hunting days: the 1st three days after Thanksgiving Day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:

Public hearings will be held throughout the state during the weeks of March 13, 2006 and March 20, 2006. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed rule until Thursday, May 4, 2006 to Mr. David Moreland, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection

with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General and Wildlife
Management Area Hunting**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental unit are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local government units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are 9.0-10.0 million dollars annually. Additionally, hunting and related activities generate approximately \$31 million in state sales and income tax and \$23.9 million in local sales tax revenues annually (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 275,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates approximately \$599 million in revenue annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2005). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides an estimated 9,475 jobs (Southwick Associates, 2005). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Dwight Landreneau
Secretary
0602#023

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.341, modifying the recreational daily take and possession limit in a defined area within Cameron and Calcasieu Parishes. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:325.1(A), and R.S. 56:326.3.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Seatrout Management Measures

A. - B. ...

C. Recreational Regulations. Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, under the authority of the provisions of R.S. 56:325.1(A), the daily take and possession limit shall be 15 fish, regardless of where taken, with no more than 2 spotted seatrout exceeding inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational take and possession limit.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S.56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, 56:325.1(A) and (B); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested parties may submit comments relative to the proposed Rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to April 6, 2006.

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).

Wayne J. Sagrera
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Spotted Seatrout Management Measures**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs to state or local governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

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 from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will reduce the daily take and possession limit of spotted seatrout in Sabine Lake, Calcasieu Lake, and surrounding areas from the current 25 to 15. Anglers who fish in these areas and typically harvest more than 15 spotted seatrout per day could experience a decrease in fishing satisfaction. Other anglers may be encouraged by the increased opportunity to harvest the creel limit, a personal goal that could become more achievable due to the proposed rule change.

Local charter boat guides and other ancillary service industries could experience a slight change in demand for services as anglers respond to the reduced creel limit. Anglers who typically harvest more than 15 spotted seatrout will have to change their fishing behavior by adjusting their fishing trip length, targeting other fish species, practicing catch and release, or participating in other leisure activities. Information is not available at this time to determine how angler demand will change, however the financial effects are anticipated to be small due to the ability of the industries to adjust to changing demand and the number of anglers impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may have a negative effect on competition and employment in the private sector of the impacted area. Charter guide clients will be allowed to retain more spotted seatrout if they fish outside of the impacted area. This could result in reduced angler demand for charter services and a decline in employment in the impacted area. No impact on the public sector is anticipated.

Dwight Landreneau
Secretary
0602#024

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Continuing Education

This is a correction to the date of the public hearing and deadline to submit written comments on a Notice of Intent pertaining to continuing education for landscape architects which was published in the Louisiana Register on January 20, 2006. The dates in that publication were February 28, 2006. Those dates have been changed to March 1, 2006.

All interested persons may submit written comments on the proposed Rule through March 1, 2006 to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on this Rule on March 1, 2006 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

0602#039

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 12-13, 2006, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates: February 17, 2006
Re-Take Candidates: March 3, 2006
Reciprocity Candidates: April 28, 2006

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 17, 2006. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0602#008

POTPOURRI

Department of Agriculture and Forestry Structural Pest Control Commission

Approved Termiticides and Manufacturers

The Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, is hereby giving notice of the list of termiticides and manufacturers, approved by the Structural Pest Control Commission, for use in Louisiana.

Approved Termiticides and Manufacturers		
Product	Percentage	Manufacturer
Bifen IT (Bifenthrin)	0.06% - 0.12%	Control Solutions
Bifen PT (Bifenthrin)	0.06% - 0.12%	Control Solutions
Bifenthrin Pro Multi-Insecticide (Bifenthrin)	0.06% - 0.12%	BASF
Bifenthrin TC (Bifenthrin)	0.06% - 0.12%	Control Solutions
Bifenthrin Termiticide / Insecticide (Bifenthrin)	0.06% - 0.12%	Speckoz
Biflex TC (Bifenthrin)	0.06% - 0.12%	FMC
*Chlorpyrifos TC (Chlorpyrifos)	0.75% - 2.00%	Micro-Flo
Cyper TC (Cypermethrin)	0.25% - 1.00%	Control Solutions
Cypermethrin G-Pro (Cypermethrin)	0.25% - 1.0%	GRO-PRO
*Cyren TC (Chlorpyrifos)	0.75% - 2.00%	Cheminova
Demon (Cypermethrin)	0.25% - 1.00%	Zeneca
Demon MAC (Cypermethrin)	0.25% - 1.0%	Syngenta
Dominion 75 WSP (Imidacloprid)	0.05% - 0.10%	Control Solutions
Dragnet FT (Permethrin)	0.50% - 2.00%	FMC
Dragnet SFR (Permethrin)	0.50% - 2.00%	FMC
*Dursban 75WG (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
*Dursban TC (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
*Equity (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
Impasse Termite System (Lambda-cyhalothrin)		Syngenta
Impasse Termite Blocker (Lambda-cyhalothrin)		Syngenta
Maxxthor SC (Bifenthrin)	0.06% - 0.12%	Ensysstex
*Navigator 4TC (Chlorpyrifos)	0.75% - 2.00%	Gharda USA, Inc.
Permaster 380 (Permethrin)	0.50% - 2.00%	LG Chemical America Inc.
Permethrin SFR (Permethrin)	0.50% - 2.00%	Control Solutions
Permethrin TC (Permethrin)	0.50% - 2.00%	Micro-Flo
Phantom (Chlorfenapyr)	0.063% - 0.25%	BASF
Prelude (Torpedo)(Permethrin)	0.50% - 2.00%	Zeneca
Premise 75 (Imidacloprid)	0.05% - 0.10%	Bayer
Premise .05SC (Imidacloprid)	0.05% - 0.10%	Bayer
Premise II (Imidacloprid)	0.05% - 0.10%	Bayer
Premise Pre-Construction (Imidacloprid)	0.05% - 0.10%	Bayer
**Premise Gel (Imidacloprid)	0.001%	Bayer
Prevail (Cypermethrin)	0.25% - 1.00%	FMC
Prevail TC (Cypermethrin)	0.30% - 0.60%	FMC
Prevail FT (Cypermethrin)	0.25% - 1.00%	FMC
Prevail Pretreat (Cypermethrin)	0.25% - 1.00%	FMC

Approved Termiticides and Manufacturers		
Product	Percentage	Manufacturer
***Pryfon	6 0.75%	Bayer
Pro-Build TC (Cypermethrin)	0.25% - 1.0%	Syngenta
*Surrender (Chlorpyrifos)	0.75% - 2.00%	Solutions
Talstar Pretreat (Bifenthrin)	0.06% - 0.12%	FMC
Talstar (Bifenthrin)	0.06% - 0.12%	FMC
Talstar One Multi—Insecticide (Bifenthrin)	0.06% - 0.12%	FMC
Tengard SFR (Permethrin)	0.50% - 2.00%	United Phosphorus
*Tenure (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
Termidor (Fipronil)	0.06% - 0.125%	BASF
Termidor 80WG (Fipronil)	0.06% - 0.125%	BASF
Termidor SC (Fipronil)	0.06% - 0.125%	BASF
Tribute (Benzeneacetate)	0.50% - 1.00%	AgrEvo
ValueLine Bifenthrin TC (Bifenthrin)	0.06% - 0.12%	FMC
NOTES:*Manufacture of all Chlorpyrifos products with approved label rates was discontinued as of December 31, 2001.		
**Premise Gel is approved for targeted (spot) application only.		
***Use of Pryfon limited to supplies on hand, but its use is being phased out.		

Baits (Not in Pilot Program)	
FirstLine GTX Termite Bait Station (Sulflurimid)	FMC
FirstLine GT Termite Bait Station (Sulflurimid)	FMC
FirstLine Termite Bait Station (Sulflurimid)	FMC
FirstLine GT Plus (Sulflurimid)	FMC
Labyrinth (Diflubenzuron)	Ensystem
Labyrinth AC (Diflubenzuron)	Ensystem
Recruit II (Hexaflumuron)	Dow Agro Sciences
Recruit AG (Hexaflumuron)	Dow Agro Sciences
Recruit III (Noviflumuron)	Dow Agro Sciences
Recruit AG III (Noviflumuron)	Dow Agro Sciences
Shatter (Hexaflumuron)	Dow Agro Sciences
T-Max (Noviflumuron)	Dow Agro Sciences/Terminix International
T-Max AG (Noviflumuron)	Dow Agro Sciences/Terminix International

Baits (In Pilot Program)		
Subterfuge (Cyanamid)(Hydramethylnon)	2/13/2002	BASF
Advance Compressed Termite Bait (Diflubenzuron)	10/2/2002	Whitmire Micro-Gen
Recruit III (Noviflumuron)	7/2/2003	Dow AgroSciences
Recruit III AG (Noviflumuron)	7/2/2003	Dow AgroSciences

Bob Odom
Commissioner

0602#038

POTPOURRI

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

Clean Air Interstate Rule Program Update (0602Pot1)

On March 10, 2005, the Environmental Protection Agency (EPA) finalized the Clean Air Interstate Rule (CAIR), which requires 28 states and the District of Columbia to revise their state implementation plans to include control measures to

reduce emissions of sulfur dioxide (SO₂) and nitrogen oxide (NO_x).

Following promulgation of the final rule that was published in the *Federal Register* on May 12, 2005 (70 FR 25162), the EPA received 11 petitions for reconsideration. In response to the petitions, on November 22 and December 20, 2005, EPA granted reconsideration and requested comment on certain aspects of the CAIR rule. The rule and actions can be viewed at <http://www.epa.gov/cair/rule.html>.

On August 1, 2005, EPA proposed a Federal Implementation Plan (FIP) for CAIR and corrections to the CAIR rule (70 FR 49708). EPA expects to take final action on reconsideration of all issues under reconsideration by March 15, 2006. EPA also anticipates finalizing the proposed FIP and rule amendments by that date.

The department hereby provides notice that it proposes to incorporate by reference (IBR) provisions of the federal CAIR SO₂ Trading Program. Formal state rulemaking will begin following EPA's finalization of rule amendments in March 2006.

Should you have any questions regarding air quality planning related to CAIR, please contact James Orgeron at (225) 219-3578, or james.orgeron@la.gov, or Office of Environmental Assessment, Air Quality Assessment Division, Box 4314, Baton Rouge, LA 70821-4314.

Herman Robinson, CPM
Executive Counsel

0602#021

POTPOURRI

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

2005 State Implementation Plan (SIP)
General Revisions (0602Pot2)

Under the authority of the Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice of proposed general revisions to the air quality State Implementation Plan (SIP). The revisions include amendments to various air quality regulations in LAC 33:III.Chapters 2, 5, 6, 9, 11, 14, 15, 21, 22, and 23 that were previously promulgated in 2004 and 2005, and that were not previously included in other revisions to the SIP.

A public hearing will be held on March 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, Louisiana. 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 Schuerman, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed 2005 SIP general revisions. Comments must be submitted no later than 4:30 p.m. on

April 4, 2006. Comments should be mailed to Sandra Hilton, Office of Environmental Assessment, Plan Development Section, Box 4314, Baton Rouge, LA 70821-4314 or faxed to (225) 219-3582. Copies of this document can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. A check or money order is required in advance for each copy of the document.

A copy of the general revisions to the SIP may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at the

following DEQ locations: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/portal/tabid/2279/Default.aspx>

Summary of Rules Promulgated in 2005			
LAC 33:III	Louisiana Register Citation	Description	Comments
§501	May 2005 LR 31:1063 AQ244	Air Permit Procedures	Corrects contradictory language in the insignificant activities list.
§507	May 2005 LR 31:1061 AQ248	Part 70 Permits Program	Corrects upset reporting procedures.
§1509	May 2005 LR 31:1061 AQ248	Sulfur Dioxide Rule	Corrects the unit of measurement for the concentration of hydrogen sulfide that is exempt from control measures.
§505	October 2005 LR 31:2427 OS057	Air Permit Procedures	Unifies and streamlines name and ownership changes for all media.
§517	October 2005 LR 31:2427 OS057	Air Permit Procedures	Unifies and streamlines name and ownership changes for all media.
§521	October 2005 LR 31:2427 OS057	Air Permit Procedures	Unifies and streamlines name and ownership changes for all media.
§211	October 2005 LR 31:2431 OS065	Fee Methodology	Revises rule references after department reorganization to reflect new organization structure.
§501	October 2005 LR 31:2431 OS065	Air Permit Procedures	Revises rule references after department reorganization to reflect new organization structure.
§504	October 2005 LR 31:2431 OS065	Nonattainment New Source Review Procedures	Revises rule references after department reorganization to reflect new organization structure.
§505	October 2005 LR 31:2431 OS 065	Acid Rain Permitting Requirements	Revises rule references after department reorganization to reflect new organization structure.
§507	October 2005 LR 31:2431 OS065	Part 70 Permits Program	Revises rule references after department reorganization to reflect new organization structure.
§509	October 2005 LR 31:2431 OS065	Prevention of Significant Deterioration	Revises rule references after department reorganization to reflect new organization structure.
§613	October 2005 LR 31:2431 OS065	ERC Bank Recordkeeping and Reporting Requirements	Revises rule references after department reorganization to reflect new organization structure.
§918	October 2005 LR 31:2431 OS065	Recordkeeping and Annual Reporting	Revises rule references after department reorganization to reflect new organization structure.
§919	October 2005 LR 31:2431 OS065	Emissions Inventory	Revises rule references after department reorganization to reflect new organization structure.
§1105	October 2005 LR 31:2431 OS065	Smoke from Flaring	Revises rule references after department reorganization to reflect new organization structure.
§1107	October 2005 LR 31:2431 OS065	Control of Emissions of Smoke Exemptions	Revises rule references after department reorganization to reflect new organization structure.
§1410	October 2005 LR 31:2431 OS065	Criteria for Determining Conformity	Revises rule references after department reorganization to reflect new organization structure.

Summary of Rules Promulgated in 2005			
LAC 33:III	Louisiana Register Citation	Description	Comments
§1507	October 2005 LR 31:2431 OS065	Emission Standards for Sulfur Dioxide Exceptions	Revises rule references after department reorganization to reflect new organization structure.
§2103	October 2005 LR 31:2431 OS065	Storage of Volatile Organic Compounds	Revises rule references after department reorganization to reflect new organization structure.
§2108	October 2005 LR 31:2431 OS065	Marine Vapor Recovery	Revises rule references after department reorganization to reflect new organization structure.
§2113	October 2005 LR 31:2431 OS065	Control of Emissions of Organic Compounds Housekeeping	Revises rule references after department reorganization to reflect new organization structure.
§2116	October 2005 LR 31:2431 OS065	Glycol Reboilers	Revises rule references after department reorganization to reflect new organization structure.
§2121	October 2005 LR 31:2431 OS065	Fugitive Emission Control	Revises rule references after department reorganization to reflect new organization structure.
§2122	October 2005 LR 31:2431 OS065	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes	Revises rule references after department reorganization to reflect new organization structure.
§2123	October 2005 LR 31:2431 OS065	Organic Solvents	Revises rule references after department reorganization to reflect new organization structure.
§2132	October 2005 LR 31:2431 OS065	Stage II Vapor Recovery Systems for Control of Vehicular Refueling Emissions at Gasoline Dispensing Facilities	Revises rule references after department reorganization to reflect new organization structure.
§2153	October 2005 LR 31:2431 OS065	Limiting Volatile Organic Compound Emissions from Industrial Wastewater	Revises rule references after department reorganization to reflect new organization structure.
§2201	October 2005 LR 31:2431 OS065	Control of Emissions of Nitrogen Oxides	Revises rule references after department reorganization to reflect new organization structure.
§2301	October 2005 LR 31:2431 OS065	Control of Emissions from the Chemical Woodpulping Industry	Revises rule references after department reorganization to reflect new organization structure.
§2303	October 2005 LR 31:2431 OS065	Standards for Horizontal Stud Soderburg Primary Aluminum Plants and Prebake Primary Aluminum Plants	Revises rule references after department reorganization to reflect new organization structure.
§2307	October 2005 LR 31:2431 OS065	Emission Standards for the Nitric Acid Industry	Revises rule references after department reorganization to reflect new organization structure.
Additional Rule Promulgated in 2004			
§1105	August 2004 LR 30:1667 OS052	Smoke from Flaring	Directs all reporters of opacity exceedances to reporting procedures in LAC 33:I.Chapter 39.
§1513	August 2004 LR 30:1667 OS052	Emission Standards for Sulfur Dioxide Recordkeeping and Reporting	Directs all reporters of sulfur dioxide excess emissions to reporting procedures in LAC 33:I.Chapter 39.
§2103	August 2004 LR 30:1667 OS052	Storage of Volatile Organic Compounds	Directs all reporters of storage tank monitoring and recordkeeping to reporting procedures in LAC 33:I.Chapter 39.
§2115	August 2004 LR 30:1667 OS 052	Waste Gas Disposal	Changes the reporting thresholds from 50 to 25 tpy for the Baton Rouge nonattainment area; changes the reporting thresholds for all other areas of the state to 100 tpy except Calcasieu and Pointe Coupee which remain at 50 tpy and directs all reporters of safety release and blowdown emissions to reporting procedures in LAC 33:I.Chapter 39.
§2303	August 2004 LR 30:1667 OS052	Standards for Horizontal Stud Soderburg Primary Aluminum Plants and Prebake Primary Aluminum Plants	Directs all reporters of unauthorized emissions to reporting procedures in LAC 33:I.Chapter 39.
§2307	August 2004 LR 30:1667 OS052	Emission Standards for the Nitric Acid Industry	Directs all reporters of excess emissions to reporting procedures in LAC 33:I.Chapter 39.

Herman Robinson, CPM
Executive Counsel

0602#036

POTPOURRI

Office of the Governor Louisiana Oil Spill Coordinator's Office

Restoration Planning for the West Bay
Champagne and Jefferson Parish Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office/Office of the Governor (LOSCO) as the Trustee coordinator for the State of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustee, namely the National Oceanic and Atmospheric Administration (NOAA), have determined that the impacts of the April 19, 2005 discharge of crude oil by ExxonMobil Pipeline Company (EMPCo), over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On April 19, 2005, a pipeline, owned and operated by EMPCo, discharged approximately 600 barrels of crude oil into Barataria Bay, West Bay Champagne, and surrounding coastal waters, Jefferson Parish, Louisiana. An undetermined amount of brackish and salt marsh flora and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. EMPCo, as owner and operator of the source pipeline, is the Responsible Party (RP) for this incident as defined by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 et seq.

Barataria Bay and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment and tidal range generally less than three feet. Barataria Bay is bordered by extensive acreage of brackish and salt marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Barataria Bay area also includes bayous, channels, and small islands. Aquatic species present include, but are not limited to, estuarine and estuarine-dependent white and brown shrimp, blue crabs, oysters, and finfish. Wildlife species that may be present in the Barataria Bay area include, but are not limited to, resident and migratory birds, furbearers, marine mammals, and sea turtles. Some of the species that may be present have threatened or endangered status.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. La. Rev. Stat. 30:2460, the state of Louisiana Oil Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. NOAA's trust resources include, but are not limited to, commercial and recreational fish species, anadromous and catadromous fish species, marshes and other coastal habitats, marine mammals, and endangered and threatened marine species.

Trustees' Determinations

Following the notice of the discharge, the natural resource trustees have made the following determinations required by 15 C.F.R. § 990.41(a).

- The natural resource trustees have jurisdiction to pursue restoration pursuant to the OPA, 33 U.S.C. §2702 and 2706(c) and the OSPRA, La. Rev. Stat. 30:2451 et seq. The trustees have further determined that the discharge of crude oil into the area of Barataria Bay on April 19, 2005, was an incident, as defined in 15 C.F.R. §990.30 and La. Admin. Code 43, Part XXIX, Chapter 1, Section 109.
- This discharge was not permitted under state, federal, or local law.
- The discharge was not from a public vessel.
- The discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, et seq.
- Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be harmful to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and or aquatic organisms may have been exposed to the oil from this discharge, and injury to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) and La. Admin. Code 43, Part XXIX, Chapter 1, Section 101 to proceed with preassessment. EMPCo, at the invitation of the trustees, pursuant to 15 C.F.R. §990.14(c) and La. Admin. Code 43, Part XXIX, Chapter 1, Section 115, agreed to participate in the preassessment.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by the 15 C.F.R. §990.42(a) and are providing notice, pursuant to 15 C.F.R. §990.44 and La. Admin. Code 43, Part XXIX, Chapter 1, Section 123, that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The trustees base this determination upon data, which are collected and analyzed pursuant to 15 C.F.R. §990.43 and La. Admin. Code 43, Part XXIX, Chapter 1, Section 119, which demonstrate that resources and services have been injured from this incident. Natural resources injured as a result of the discharge and the response may include, but are not limited to, benthic communities, wetlands, birds, wildlife species, shorelines, and recreational use opportunity.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded prevention of some injuries to some natural resources. The trustees believe that injured natural resources could return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to: replanting native wetland vegetation in appropriate areas, creation, enhancement or protection of marsh or other habitat with similar service flows, protection of endangered species, creation of oyster reef habitat, creation of submerged aquatic vegetation habitat, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are bird and marsh habitat injury assessment studies to be used in conjunction with the Resource Equivalency Analysis (REA) and Habitat Equivalency Analysis (HEA), respectively, to determine compensation for injuries to birds and marsh habitats. Models, comparisons to observations of injury resulting from similar releases, or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and La. Admin. Code 43, Part XXIX, Chapter 1, Section 135, the trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft Damage Assessment and Restoration Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 Third Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan).

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the state of Louisiana and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and La. Admin. Code 43, Part XXIX, Chapter 1, Section 135, hereby provides EMPCo, this Notice of Intent to Conduct Restoration Planning and invites their participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0602#048

POTPOURRI

**Department of Social Services
Office of Community Services**

**2006 Louisiana Emergency Shelter Grants Program
Anticipated Funds Availability**

The Louisiana Department of Social Services (DSS) anticipates the availability of \$1,511,290 in grant funds for distribution to applicant units of local government under the 2006 State Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney

Homeless Assistance Act, as amended. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current state ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the state ESGP shall be issued by mail to the chief elected official of each qualifying unit of general local government. The application package can be viewed on the Internet at the following website: <http://www.dss.state.la.us/departments/dss/rfps.html> In order to be considered for funding, applications must be received by DSS/Office of Community Services by 4 p.m., Friday, April 7, 2006.

Nonprofit organizations in qualifying jurisdictions which are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to advise of their interest. To be eligible for funding participation, a private nonprofit organization as defined by ESGP regulations must be one which is exempt from taxation under Subtitle A of the Internal Revenue Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

To be eligible for funding, a project/organization must be a participant in a Homeless Management Information System (HMIS). Note that PL 109-162 recently passed, protects from disclosure any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs involving victims of domestic violence, dating violence, sexual assault, or stalking, and their families.

The state DSS will continue use of a geographic allocation formula in the distribution of the state's ESGP funding to ensure that each region of the state is allotted a specified minimum of state ESGP assistance for eligible ESGP projects. Regional allocations for the state's 2006 ESGP have been formulated based on factors for low-income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region.

Region	Factor	Allocation
Region I New Orleans	.1537939	232,427
Region II Baton Rouge	.1210838	182,993
Region III Thibodaux	.0659078	99,606
Region IV Lafayette	.1537187	232,314

Region	Factor	Allocation
Region V Lake Charles	.0522069	78,900
Region VI Alexandria	.0714394	107,966
Region VII Shreveport	.1235570	186,731
Region VIII Monroe	.0950414	143,635
Region IX Northshore	.0751581	113,586
Region X Jefferson	.0880929	133,134

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of \$10,000. Applicable grant maximums are as follows:

- Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$50,000.
- For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet state ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet program purposes and standards, even if such application is the only eligible proposal submitted from a region or subregion, such application may be rejected *in toto*, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate program standards.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

- Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction.....40 points
- The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living.....30 points
- The ability of the applicant to carry out the proposed activities promptly..... 15 points
- Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance..... 15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESGP funding unless a jurisdiction has been granted an exemption in accordance with program provisions. The value of donated materials and buildings, voluntary activities

and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may at its option elect to use up to 2.439 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the state's FY 2006 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 2006 Louisiana ESGP may be submitted in writing to the attention of the ESGP Coordinator, Office of Community Services, Contracts and Eligibility Section, Box 3318, Baton Rouge, LA, 70821, or telephone (225) 342-4583.

Ann Silverberg Williamson
Secretary

0602#087

POTPOURRI

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

TANF Caseload Reduction Report

The Department of Social Services, Office of Family Support, hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) Caseload Reduction Report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on data from the Family Independence Temporary Assistance Program (FITAP) and the Strategies to Empower People Program (STEP) containing the following information:

1. a listing of, and implementation dates for, all State and Federal eligibility changes, as defined at §261.42, made by the state since the beginning of FY 1995;
2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);
3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;
4. an estimate of the state's caseload reduction credit;
5. the number of application denials and case closures for fiscal year 1995 and the prior fiscal year;
6. the distribution of such denials and case closures, by reason, for fiscal year 1995 and the prior fiscal year;

7. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;

8. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from Federal and State eligibility changes; and

9. a summary of all public comments.

Copies of the TANF Caseload Reduction Report may be obtained by writing Tara Prejean, Department of Social

Services, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065, by telephone at (225)342-4096, or via E-mail at tprejean@dss.state.la.us.

Written comments regarding the report should also be directed to Ms. Prejean. These must be received by close of business on March 22, 2006.

Ann Silverberg Williamson
Secretary

0602#086

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