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OFFICE OF THE STATE REGISTER

- EMERGENCY RULE NOTICE OF INTENT RULE POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) December, 20 14 Louisiana Register the document indicated above.

OFFICE OF OPERATIONS
Office/Board/Commission promulgating this document

Department of Transportation and Development
Department under which office/board/commission is classified

Sherri H. LeBas Secretary
(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

Vickie Suplee 225.242.4622 225.242.4690
(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document
vickie.suplee@la.gov
E-mail address of contact person

Provide a short descriptive listing for this document to be used in the Louisiana Register's TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a Notice of Intent:

*If sending a diskette, indicate the name of the file on diskette:

Sponsorship and Acknowledgment Signs

Eric Kalivoda Signature of Agency Head or Designee
Eric Kalivoda, Ph.D., P.E., Deputy Secretary
Print Name and Title of Agency Head or Designee

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT #

ISIS AGENCY: I certify the availability of fiscal year appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

NON-ISIS AGENCY: I certify the availability of fiscal year appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Department of Transportation
Agency Name
PO Box 94245
Street Address or Post Office Box
Baton Rouge, LA 70804
City State Zip Code

Eric Kalivoda (225) 379-1200
Signature of Agency Head or Designee - Phone #

Lines/Other Charges Typesetting \$ TOTAL \$

Notice of Intent
Department of Transportation and Development
Office of Operations
Advertising on Department of Transportation and Development-Owned Assets and
Sponsorships and Acknowledgment Signs on Public Rights of Way (LAC 70:III.Chapter 8)

Notice is hereby given in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 *et seq.*, and through the authority granted in R.S. 48:274.2, that the Department of Transportation and Development, Office of Operations, proposes to amend Chapter 8 to allow signs and plaques on public rights-of-way to acknowledge sponsors who have contributed funds, services or materials for highway related purposes.

Title 70
Transportation
Part III Outdoor Advertising
Chapter 8 Advertising on Department of Transportation and Development-Owned Assets and
Sponsorships and Acknowledgment Signs on Public Rights of Way

Chapter 8. Advertising on Department of Transportation and Development owned Assets
and Sponsorships on Public Rights of Way

§801. Advertising on Department Assets

A. Purpose

1. The purpose of this Section is to establish a policy within the Department of Transportation and Development (department) for allowing certain limited types of advertising on high-visibility assets owned by the department for the sole purpose of raising revenue to defray some costs of departmental services. This Section shall not apply to advertisements or acknowledgments on roadway rights-of way.

2. The establishment of this policy is not for the purpose of creating a public forum, but is for the purpose of allowing tasteful, visually appealing and inoffensive content for the department's customers while simultaneously supplementing departmental revenues.

3. The display of advertising on departmental assets will not constitute an endorsement by the department of any of the products, services or messages advertised.

B. Requests for Proposals

1. The department may issue requests for proposals in order to secure bidders for advertisement spaces on state-owned assets.

2. The requests for proposals will be reviewed by a committee appointed by the secretary and the most suitable proposal, as determined by the committee, shall be selected.

3. The committee has the discretion to make reasonable choices concerning the types of advertising that may be displayed and shall utilize the criteria which follow in this Rule.

4. The department may limit the number of assets available for advertising displays.

5. The department may limit the term of the contract with the advertiser.

C. Guidelines for Content of Advertising

1. Only commercial advertising will be accepted. It should have content that promotes a commercial transaction.
2. No content promoting illegal activity or obscene, vulgar or offensive conduct shall be allowed.
3. No content that demeans or disparages individuals or groups shall be allowed.
4. No political advertising shall be allowed.
5. No advertising of adult oriented products shall be allowed. Exception: advertising of gambling facilities shall be allowed.
6. The advertising should not be so controversial that it can promote vandalism of advertising materials and associated departmental property.

D. Guidelines for Placement of Advertising on Assets

1. For advertising which requires a power source, such as electronics or LED lighting, the advertiser will be required by the department to submit and maintain detailed plans and provisions. The use of the powered advertising devices shall not have any adverse effect on the safety and functionality of the asset. If the safety and functionality of the asset is compromised after installation, the advertising shall be removed.
2. On ferries or vehicles, advertising may be placed on the inside or the outside of the ferry or vehicle. However, the advertising shall not be erected in such a manner that it impedes current lines of sight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 37:3533 (December 2011), amended by the Office of Operations LR _____

§803. Sponsorship Agreements and Acknowledgment Signs and Plaques on Public Rights of Way

A. Applicability

1. As provided in Federal Highway Administration Order 5160.1A (FHWA Order 5160.1A), this Section shall apply to any street or roadway that is open to public travel.

B. Purpose

1. The purpose of this Section is to allow the use of signs and plaques to acknowledge a provision of highway-related services under both corporate and volunteer sponsorship programs while maintaining highway safety and minimizing driver distraction.

C. All sponsorship agreements and acknowledgment signs and acknowledgment plaques shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), published by the Federal Highway Administration (FHWA) under 23 CFR Part 655, Subpart F, and shall be administered pursuant to FHWA Order Number 5160.1A.

D. General Principles

1. If federal-aid funds were used within the corridor or facility for which sponsorship is being provided, then monetary contributions received as part of sponsorship agreements shall be spent only for highway purposes. If federal-aid funds were not used within the corridor or facility for which sponsorship is being provided, then, where practical, monetary

contributions received as part of sponsorship agreements should be used only for highway purposes.

2. Agreements shall contain a provision requiring sponsors to comply with state laws prohibiting discrimination based on race, religion, color, age, sex, national origin, and all other applicable laws, rules and regulations.

3. All sponsorship agreements involving the Interstate highway system are contingent upon the approval of the FHWA division administrator.

4. Sponsorship agreements shall include a termination clause giving the department the right to end such agreement at any time based on any of the following:

- a. safety concerns
- b. interference with the free and safe flow of traffic
- c. a determination that the sponsorship agreement or acknowledgement is not in the public interest
- d. for the convenience of the department

5. The department will maintain full ownership of any sponsored product, event, and asset.

6. The department shall maintain all authorship rights to publications.

7. The sponsoring organization is not permitted to charge fees for state owned products, events, or access to state property.

8. The sponsoring organization is not permitted to alter publications or other property without the written permission of the department.

D. Sponsorship Contractors

1. In some cases, the department may issue requests for proposals in order to secure bidders for the administration of the department's sponsorship program. Payment for such services may be based upon revenues or in-kind services generated from sponsors for highway related services.

2. Sponsorship contracts shall require the prior approval of the FHWA if the agreement relates to the Interstate highway system.

E. Eligibility Requirements

1. The department recognizes that entering into a sponsorship agreement with an external entity does not constitute an endorsement of the entity or its services and products but does imply an affiliation. Such affiliation can affect the reputation of the state among its citizens and its ability to govern effectively. Therefore, any proposal for sponsorship of a state program or service in which the involvement of an outside entity compromises the public's perception of the state's neutrality or its ability to act in the public interest will be rejected.

2. The department shall consider the following criteria before entering into a sponsorship agreement:

a. Whether the sponsorship is consistent with the goals, objectives, and mission of the department and the current priorities that support these goals, objectives, and mission; and

b. the importance of the sponsorship to the mission of the department; and

- and
- c. the extent and prominence of the public display of sponsorship;
 - d. aesthetic characteristics of the public display of sponsorship; and
 - e. the level of support provided by the sponsor; and
 - f. the cooperation necessary from the department to implement the sponsorship; and
 - g. any inconsistencies between the department's policies and the known policies of the potential sponsor; and
 - h. other factors that might undermine public confidence in the department's impartiality or interfere with the efficient delivery of department services or operations, including, but not limited to, current or potential conflicts of interest, or perception of a conflict of interest, between the sponsor and department employees, officials, or affiliates; and the potential for the sponsorship to tarnish the state's standing among its citizens or otherwise impair the ability of the state to govern its citizens.

3. The amount of the approved financial or in-kind support is at the discretion of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR _____

§805 Advertising and Sponsorship Standards Committee

A. The secretary shall establish a three member Advertising and Sponsorship Standards Committee. Such committee shall be independent and its determinations shall constitute final departmental determinations.

B. The committee shall review all requests for proposals; the content of all advertisements; all sponsorship agreements; and the content of all acknowledgments signs and plaques to determine consistency with department policies and objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR _____

Family Impact Statement

Implementation of this proposed rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on the family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on household income, assets, and financial security.

2. The implementation of this proposed rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development.

3. The implementation of this proposed rule will have no known or foreseeable effect on employment and workforce development.

4. The implementation of this proposed rule will have no known or foreseeable effect on taxes and tax credits.

5. The implementation of this proposed rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider impact Statement

The implementation of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The implementation of this proposed rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The implementation of this proposed rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The implementation of this proposed rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Small Business Statement

The implementation of this proposed rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the rule on small businesses.

Interested Persons Statement

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to Kevin Reed, Ferry Administrator, Office of Operations, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804-9245. Telephone 225.379.1916.

Sherri H. LeBas
Secretary