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Emergency Rules

DECLARATION OF EMERGENCY

Office of the Governor Motor Vehicle Commission

Sponsored Recreational Product Manufacturer Shows or Events (LAC 46:V.Chapter 17)

The Louisiana Motor Vehicle Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 32:1251 et seq., adopts the following Emergency Rule, to allow the commission the ability to authorize and license such shows, effective May 16, 2012, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

In accordance with the provisions of the Administrative Procedures Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission proposes to enact LAC 46:V.Chapter 17 setting forth procedures by which sponsored recreational product manufacturer shows or events can be conducted and licensed under the provisions of R.S. 32:1251 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 1. Louisiana Motor Vehicle Commission

Chapter 17. Sponsored Recreational Product Manufacturer Shows or Events.

§1701. Definitions

Organizer—any person who alone or with others whose principal business activity is the promotion of shows or events supported by sponsors who are manufacturers or distributors of vehicles.

Product Specialist—any person selected by the sponsor to assist in its participation in the show or event.

Show or Event—a controlled event by an organizer who seeks sponsorships from manufacturers or distributors of vehicles in connection with the conduct of the show or event.

Sponsor or Participant—a manufacturer or distributor who pays cash or an in-kind fee to an organizer in return for access to the commercial potential associated with the show or event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 38:

§1703. Authorization for Show or Event

A. The commission may authorize or prohibit a sponsored recreational product manufacturer show or event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 38:

§1705. Show or Event License Fee and Application

A. An organizer shall obtain a license for the show or event from the commission and its request for a license shall be on an application prescribed by the commission requiring such information the commission deems necessary to determine the qualifications and eligibility of the show or event.

B. The application shall be accompanied by a license fee of \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 38:

§1707. Show or Event Requirements

A. The application for the show or event must be submitted to the commission no less than sixty days prior to the opening of the show or event.

B. Three or more sponsors or participants must participate in the show or event.

C. The show or event shall not exceed 10 days.

D. The show or event shall be a non-selling show however, the presence of product specialist, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. At the show or event, there shall be no execution of sales contracts, credit applications, taking of security deposits, or delivery of any vehicle.

E. No licensed dealer, operating in that capacity, may participate in the show or event.

F. The organizer shall furnish the commission a list of sponsors or participants no less than ten days prior to the show or event's opening day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 38:

Lessie A. House
Executive Director

1206#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment School-Based Nursing Services (LAC 50:XV.Chapter 95)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.Chapter 95 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

provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid coverage for health care services rendered to children and youth under the age of 21 through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The department promulgated an Emergency Rule which amended the provisions governing the EPSDT Program in order to adopt provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 37, Number 12). The department promulgated an Emergency Rule which amended the January 1, 2012 Emergency Rule to clarify the provisions governing EPSDT school-based nursing services (*Louisiana Register*, Volume 38, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid eligible recipients and to assure a more efficient and effective delivery of health care services.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to provide Medicaid coverage of school-based nursing services covered under the Early and Periodic Screening, Diagnosis, and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

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

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. EPSDT school-based nursing services are provided by a registered nurse (RN) within a local education agency (LEA). The goal of these services is to prevent or mitigate disease, enhance care coordination, and reduce costs by preventing the need for tertiary care. Providing these services in the school increases access to health care for children and youth resulting in a more efficient and effective delivery of care.

B. RNs providing school-based nursing services are required to maintain an active RN license with the state of Louisiana and comply with the Louisiana Nurse Practice Act.

C. School-based nursing services shall be covered for all recipients in the school system and not limited to those with an individualized education program (IEP).

D. School boards and staff shall collaborate for all services with the Medicaid recipient's BAYOU HEALTH plan and shall ensure compliance with established protocols. In a fee-for-service situation, for the non-BAYOU HEALTH individuals, staff will make necessary referrals.

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, Bureau of Health Services Financing, LR 38:

§9503. Covered Services

A. The following school-based nursing services shall be covered.

1. Episodic Care. This is unplanned care that occurs when children see the nurse for assessment of a health concern. Episodic care includes but is not limited to:

- a. nose bleeds;
- b. cuts;
- c. bruises; or
- d. flu symptoms.

2. Chronic Medical Condition Management and Care Coordination. This is care based on one of the following criteria.

a. The child has a chronic medical condition or disability requiring implementation of a health plan/protocol (examples would be children with asthma, diabetes, or cerebral palsy). There must be a written health care plan based on a health assessment performed by the RN. The date of the completion of the plan and the name of the person completing the plan must be included in the written plan. Each health care service required and the schedule for its provision must be described in the plan.

b. Medication Administration. This service is scheduled as part of a health care plan developed by either the treating physician or the school district LEA. Administration of medication will be at the direction of the physician and within the license of the RN and must be approved within the district LEA policies.

c. Implementation of Physician's Orders. These services shall be provided as a result of receipt of a written plan of care from the child's physician/BAYOU HEALTH provider or an IEP/health care plan for students with disabilities.

3. Immunization Assessments. These services are nursing assessments of health status (immunizations) required by the Office of Public Health. This service requires an RN to assess the vaccination status of children in these cohorts once each year. This assessment is limited to the following children:

- a. children enrolling in a school for the first time;
- b. pre-kindergarten children;
- c. kindergarten children; and
- d. children entering sixth grade; or
- e. any student 11 years of age regardless of grade.

4. EPSDT Program Periodicity Schedule for Screenings. A nurse employed by a school district may perform any of these screens within their licensure for BAYOU HEALTH members as authorized by the BAYOU HEALTH plan or as compliant with fee-for-service for non-BAYOU HEALTH individuals. The results of these screens must be made available to the BAYOU HEALTH provider as part of the care coordination plan of the district. The screens shall be performed according to the periodicity schedule including any inter-periodic screens.

a. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§9505. Reimbursement Methodology

A. Payment for EPSDT school-based nursing services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using DHH's cost report for nursing service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current nursing service providers as allocated to nursing services for Medicaid special education recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for nursing services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA. There are no additional indirect costs included.

4. To determine the amount of nursing services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the nursing services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid Federal Financial Participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost—The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on DHH's nursing services cost report form for all nursing service personnel (i.e. all personnel providing LEA nursing treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g. federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Determine the Percentage of Time to Provide All Nursing Services. A time study which incorporates the CMS-approved Medicaid Administrative Claiming (MAC) methodology for nursing service personnel shall be used to determine the percentage of time nursing service personnel spend on nursing services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS approved Medicaid Administrative Claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to nursing services, the percentage of time spent on nursing services shall be divided by 100 percent minus the percentage of G and A time. This

shall result in a percentage that represents the nursing services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined Paragraph B.4 above to allocate cost to school based services. The product represents total direct cost.

a. A sufficient number of nursing service personnel shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving nursing services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based nursing services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the Nursing Services Cost Report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed nursing services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the nursing services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all nursing services provided by the LEA.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the Nursing Services Cost Reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with DHH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100

percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#050

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Substance Abuse Services (LAC 50:XV.Chapter 93)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 93 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 provisions of 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 terminated coverage and reimbursement of substance abuse clinic services under the Medicaid Program as a result of a budgetary shortfall (*Louisiana Register*, Volume 27, Number 1). However, in compliance with federal regulations governing coverage of discretionary services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT)

Program, substance abuse services continued to be available to Medicaid recipients up to the age of 21 through the substance abuse clinics operated or funded by the Office for Addictive Disorders (OAD), now the Office of Behavioral Health (OBH).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted the provisions governing the coverage and reimbursement of substance abuse services rendered to EPSDT recipients (*Louisiana Register*, Volume 37, Number 5). The department now proposes to amend the provisions of the April 22, 2011 Emergency Rule to clarify the provisions governing EPSDT substance abuse services. This action is being taken to promote the health and welfare of Medicaid eligible recipients, up to the age of 21, who are in need of substance abuse services, and to assure continued access to services.

Effective June 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of substance abuse services covered under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 93. Substance Abuse Services

§9301. General Provisions

A. The Medicaid Program shall provide coverage of substance abuse services rendered to Medicaid eligible recipients, under the age of 21.

B. Medicaid reimbursement for medically necessary substance abuse services shall only be provided to the Office of Behavioral Health for recipients under the age of 21 who receive outpatient treatment only. The Medicaid Program shall not provide reimbursement for inpatient services under these provisions.

C. Substance abuse services covered under the EPSDT Program shall include medically necessary clinic services and other medically necessary substance abuse services rendered to EPSDT recipients.

D. Medicaid recipients shall be the sole recipients of Medicaid covered substance abuse services and these services shall only be billed for the Medicaid recipient despite the presence of others who may be group or family participants.

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, Bureau of Health Services Financing, LR 38:

§9303. Covered Services

A. The medical necessity for these rehabilitative services must be determined by, and services recommended by, a licensed mental health practitioner, or as ordered by a staff physician.

B. Outpatient Treatment Program

1. Professionally directed assessment, diagnosis, treatment, and recovery services are provided in an organized non-residential treatment setting by licensed mental health practitioners (LMHPs) and non-licensed professionals under the supervision of a LMHP.

2. Outpatient treatment program hours range from one hour to nine hours/week. The maximum level of hours may be exceeded based on medical necessity.

3. Outpatient treatment program services include, but are not limited to:

- a. individual, group, and family counseling;
- b. medication compliance;
- c. relapse prevention; and
- d. disease concept.

4. Outpatient treatment program services offer comprehensive, coordinated, and defined services that may vary in level of intensity.

C. Intensive Outpatient Treatment Program

1. Professionally directed assessment, diagnosis, treatment, and recovery services are provided in an organized non-residential treatment setting by LMHPs and non-licensed professionals under the supervision of a LMHP.

2. Adolescents in intensive outpatient treatment programs receive a minimum of six hours/week with no specified frequency/week. The maximum is up to 20 hours/week. The maximum level of hours may be exceeded based on medical necessity.

3. Intensive outpatient treatment program services include, but are not limited to:

- a. individual, group, and family counseling; and
- b. education on recovery.

4. Intensive outpatient treatment program services offer comprehensive, coordinated, and defined services that may vary in level of intensity.

5. These services consist of a scheduled series of face-to-face sessions appropriate to the individual's plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§9305. Provider Qualifications

A. Outpatient clinical services shall be provided by Louisiana licensed mental health practitioners within the scope of the state practice act and licensing requirements applicable to their particular profession.

B. A mental health practitioner may include a:

1. licensed professional counselor (LPC);
2. licensed clinical social worker (LCSW);
3. licensed addiction counselor (LAC); and
4. licensed marriage and family therapist (LMFT).

C. The following practitioners are also approved service providers:

1. licensed medical doctor;
2. licensed psychologist;
3. licensed nurse practitioner (NP);
4. advanced practice registered nurse (APRN); and
5. registered nurse (RN) with documented evidence of receiving a minimum of five continuing education units (CEUs) annually that are specifically related to behavioral health and medication management issues.

D. Registered addiction counselors (RACs) and certified addiction counselors (CACs) may also provide clinical services with a licensed mental health practitioner on-site.

E. RACs shall meet the following qualifications:

1. is at least 21 years of age;
2. is a legal resident of the United States;

3. is not in violation of any ethical standards subscribed to by the Addictive Disorders Regulatory Authority (ADRA);

4. has not been convicted of a felony;

5. has successfully completed 270 clock hours of education approved by the ADRA. One semester hour equals 15 clock hours. One CEU equals 10 clock hours. One hundred eighty of these hours must be specific to addiction treatment. The remaining 90 hours may be related, but are subject to approval by the ADRA. Six of the 90 hours must be in professional ethics;

6. has successfully completed 6,000 hours (three years) of supervised work experience in the treatment of people with addictive disorders. Of these hours, he/she must complete a 300 hour practicum in the core functions and global criteria, with at least 20 hours in each core function. This experience must be supervised by a certified clinical supervisor (CCS) or other qualified professional who has received the proper waiver from the ADRA;

7. has completed and received approval for an application prescribed by the ADRA; and

8. demonstrates competency in addiction counseling by submitting and gaining approval for a typical case study and passing a written examination prescribed by the ADRA.

F. CACs shall meet the following qualifications:

1. is at least 21 years of age and holds a bachelor's degree from an approved and accredited institution of higher education in a human services field;

2. is a legal resident of the United States;

3. is not in violation of any ethical standards subscribed to by the ADRA;

4. has not been convicted of a felony;

5. has successfully completed 270 clock hours of education approved by the ADRA. One semester hour equals 15 clock hours. One CEU equals 10 clock hours. One hundred eighty of these hours must be specific to addiction treatment. The remaining 90 hours may be related, but are subject to approval by the ADRA. Six of the 90 hours must be in professional ethics;

6. has successfully completed 4,000 hours (two years) of supervised work experience in the treatment of people with addictive disorders. Of these hours, he/she must complete a 300 hour practicum in the core functions and global criteria, with at least 20 hours in each core function. This experience must be supervised by a CCS or other qualified professional who has received the proper waiver from the ADRA;

7. has completed and received approval for an application prescribed by the ADRA; and

8. demonstrates competency in addiction counseling by submitting and gaining approval for a typical case study and passing a written examination prescribed by the ADRA.

G. A registered addiction counselor or a certified addiction counselor may not practice independently and may not render a diagnostic impression, but can practice under the supervision of an LMHP on-site within an agency that is licensed or accredited.

H. Unlicensed practitioners shall only practice under the supervision of a licensed professional, within the scope of the licensed professional's state practice act and licensing requirements applicable to their particular profession.

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, Bureau of Health Services Financing, LR 38:

§9307. Reimbursement Methodology

A. The Medicaid Program shall provide reimbursement to the Office of Behavioral Health for substance abuse services rendered to EPSDT recipients. Under the provisions of this Rule, payments to OBH for these services shall sunset as of February 29, 2012.

B. Reimbursement for these services shall be based on the most recent actual cost to OBH. Cost data shall be derived from the department's ISIS reporting of costs for the period. The cost period shall be consistent with the state fiscal year. Costs are determined by selecting the expenditures paid from state and local funds for the state fiscal year.

C. OBH encounter data from their database shall be used to identify allowable services. Encounter data for recipients under the age of 21 shall be extracted and used in calculations to determine actual cost to OBH.

D. Costs shall be calculated by using the cost-weighted amount and include Medicaid eligibles under 21 database costs divided by total database costs times OBH's expenditures for the program which were derived from the state's ISIS data.

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, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#049

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Facility Need Review
Hospice Providers
(LAC 48:I.12503, 12505 and 12526)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12503 and §12505, and to adopt §12526 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the inclusion of adult day health care providers in the Facility Need Review (FNR) Program (*Louisiana Register*, Volume 36, Number 2). The department promulgated an Emergency Rule which amended the provisions governing the facility need review process to adopt provisions governing the inclusion of licensed hospice providers and inpatient hospice providers in the FNR Program (*Louisiana Register*, Volume 38, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2012 Emergency Rule. This action is being taken to avoid sanctions or penalties from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for noncompliance with The Patient Protection and Affordable Care Act requirements for pediatric hospice service provisions.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the facility need review process to adopt provisions governing the inclusion of licensed hospice providers and inpatient hospice providers.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12503. General Information

A. - C.1. ...

2. home and community-based service providers, as defined under this Chapter;

3. adult day health care providers; and

4. hospice providers or inpatient hospice facilities.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD, ADHC and hospice providers that meet one of the following conditions:

1. ...

2. existing licensed ICFs-DD that are converting to the proposed residential options waiver;

3. ADHC providers who were licensed as of December 31, 2009 or who had a completed initial licensing application submitted to the department by December 31, 2009, or who are enrolled or will enroll in the Louisiana Medicaid Program solely as a program for all-inclusive care for the elderly provider; or

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:

§12505. Application and Review Process

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. The application shall be submitted on the forms (on 8.5 inch by 11 inch paper) provided for that purpose, contain such information as the department may require and be accompanied by a nonrefundable fee of \$200. An original and three copies of the application are required for submission.

A.1. - B.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2438 (November 2009), LR 36:323 (February 2010), LR 38:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12526. Hospice Providers

A. No hospice provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of a hospice provider license. Once the FNR Program approval is granted, a hospice provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The service area for proposed or existing hospice providers is within a 50 mile radius of the proposed geographic location where the provider is or will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional hospice provider within a 50 mile radius of the proposed geographic location for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to the recipients' ability to access hospice care if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other hospice providers within a 50 mile radius of the proposed geographic location servicing the same population; and

b. allegations involving issues of access to hospice care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access hospice care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application. FNR approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed providers are non-transferrable and are limited to the location and the name of the original licensee.

1. A hospice provider undergoing a change of location within a 50 mile radius of the licensed geographic location shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A hospice provider undergoing a change of location outside of the 50 mile radius of the licensed geographic location shall submit a new FNR application and fee and undergo the FNR approval process.

2. A hospice provider undergoing a change of ownership shall submit a new FNR application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR Approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity or location without application to and approval by the FNR program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#051

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Hospice Services
(LAC 50:XV.Chapters 33-35, 3701-3703,
Chapters 39-41, 4303-4305, and 4309)

The Department of Health and Hospitals, Bureau of Health Services Financing, amends LAC 50:XV.Chapters 33-35, §§3701-3703, Chapters 39-41, §§4303-4305, and §4309 under 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 provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for hospice services provided to long-term care residents to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing hospice services in order to bring these provisions into compliance with the requirements of the Patient Protection and Affordable Care Act (PPACA) and also amended the provisions governing prior authorization for hospice services in order to control the escalating costs associated with the Hospice Program (*Louisiana Register*, Volume 38, Number 3). This Emergency Rule is being promulgated to continue the provisions of the May 1, 2012 Emergency Rule. This action is being taken to avoid sanctions from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for noncompliance with PPACA requirements, and to avoid a budget deficit in the medical assistance programs.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Hospice Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 33. Provider Participation

§3301. Conditions for Participation

A. Statutory Compliance

1. Coverage of Medicaid hospice care shall be in accordance with:

a. 42 USC 1396d(o); and

b. the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 35. Recipient Eligibility

§3501. Election of Hospice Care

A. - F. ...

G. Election Statement Requirements. The election statement must include:

1. identification of the particular hospice that will provide care to the individual;

2. the individual's or his/her legal representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness;

3. acknowledgment that certain Medicaid services, as set forth in §3503 are waived by the election;

4. the effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement; and

5. the signature of the individual or his/her legal representative.

H. Duration of Election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual:

1. remains in the care of a hospice;

2. does not revoke the election under the provisions of §3505; and

3. is not discharged from hospice in accordance with §3505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1466 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§3503. Waiver of Payment for Other Services

A. - A.2.c. ...

B. Individuals who are approved to receive hospice may not receive any other non-waiver home and community-based services, such as long-term personal care services, while they are receiving hospice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§3505. Revoking the Election of Hospice

Care/Discharge

A. - A.4. ...

5. Re-election of Hospice Benefits. If an election has been revoked in accordance with the provisions of this §3505, the individual or his/her representative may at any time file an election, in accordance with §3501, for any other election period that is still available to the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 37. Provider Requirements

§3701. Requirements for Coverage

A. To be covered, a certification of terminal illness must be completed as set forth in §3703, the election of hospice care form must be completed in accordance with §3501, and a plan of care must be established in accordance with §3705. A written narrative from the referring physician explaining why the patient has a prognosis of six months or less must be included in the certificate of terminal illness. Prior authorization requirements stated in Chapter 41 of these provisions are applicable to all election periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§3703. Certification of Terminal Illness

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

b. For the first 90-day period of hospice coverage, the hospice must obtain a verbal certification no later than two calendar days after hospice care is initiated. If the verbal certification is not obtained within two calendar days following the initiation of hospice care, a written

certification must be made within ten calendar days following the initiation of hospice care. The written certification and notice of election must be obtained before requesting prior authorization for hospice care. If these requirements are not met, no payment is made for the days prior to the certification. Instead, payment begins with the day of certification, i.e., the date all certification forms are obtained.

c. For the subsequent periods, a written certification must be included in an approved prior authorization packet before a claim may be billed.

2. - 2.c. ...

d. If verbal certification is made, the referral from the physician shall be received by a member of the hospice interdisciplinary group (IDG). The entry in the patient's clinical record of the verbal certification shall include, at a minimum:

i. - ii. ...

iii. terminal diagnosis(es) and all other diagnosis(es);

iv. - v. ...

3. Face-to-Face Encounter

a. A hospice physician or hospice nurse practitioner must have a face-to-face encounter with each hospice patient whose total stay across all hospices is anticipated to reach the third benefit period. The face-to-face encounter must occur prior to, but no more than 30 calendar days prior to, the third benefit period recertification, and every benefit period recertification thereafter, to gather clinical findings to determine continued eligibility for hospice care.

b. The physician or nurse practitioner who performs the face-to-face encounter with the patient must attest in writing that he or she had a face-to-face encounter with the patient, including the date of that visit. The attestation of the nurse practitioner or a non-certifying hospice physician shall state that the clinical findings of that visit were provided to the certifying physician for use in determining continued eligibility for hospice care.

4. Content of Certifications

a. Certification will be based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness. The certification must conform to the following requirements.

i. The certification must specify that the individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course.

ii. Written clinical information and other documentation that support the medical prognosis must accompany the certification and must be filed in the medical record with the written certification, as set forth in Subparagraph 4 of this Section.

iii. The physician must include a brief written narrative explanation of the clinical findings that support a life expectancy of six months or less as part of the certification and recertification forms, or as an addendum to the certification and recertification forms.

(a). The narrative must reflect the patient's individual clinical circumstances and cannot contain check boxes or standard language used for all patients.

(b). The narrative associated with the third benefit period recertification and every subsequent recertification must include an explanation of why the

clinical findings of the face-to-face encounter support a life expectancy of six months or less, and shall not be the same narrative as previously submitted.

b. All certifications and recertifications must be signed and dated by the physician(s), and must include the benefit period dates to which the certification or recertification applies.

5. Sources of Certification

a. For the initial 90-day period, the hospice must obtain written certification statements as provided in §3703.A.1 from:

i. ...

ii. the individual's attending physician. The attending physician is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care. The attending physician is the physician identified within the Medicaid system as the provider to which claims have been paid for services prior to the time of the election of hospice benefits.

b. ...

6. Maintenance of Records. Hospice staff must make an appropriate entry in the patient's clinical record as soon as they receive an oral certification and file written certifications in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 39. Covered Services

§3901. Medical and Support Services

A. - A.11.b.iv. ...

c. Inpatient Respite Care Day. An inpatient respite care day is a day on which the individual receives care in an approved facility on a short-term basis, not to exceed five days in any one election period, to relieve the family members or other persons caring for the individual at home. An approved facility is one that meets the standards as provided in 42 CFR §418.98(b). This service cannot be delivered to individuals already residing in a nursing facility.

d. General Inpatient Care Day. A general inpatient care day is a day on which an individual receives general inpatient care in an inpatient facility that meets the standards as provided in 42 CFR §418.98(a) and for the purpose of pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care shall not exceed five days in any one election period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 41. Prior Authorization

§4101. Prior Authorization of Hospice Services

A. Prior authorization is required for all election periods as specified in §3501.C of this Subpart. The prognosis of terminal illness will be reviewed. A patient must have a

terminal prognosis and not just certification of terminal illness. Authorization will be made on the basis that a patient is terminally ill as defined in federal regulations. These regulations require certification of the patient's prognosis, rather than diagnosis. Authorization will be based on objective clinical evidence contained in the clinical record which supports the medical prognosis that the patient's life expectancy is six months or less if the illness runs its normal course and not simply on the patient's diagnosis.

1. Providers shall submit the appropriate forms and documentation required for prior authorization of hospice services as designated by the department in the Medicaid Program's service and provider manuals, memorandums, etc.

B. Written Notice of Denial. In the case of a denial, a written notice of denial shall be submitted to the hospice, recipient, and nursing facility, if appropriate.

1. Claims will only be paid from the date of the Hospice Notice of Election if the prior authorization request is received within 10 days from the date of election and is approved. If the prior authorization request is received 10 days or more after the date on the Hospice Notice of Election, the approved begin date for hospice services is the date the completed prior authorization packet is received.

C. Appeals. If the hospice or the recipient does not agree with the denial of a hospice prior authorization request, the recipient, or the hospice on behalf of the recipient, can request an appeal of the prior authorization decision. The appeal request must be filed with the Division of Administrative Law within 30 days from the date of the postmark on the denial letter. The appeal proceedings will be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 43. Reimbursement

§4303. Levels of Care for Payment

A. - B.3. ...

C. Inpatient Respite Care. The inpatient respite care rate is paid for each day the recipient is in an approved inpatient facility and is receiving respite care (see §3901.A.11.c). Respite care may be provided only on an occasional basis and payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge. Payment for the day of discharge in a respite setting shall be at the routine home level-of-care discharged alive rate.

1. ...

2. Respite care may not be provided when the hospice patient is a nursing home resident, regardless of the setting, i.e., long-term acute care setting.

D. General Inpatient Care. Payment at the inpatient rate is made when an individual receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care is a short-term level of care and is not intended to be a permanent solution to a negligent or absent caregiver. A lower level of care must be used once symptoms are under control. General inpatient care and

nursing facility or intermediate care facility for persons with intellectual disabilities room and board cannot be reimbursed for the same recipient on the same covered days of service. Payment for general inpatient care may be made for a maximum of five days at a time, including the date of admission, but not counting the date of discharge. Payment for the day of discharge in a general inpatient setting shall be at the routine home level-of-care discharged alive rate.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§4305. Hospice Payment Rates

A. - A.2. ...

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis. The physician visit for the face-to-face encounter will not be reimbursed by the Medicaid Program.

b. - d.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), LR 34:441 (March 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§4309. Limitation on Payments for Inpatient Care

A. ...

1. During the 12-month period beginning November 1 of each year and ending October 31, the number of inpatient days (both for general inpatient care and inpatient respite care) for any one hospice recipient may not exceed five days per occurrence.

2. - 2.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#053

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services Major Teaching Hospitals Qualifying Criteria (LAC 50:V.1301-1309)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.1301-1309 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 provisions of 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 that established the reimbursement of major and minor teaching hospitals as peer groups under the prospective reimbursement methodology for hospitals (*Louisiana Register*, Volume 20, Number 6). The department amended the June 20, 1994 Rule to adopt new criteria for the reimbursement of graduate medical education (GME) pursuant to Section 15 Schedule 09 of Act 19 of the 1998 Regular Session of the Louisiana Legislature and R.S. 39:71 et seq (*Louisiana Register*, Volume 26, Number 3).

Act 347 of the 2009 Regular Session of the Louisiana Legislature revised the qualifying criteria for major teaching hospitals. In compliance with Act 347, the department promulgated an Emergency Rule which amended the provisions governing the qualifying criteria for major teaching hospitals. This Emergency Rule also repromulgated the March 20, 2000 Rule governing teaching hospitals in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 6). The department promulgated an Emergency Rule which amended the July 1, 2010 Emergency Rule to clarify the qualifying criteria for a major teaching hospital (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals designated as teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 13. Teaching Hospitals

Subchapter A. General Provisions

§1301. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to

facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). A major teaching hospital shall meet one of the following criteria:

1. be a major participant in at least four approved medical residency programs and maintain an intern and resident full-time equivalency of at least 15 filled positions. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; or

2. maintain an intern and resident full-time equivalency of at least 20 filled positions with an approved medical residency program in family practice located more than 150 miles from the medical school accredited by the LCME.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets the following criteria. The facility must:

1. pay for all of the costs of the training program in the non-hospital or hospital setting, including:

- a. the residents' salaries and fringe benefits;
- b. the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education; and
- c. other direct administrative costs of the program;

and

2. participate in residency programs that:

a. require residents to rotate for a required experience;

b. require explicit approval by the appropriate residency review committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility; or

c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education (ACGME).

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, Bureau of Health Services Financing, LR 38:

§1303. Minor Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME. A minor teaching hospital shall meet the following criteria:

1. must participate significantly in at least one approved medical residency program in either medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; and

2. maintain an intern and resident full time equivalency of at least six filled positions.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets the following criteria. The facility must:

1. pay for all of the costs of the training program in the non-hospital or hospital setting, including:

- a. the residents' salaries and fringe benefits;

b. the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education; and

c. other direct administrative costs of the program; and

2. participate in residency programs that:

a. require residents to rotate for a required experience;

b. require explicit approval by the appropriate residency review committee of the medical school with which the facility is affiliated prior to utilization of the facility; or

c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education;

i. if not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than 1/6th of the program length or more than a total of six months at the facility.

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, Bureau of Health Services Financing, LR 38:

§1305. Approved Medical Residency Program

A. An approved medical residency program is one that meets one of the following criteria:

1. counts toward certification of the participant in a specialty or sub-specialty listed in the current edition of either *The Directory of Graduate Medical Education Programs* published by the American Medical Association, Department of Directories and Publications, or *The Annual Report and Reference Handbook* published by the American Board of Medical Specialties;

2. is approved by the ACGME as a fellowship program in geriatric medicine; or

3. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training regardless of whether the standard provides exceptions or exemptions.

B. A residency program at a non-hospital facility may be counted by a hospital if:

1. there is a written agreement with the non-hospital facility that requires the hospital facility to pay for the cost of the training program; and

2. the agreement requires that the time that residents spend in the non-hospital setting is for patient care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§1307. Graduate Medical Education

A. The bureau adopts criteria for the reimbursement of graduate medical education (GME) in facilities that do not qualify as major or minor teaching facilities. GME recognized by the Medical Assistance Program for reimbursement shall be limited to facilities having a

documented affiliation agreement with a Louisiana medical school accredited by the LCME.

B. Payment for GME costs shall be limited to the direct cost of interns and residents in addition to the teaching physician supervisory costs. Teaching physician supervisory costs shall be limited in accordance with the provisions of the Medicare Provider Reimbursement Manual. The GME component of the rate shall be based on hospital specific graduate medical education Medicaid cost for the latest year on which hospital prospective reimbursements are rebased trended forward in accordance with the prospective reimbursement methodology for hospitals.

C. Hospitals implementing GME programs approved after the latest year on which hospital prospective reimbursements have been rebased shall have a GME component based on the first full cost reporting period that the approved GME program is in existence trended forward in accordance with the prospective reimbursement methodology for hospitals.

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, Bureau of Health Services Financing, LR 38:

§1309. Requirements for Reimbursement

A. Qualification for teaching hospital status or to receive reimbursement for GME costs shall be re-established at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital or to receive reimbursement for GME costs, a facility shall submit the following documentation to the Bureau of Health Services, Program Operations Section within 30 days of the beginning of each state fiscal year:

1. a copy of the executed affiliation agreement for the time period for which the teaching hospital status or GME reimbursement applies;

2. a copy of any agreements with non-hospital facilities; and

3. a signed Certification For Teaching Hospital Recognition.

C. Each hospital which is reimbursed as a teaching hospital or receives reimbursement for GME costs shall submit the following documentation to the Bureau of Health Services, Program Operations Section, within 90 days of the end of each state fiscal year:

1. a copy of the intern and resident information system report that is submitted annually to the Medicare intermediary; and

2. a copy of any notice given to the ACGME that residents rotate through a facility for more than one sixth of the program length or more than a total of six months.

D. Copies of all contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents upon request.

E. No teaching hospital shall receive a per diem rate greater than 115 percent of its facility specific cost based on the latest rebasing year trended forward to the rate year in accordance with the prospective reimbursement methodology for hospitals.

F. The peer group maximum for minor teaching hospitals shall be the peer group maximum for minor

teaching hospitals or the peer group maximum for peer group five, whichever is greater.

G. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered through either immediate repayment by the hospital or recoupment from any funds due to the hospital from 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, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#055

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Major Teaching Hospitals
Supplemental Payments
(LAC 50:V.1333)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.1333 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 provisions of 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 amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective June 28, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals designated as major teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1333. Major Teaching Hospitals

A. ...

B. Effective for dates of service on or after July 1, 2011, a quarterly supplemental payment shall be issued to non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the quarter.

1. Qualifying Criteria. In order to qualify for the supplemental payments the non-rural, non-state acute care hospital must:

- a. be designated as a major teaching hospital by the Department of Health and Hospitals in state fiscal year 2011;
- b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2010 dates of service; and
- c. have provided at least 5,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Payments shall be distributed quarterly and shall be calculated using the Medicaid paid days for service dates in state fiscal year 2010 as a proxy for SFY 2012 service dates.

3. Payments are applicable to Medicaid service dates provided during the first quarter of state fiscal year 2012 only and shall not exceed \$14,000,000.

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, Bureau of Health Services Financing, LR 38:

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#054

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Neonatal and Pediatric Intensive Care Units and
Outlier Payment Methodologies
(LAC 50:V.953, 954 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953-954 and §967 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 provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to align the prospective per diem rates more closely with reported costs, including the neonatal intensive care unit (NICU) and pediatric intensive care unit (PICU) rates (*Louisiana Register*, Volume 35, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing repromulgated all of the provisions governing outlier payments for inpatient hospital services in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 3).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid for NICU and PICU services rendered by non-rural, non-state hospitals and to revise the outlier payment methodology (*Louisiana Register*, Volume 37, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining access to neonatal and pediatric intensive care unit services and encouraging the continued participation of hospitals in the Medicaid Program.

Effective June 27, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid to non-rural, non-state hospitals for neonatal and pediatric intensive care unit services and to revise the provisions governing outlier payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - G. ...

H. Neonatal Intensive Care Units (NICU)

1. - 2. ...

3. Effective for dates of service on or after March 1, 2011, the per diem rates for Medicaid inpatient services rendered by NICU Level III and NICU Level III regional units, recognized by the department as such on December 31, 2010, shall be adjusted to include an increase that varies based on the following five tiers:

a. Tier 1. If the qualifying hospital's average percentage exceeds 10 percent, the additional per diem increase shall be \$601.98;

b. Tier 2. If the qualifying hospital's average percentage is less than or equal to 10 percent, but exceeds 5 percent, the additional per diem increase shall be \$624.66;

c. Tier 3. If the qualifying hospital's average percentage is less than or equal to 5 percent, but exceeds 1.5 percent, the additional per diem increase shall be \$419.83;

d. Tier 4. If the qualifying hospital's average percentage is less than or equal to 1.5 percent, but greater than 0 percent, and the hospital received greater than .25 percent of the outlier payments for dates of service in state fiscal year (SFY) 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$263.33; or

e. Tier 5. If the qualifying hospital received less than .25 percent, but greater than 0 percent of the outlier payments for dates of service in SFY 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$35.

4. A qualifying hospital's placement into a tier will be determined by the average of its percentage of paid NICU Medicaid days for SFY 2010 dates of service to the total of all qualifying hospitals' paid NICU days for the same time period, and its percentage of NICU patient outlier payments made as of December 31, 2010 for dates of service in SFY 2008 and SFY 2009 and calendar year 2010 to the total NICU outlier payments made to all qualifying hospitals for these same time periods.

a. This average shall be weighted to provide that each hospital's percentage of paid NICU days will comprise 25 percent of this average, while the percentage of outlier payments will comprise 75 percent. In order to qualify for Tiers 1 through 4, a hospital must have received at least .25 percent of outlier payments in SFY 2008, SFY 2009, and calendar year 2010.

b. SFY 2010 is used as the base period to determine the allocation of NICU and PICU outlier payments for hospitals having both NICU and PICU units.

c. If the daily paid outlier amount per paid NICU day for any hospital is greater than the mean plus one standard deviation of the same calculation for all NICU Level III and NICU Level III regional hospitals, then the basis for calculating the hospital's percentage of NICU patient outlier payments shall be to substitute a payment

amount equal to the highest daily paid outlier amount of any hospital not exceeding this limit, multiplied by the exceeding hospital's paid NICU days for SFY 2010, to take the place of the hospital's actual paid outlier amount.

NOTE: Children's specialty hospitals are not eligible for the per diem adjustments established in §953.H.3.

5. The department shall evaluate all rates and tiers two years after implementation.

I. Pediatric Intensive Care Unit (PICU)

1. - 2. ...

3. Effective for dates of service on or after March 1, 2011, the per diem rates for Medicaid inpatient services rendered by PICU Level I and PICU Level II units, recognized by the department as such on December 31, 2010, shall be adjusted to include an increase that varies based on the following four tiers:

a. Tier 1. If the qualifying hospital's average percentage exceeds 20 percent, the additional per diem increase shall be \$418.34;

b. Tier 2. If the qualifying hospital's average percentage is less than or equal to 20 percent, but exceeds 10 percent, the additional per diem increase shall be \$278.63;

c. Tier 3. If the qualifying hospital's average percentage is less than or equal to 10 percent, but exceeds 0 percent and the hospital received greater than .25 percent of the outlier payments for dates of service in SFY 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$178.27; or

d. Tier 4. If the qualifying hospital received less than .25 percent, but greater than 0 percent of the outlier payments for dates of service in SFY 2008, SFY 2009 and calendar year 2010, the additional per diem increase shall be \$35.

4. A qualifying hospital's placement into a tier will be determined by the average of its percentage of paid PICU Medicaid days for SFY 2010 dates of service to the total of all qualifying hospitals' paid PICU days for the same time period, and its percentage of PICU patient outlier payments made as of December 31, 2010 for dates of service in SFY 2008 and SFY 2009 and calendar year 2010 to the total PICU outlier payments made to all qualifying hospitals for these same time periods.

a. This average shall be weighted to provide that each hospital's percentage of paid PICU days will comprise 25 percent of this average, while the percentage of outlier payments will comprise 75 percent. In order to qualify for Tiers 1 through 3, a hospital must have received at least .25 percent of outlier payments in SFY 2008, SFY 2009, and calendar year 2010.

b. SFY 2010 is used as the base period to determine the allocation of NICU and PICU outlier payments for hospitals having both NICU and PICU units.

c. If the daily paid outlier amount per paid PICU day for any hospital is greater than the mean plus one standard deviation of the same calculation for all PICU Level I and PICU Level II hospitals, then the basis for calculating the hospital's percentage of PICU patient outlier payments shall be to substitute a payment amount equal to the highest daily paid outlier amount of any hospital not exceeding this limit, multiplied by the exceeding hospital's paid PICU days for SFY 2010, to take the place of the hospital's actual paid outlier amount.

NOTE: Children's specialty hospitals are not eligible for the per diem adjustments established in §953.I.3.

5. The department shall evaluate all rates and tiers two years after implementation.

J. - O.1. ...

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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 38:

§954. Outlier Payments

A. - B. ...

C. To qualify as a payable outlier claim, a deadline of not later than six months subsequent to the date that the final claim is paid shall be established for receipt of the written request for outlier payments.

1. Effective March 1, 2011, in addition to the 6 month timely filing deadline, outlier claims for dates of service on or before February 28, 2011 must be received by the department on or before May 31, 2011 in order to qualify for payment. Claims for this time period received by the department after May 31, 2011 shall not qualify for payment.

D. Effective for dates of service on or after March 1, 2011, a catastrophic outlier pool shall be established with annual payments limited to \$10,000,000. In order to qualify for payments from this pool, the following conditions must be met:

1. the claims must be for cases for:

a. children less than six years of age who received inpatient services in a disproportionate share hospital setting; or

b. infants less than one year of age who receive inpatient services in any acute care hospital setting; and

2. the costs of the case must exceed \$150,000.

a. The hospital specific cost to charge ratio utilized to calculate the claim costs shall be calculated using the Medicaid NICU or PICU costs and charge data from the most current cost report.

E. The initial outlier pool will cover eligible claims with admission dates from the period beginning March 1, 2011 through June 30, 2011.

1. Payment for the initial partial year pool will be \$3,333,333 and shall be the costs of each hospital's qualifying claims net of claim payments divided by the sum of all qualifying claims costs in excess of payments, multiplied by \$3,333,333.

2. Cases with admission dates on or before February 28, 2011 that continue beyond the March 1, 2011 effective date, and that exceed the \$150,000 cost threshold, shall be eligible for payment in the initial catastrophic outlier pool.

3. Only the costs of the cases applicable to dates of service on or after March 1, 2011 shall be allowable for determination of payment from the pool.

F. Beginning with SFY 2012, the outlier pool will cover eligible claims with admission dates during the state fiscal year (July 1 through June 30) and shall not exceed \$10,000,000 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment,

divided by the sum of all eligible claims costs in excess of payments, multiplied by \$10,000,000.

G. The claim must be submitted no later than six months subsequent to the date that the final claim is paid and no later than September 15 of each year.

H. Qualifying cases for which payments are not finalized by September 1 shall be eligible for inclusion for payment in the subsequent state fiscal year outlier pool.

I. Outliers are not payable for:

1. transplant procedures; or
2. services provided to patients with Medicaid coverage that is secondary to other payer sources.

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, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 38:

§967. Children's Specialty Hospitals

A. - F. ...

G. Children's specialty hospitals are not eligible for the per diem adjustments established in §953.H.3 and §953.I.3.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 38:

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#056

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Reimbursement Methodology
Medical Education Payments
(LAC 50:V.551, 967 and 1331)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.551, §967 and §1331 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 provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions under the Medicaid State Plan to establish a coordinated system of care through an integrated network for the delivery of healthcare services to Medicaid recipients (*Louisiana Register*, Volume 37, Number 6). This delivery system,

comprised of managed care organizations (MCOs), was implemented to improve performance and health care outcomes for Medicaid recipients. The per member per month reimbursements to MCOs do not include payments for medical education services rendered by participating hospitals.

Therefore, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services which adopted provisions to continue medical education payments to state hospitals, children's specialty hospitals, and acute care hospitals classified as teaching hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for inpatient hospital services (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the February 1, 2012 Emergency Rule to clarify the provisions governing the reimbursement methodology for inpatient hospital services (*Louisiana Register*, Volume 38, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 5. State Hospitals

Subchapter B. Reimbursement Methodology

§551. Acute Care Hospitals

A. - D. ...

E. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days times the medical education costs included in each state hospital's interim per diem rate as calculated per the latest filed Medicaid cost report.

3. Final payment shall be determined based on the actual MCO covered days and allowable inpatient Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§967. Children's Specialty Hospitals

A. - H. ...

1. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid by Medicaid monthly as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days times the medical education costs included in each children's specialty hospital's interim per diem rate as calculated per the latest filed Medicaid cost report.

3. Final payment shall be determined based on the actual MCO covered days and medical education costs for the cost reporting period per the Medicaid cost report. Reimbursement shall be at the same percentage that is reimbursed for fee-for-service covered Medicaid costs after application of reimbursement caps as specified in §967.A-C and reductions specified in §967.F-H.

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, Bureau of Health Services Financing, LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 38:

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1331. Acute Care Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Qualifying hospitals must have a direct medical education add-on component included in their prospective Medicaid per diem rates as of January 31, 2012 which was carved-out of the per diem rate reported to the MCOs.

3. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each hospital's fee-for-service prospective per diem rate. Monthly payment amounts shall be verified by the Department semi-annually using reports of MCO covered days generated from encounter data. Payment adjustments or recoupments shall be made as necessary based on the MCO encounter data reported to 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, Bureau of Health Services Financing, LR 34:877 (May 2008), LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#057

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Emergency Ambulance Services
Supplemental Payments
(LAC 50:XXVII.327 and 355)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.327 and §355 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 provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. The department promulgated an Emergency Rule which established supplemental payments for governmental ambulance providers who render emergency medical transportation services to low income and needy patients in the state of Louisiana (*Louisiana Register*, Volume 37, Number 6). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2011 Emergency Rule to allow supplemental payments for all ambulance providers who render emergency medical transportation services to low income and needy patients (*Louisiana Register*, Volume 37, Number 7). The July 20, 2011 Emergency Rule was amended to allow supplemental payments to providers of air ambulance transportation services (*Louisiana Register*, Volume 37, Number 8). The department promulgated an Emergency Rule which rescinded and replaced the July 1, 2011, the July 20, 2011, and the August 20, 2011 Emergency Rules in order to promulgate clear and concise provisions governing supplemental payments for emergency ambulance services (*Louisiana Register*, Volume 37, Number 9). The department promulgated an Emergency Rule which amended the September 20, 2011 Emergency Rule to clarify the

provisions governing supplemental payments for emergency ambulance services (*Louisiana Register*, Volume 37, Number 12). The department promulgated an Emergency Rule which amended the December 20, 2011 Emergency Rule to further clarify the provisions governing supplemental payments for emergency ambulance services (*Louisiana Register*, Volume 38, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency ambulance services.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental payments for emergency medical transportation services rendered by ambulance providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§327. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter.

B. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to qualify to receive supplemental payments. The ambulance service provider must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider;
3. provider of emergency medical transportation or air ambulance services pursuant to 42 CFR 440.170; and
4. be affiliated with the Statewide Ambulance Service District.

C. Payment Methodology. The supplemental payment to each qualifying ambulance service provider will not exceed the sum of:

1. the difference between the Medicaid payments otherwise made to these qualifying providers for emergency medical transportation and air ambulance services and the average amount that would have been paid at the equivalent community rate; and
2. the difference between the payments made to these qualifying providers for emergency medical transportation and air ambulance services provided to uninsured patients and the average amount that would have been paid at the equivalent community rate.

D. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level. The community rate is defined as the average amount payable by commercial insurers for the same services.

E. Supplemental Payment Calculation. The following methodology shall be used to establish the quarterly supplemental payment for ambulance providers.

1. The department shall identify Medicaid ambulance service providers that were qualified to receive supplemental Medicaid reimbursement for emergency medical

transportation services and air ambulance services during the quarter.

2. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall identify the emergency medical transportation and air ambulance services for which the Medicaid ambulance service providers were eligible to be reimbursed.

3. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate the reimbursement paid to the Medicaid ambulance service providers for the emergency medical transportation and air ambulance services identified under Paragraph E.2.

4. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate the Medicaid ambulance service provider's equivalent community rate for each of the Medicaid ambulance service provider's services identified under Paragraph E.2.

5. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency medical transportation and air ambulance services under Paragraph E.3 from an amount equal to the amount calculated for each of the emergency medical transportation and air ambulance services under Paragraph E.4.

6. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate the sum of each of the amounts calculated for emergency medical transportation and air ambulance services under Paragraph E.5.

7. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate each emergency ambulance service provider's upper payment limit by totaling the provider's total Medicaid payment differential from Paragraph E.6.

8. The department will reimburse providers based on the following criteria:

a. For ambulance service providers identified in Paragraph E.1 located in large urban areas and owned by governmental entities, reimbursement will be up to 130 percent of the provider's average commercial rate calculated in Paragraph E.7. Aggregate payment will never exceed the maximum as defined in Subsection H below.

b. For all other ambulance service providers identified in E.1 reimbursement will be up to 80 percent of the provider's average commercial rate calculated in E.7.

9. - 17. Repealed.

F. Calculation of Average Commercial Rate. The supplemental payment will be determined in a manner to bring payments for these services up to the average commercial rate level.

1. For purposes of these provisions, the average community rate level is defined as the average amount payable by the commercial payers for the same services.

2. The state will align the paid Medicaid claims with the Medicare fees for each HCPCS or CPT code for the ambulance provider and calculate the Medicare payment for those claims. The state will then calculate an overall Medicare to commercial conversion factor for each ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims. The commercial to

Medicare ratio for each provider will be re-determined at least every three years.

G. The supplemental payment will be made effective for emergency medical transportation provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall be made no less than every three years.

H. The total amount to be paid by the state to qualified Medicaid ambulance service providers for supplemental Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under §327.E.6 for all qualified Medicaid ambulance service providers.

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, Bureau of Health Services Financing, LR 38:

Subchapter C. Air Transportation

§355. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter.

B. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to qualify to receive supplemental payments. The ambulance service provider must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider;
3. provider of emergency medical transportation or air ambulance services pursuant to 42 CFR 440.170; and
4. be affiliated with the Statewide Ambulance Service District.

C. Payment Methodology. The supplemental payment to each qualifying ambulance service provider will not exceed the sum of:

1. the difference between the Medicaid payments otherwise made to these qualifying providers for emergency medical transportation and air ambulance services and the average amount that would have been paid at the equivalent community rate; and

2. the difference between the payments made to these qualifying providers for emergency medical transportation and air ambulance services provided to uninsured patients and the average amount that would have been paid at the equivalent community rate.

D. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level. The community rate is defined as the average amount payable by commercial insurers for the same services.

E. Supplemental Payment Calculation. The following methodology shall be used to establish the quarterly supplemental payment for ambulance providers.

1. The department shall identify Medicaid ambulance service providers that were qualified to receive supplemental

Medicaid reimbursement for emergency medical transportation services and air ambulance services during the quarter.

2. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall identify the emergency medical transportation and air ambulance services for which the Medicaid ambulance service providers were eligible to be reimbursed.

3. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate the reimbursement paid to the Medicaid ambulance service providers for the emergency medical transportation and air ambulance services identified under Paragraph E.2.

4. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate the Medicaid ambulance service provider's equivalent community rate for each of the Medicaid ambulance service provider's services identified under Paragraph E.2.

5. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency medical transportation and air ambulance services under Paragraph E.3 from an amount equal to the amount calculated for each of the emergency medical transportation and air ambulance services under Paragraph E.4.

6. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate the sum of each of the amounts calculated for emergency medical transportation and air ambulance services under Paragraph E.5.

7. For each Medicaid ambulance service provider described in Paragraph E.1, the department shall calculate each emergency ambulance service provider's upper payment limit by totaling the provider's total Medicaid payment differential from Paragraph B.6.

8. The department will reimburse providers based on the following criteria.

- a. For ambulance service providers identified in Paragraph E.1. located in large urban areas and owned by governmental entities, reimbursement will be up to 130 percent of the provider's average commercial rate calculated in Paragraph E.7. Aggregate payment will never exceed the maximum as defined in Subsection H.

- b. For all other ambulance service providers identified in Paragraph E.1 reimbursement will be up to 80 percent of the provider's average commercial rate calculated in Paragraph E.7.

9. - 17. Repealed.

F. Calculation of Average Commercial Rate. The supplemental payment will be determined in a manner to bring payments for these services up to the average commercial rate level.

1. For purposes of these provisions, the average commercial rate level is defined as the average amount payable by the commercial payers for the same services.

2. The state will align the paid Medicaid claims with the Medicare fees for each HCPCS or CPT code for the ambulance provider and calculate the Medicare payment for those claims. The state will then calculate an overall Medicare to commercial conversion factor for each

ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

G. The supplemental payment will be made effective for air ambulance services provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall not be made less often than every three years.

H. The total amount to be paid by the state to qualified Medicaid ambulance service providers for supplemental Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under §327.E.6 for all qualified Medicaid ambulance service providers.

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, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#058

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Low Income and Needy Care Collaboration
(LAC 50:II.20023)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:II.20023 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 provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule

which amended the provisions governing the reimbursement methodology for nursing facilities to adopt provisions to establish a supplemental Medicaid payment for nursing facilities who enter into an agreement with a state or local governmental entity for the purpose of providing health care services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective June 30, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to establish a supplemental Medicaid payment to nursing facilities who participate in the Low Income and Needy Care Collaboration.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20023. Low Income and Needy Care Collaboration

A. Effective for dates of service on or after November 1, 2011, quarterly supplemental payments shall be issued to qualifying nursing facilities for services rendered during the quarter. Maximum aggregate payments to all qualifying nursing facilities shall not exceed the available upper payment limit per state fiscal year.

B. Qualifying Criteria. In order to qualify for the supplemental payment, the nursing facility must be affiliated with a state or local governmental entity through a Low Income and Needy Care Nursing Facility Collaboration Agreement.

1. A nursing facility is defined as a currently licensed and certified nursing facility which is owned or operated by a private entity or non-state governmental entity.

2. A Low Income and Needy Care Nursing Facility Collaboration Agreement is defined as an agreement between a nursing facility and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

C. Each qualifying nursing facility shall receive quarterly supplemental payments for nursing facility services. Quarterly payment distribution shall be limited to one-fourth of the aggregated difference between each qualifying nursing facility's Medicare rate and Medicaid payments the nursing facility receives for covered services provided to Medicaid recipients during a 12 consecutive month period. Medicare rates in effect for the dates of service included in the supplemental payment period will be used to establish the upper payment limit. Medicaid payments will be used for the same time period.

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, Bureau of Health Services Financing, LR 38:

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

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#059

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Private Room Conversions
(LAC 50:II.20010)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20010 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 provisions of 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 if the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to allow for additional payments for private room conversions when a Medicaid participating nursing facility converts one or more semi-private rooms to private rooms for occupancy by Medicaid recipients (*Louisiana Register*, Volume 33, Number 8). Act 150 of the 2010 Regular Session of the Louisiana Legislature directed the department to increase the fair rental value minimum occupancy percentage from 70 percent to 85 percent. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to ensure that the provisions governing private room conversions are consistent with the increase in the fair rental value minimum occupancy percentage which was adopted on July 1, 2011 (*Louisiana Register*, Volume 37, Number 10). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken in order to avoid a budget deficit in the medical assistance programs.

Effective June 30, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20010. Additional Payments and Square Footage

Adjustments for Private Room Conversion

[Formerly LAC 50:VII.1310]

A. - D.2.c. ...

3. Resident days used in the fair rental value per diem calculation will be the greater of the annualized actual resident days from the base year cost report or 85 percent of the revised annual bed days available after the change in licensed beds.

D.4 - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1646 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#060

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
State-Owned Hospitals—Medical Education Payments
(LAC 50:V.5319, 5519, 5919 and 6127)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5319, §5519, §5919 and amends §6127 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 provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions under the Medicaid State Plan to establish a coordinated system of care through an integrated network for the delivery of healthcare services to Medicaid recipients (*Louisiana Register*, Volume 37, Number 6). This delivery system,

comprised of managed care organizations (MCOs), was implemented to improve performance and health care outcomes for Medicaid recipients. The per member per month reimbursements to MCOs do not include payments for medical education services rendered by participating hospitals.

Therefore, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to continue medical education payments to state-owned hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for outpatient surgeries, clinic services, rehabilitation services, and other covered outpatient hospital services (*Louisiana Register*, Volume 38, Number 2). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the February 10, 2012 Emergency Rule to clarify the provisions governing the reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 38, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective July 19, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5319. State-Owned Hospitals

A. Effective for dates of service on or after February 1, 2012, medical education payments for outpatient surgery services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed by Medicaid annually through the Medicaid cost report settlement process.

1. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient surgery services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5519. State-Owned Hospitals

A. Effective for dates of service on or after February 10, 2012, medical education payments for outpatient clinic services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed by Medicaid annually through the Medicaid cost report settlement process.

1. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient clinic services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5919. State-Owned Hospitals

A. Effective for dates of service on or after February 10, 2012, medical education payments for outpatient rehabilitation services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed by Medicaid annually through the Medicaid cost report settlement process.

1. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient rehabilitation services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6127. State-Owned Hospitals

A. ...

B. Effective for dates of service on or after February 1, 2012, medical education payments which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed by Medicaid annually through the Medicaid cost report settlement process to state-owned hospitals for outpatient hospital services other than outpatient surgery services, clinic services, laboratory services, and rehabilitation services.

1. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:957 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#061

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
Supplemental Payments
(LAC 50:IX.15151 and 15153)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts §15151 and §15153 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 provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 36, Number 6). In addition, this Emergency Rule also repromulgated the provisions of the June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and ensuring recipient access to services.

Effective June 26, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services rendered by physicians and other professional service practitioners.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. Qualifying Criteria—State Owned or Operated Professional Services Practices

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the bureau as an essential provider; and

b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum

Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

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, Bureau of Health Services Financing, LR 38:0000 (June 2012).

§15153. Qualifying Criteria—Non-State Owned or Operated Professional Services Practices

A. Effective for dates of service on or after July 1, 2010, physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana; and
2. enrolled as a Louisiana Medicaid provider.

B. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

C. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH.

D. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined 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, Bureau of Health Services Financing, LR 38:0000 (June 2012).

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Practice of Mental Health Counseling for
Serious Mental Illnesses (LAC 46:LX.505)

The Louisiana Department of Health and Hospitals, Louisiana Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to adopt rules relative to the practice of mental health counseling, to be designated Section 505 of the board rules. This Emergency Rule was initially effective July 1, 2011, then on October 1, 2011, and again on March 1, 2012 for a period of 120 days. The same Emergency Rule is now effective July 1, 2012 for a period of 120 days. The Licensed Professional Counselor Board of Examiners is still in the process of developing permanent rules for Act 320 of 2011.

This action is necessary due to the immediate effect of Act 320 of 2011, which places additional duties on Louisiana professional counselors who treat serious mental illnesses. Because Act 320 was effective on June 28, 2011 upon the governor's signature, and because of the substantive changes made, there is insufficient time to promulgate these rules under the usual Administrative Procedures Act rulemaking process. However, it is the intent of the Louisiana Professional Counselors Board to submit a Notice of Intent to adopt a permanent Rule as soon as possible in connection with the proposed adoption of emergency rules on this subject.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LX. Licensed Professional Counselors Board of
Examiners**

Subpart 1. Licensed Professional Counselors

Chapter 5. License and Practice of Counseling

§505. Serious Mental Illnesses

A. Introduction. Act 320 of the 2011 Regular Session of the Louisiana Legislature amended the Louisiana Professional Counselors Practice Act as follows.

1. *Mental Health Counseling Services*—rendering or offering prevention, assessment, diagnosis, and treatment, which include psychotherapy, of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed professional counselor, which is consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession.

2. However, an LPC may not assess, diagnose, or provide treatment to any individual suffering from a serious mental illness unless that individual is under the active care of a practitioner who is licensed by the State Board of Medical Examiners and is authorized to prescribe medications in the management of psychiatric illness and only in the context of an ongoing consultation and collaboration with that practitioner.

B. Applicability. The requirement for collaboration and consultation set forth above shall apply only if any of the following conditions are assessed, diagnosed, or treated by the counselor:

1. schizophrenia or schizoaffective disorder;
2. bipolar disorder;
3. panic disorder;
4. obsessive-compulsive disorder;
5. major depressive disorder;
6. anorexia/bulimia;
7. intermittent explosive disorder;
8. autism;
9. psychosis NOS (not otherwise specified) when diagnosed in a child under 17 years of age;
10. Rett's disorder;
11. Tourette's disorder;
12. dementia.

C. Definitions

1. As used herein, *ongoing consultation and collaboration*—upon the initial diagnosis of a serious mental illness, the counselor shall initiate contact with the medical practitioner for the purpose of communicating the diagnosis and plan of care. The counselor will provide information to the medical practitioner regarding client progress as conditions warrant. Ongoing consultation and collaboration, for purposes of these rules and otherwise, shall not be construed as supervision. Further, “ongoing consultation and collaboration does not include the transfer between the consulting professionals of responsibility for the client’s care or the ongoing management of the client’s presenting problem(s).

2. As used herein, *active care*—the individual has or agrees to maintain or initiate a relationship with a practitioner who is licensed by the Louisiana State Board of Medical Examiners.

D. Effect on existing rules. All existing rules or parts thereof are hereby superceded and amended to the extent that they specifically conflict with these emergency rules. Existing board rules shall be revised and re-codified at such time as the final board rules implementing Act 320 are adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1105(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 38:

Mary Alice Olsan
Executive Director

1206#016

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Home and Community-Based Services Waivers
Repeal of Standards for Participation
(LAC 50:XXI.Chapter 1)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult

Services repeal LAC 50:XXI.Chapter 1 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 provisions of 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 Community Supports and Services adopted provisions to establish minimum standards for participation for enrolled home and community-based services (HCBS) waiver providers, with the exception of adult day health care facilities (*Louisiana Register*, Volume 29, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which repealed the provisions governing the Standards for Participation for HCBS waiver providers as a result of the promulgation of new minimum licensing standards governing these providers which revise and stipulate the new participation requirements (*Louisiana Register*, Volume 37, Number 10). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken to avoid federal sanctions due to inconsistent minimum standards for HCBS waiver providers.

Effective June 30, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeal the provisions governing the Standards for Participation for home and community-based services waiver providers.

Title 50

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

Subpart 1. General Provisions

Chapter 1. Standards for Participation

§101. Provider Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:1829 (September 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§103. Agency Responsibilities

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 29:1833 (September 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, 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.

Bruce D. Greenstein
Secretary

1206#052

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

State Sanitary Code—Additional Controls for Shellstock
Moving Through Interstate Commerce
(LAC 51:IX.321, 327, 329, and 331)

The Department of Health and Hospitals, Office of Public Health (DHH/OPH), pursuant to the rulemaking authority granted to the state health officer by R.S.40:4(A)(13), hereby adopts the following Rule for the protection of public health. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S.49:950, *et seq.*).

The state health officer, through DHH/OPH, finds it necessary to promulgate an Emergency Rule effective May 11, 2012. The Emergency Rule is scheduled to terminate 120 days from May 11, 2012. A Notice of Intent is expected to be published in the May 20, 2012 issue of the *Louisiana Register* with the goal of adopting a permanent rule soon, but no earlier than September 20, 2012. A public hearing for the proposed permanent Rule is expected to be held on July 26, 2012.

DHH/OPH finds it necessary to make changes to the Louisiana State Sanitary Code (LAC 51) in effort to be in compliance with the changes made to the National Shellfish Sanitation Program (NSSP) Model Ordinance. The executive board of the Interstate Shellfish Sanitation Conference (ISSC) adopted changes to the NSSP Model Ordinance, with concurrence from the U.S. Food and Drug Administration (USFDA), at their March 2012 meeting. Louisiana must adopt these changes to remain in compliance with the USFDA, which will result in oysters being allowed to be shipped in interstate commerce.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part IX. Marine and Fresh Water Animal Food Products

Chapter 3. Preparation and Handling of Seafood for Market

§321. Shipping Shell-Stock Requirements [formerly paragraph 9:047]

A. - C. ...

D. [formerly paragraph 9:050] Railroad cars and trucks in which shellfish are shipped in sacks shall be kept clean. All cars and trucks shall be subjected to proper inspection to see that they conform to this rule. Conveyances used to transport shellstock shall be constructed to prevent contamination, deterioration, or decomposition of the shellstock during transport.

Conveyances must be pre-chilled to 45°F or below prior to loading. The dealer shall keep a record of compliance with the pre-chilling requirement.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1307 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008), LR 34:2175 (October 2008), LR 35:1239 (July 2009), LR 38:

§327. Refrigeration of Shell-Stock Oysters, Clams and Mussels [formerly paragraph 9:052]

A. - D. ...

E. To comply with the time to temperature requirements for harvested shellstock for raw consumption, the type of cooling must be capable of achieving the required internal temperature within the time frames required in the *Vibrio vulnificus* control plan developed by the Office of Public Health Molluscan Shellfish Program (see §329.A). The use of tempering and inadequate cooling is not acceptable. Cooling that occurs prior to receipt by the original dealer does not alleviate the dealer requirement to document the time to internal temperature requirements.

F. To comply with the time to temperature requirements for harvested shellstock for shucking or post-harvest processing consumption, the type of cooling must be capable of achieving the required internal temperature within the time frames required in the *Vibrio vulnificus* control plan developed by the Office of Public Health Molluscan Shellfish Program (see §331.A) or in the matrix for all other shellstock. The use of tempering and inadequate cooling is not acceptable. Cooling that occurs prior to receipt by the original dealer does not alleviate the dealer requirement to document the time to internal temperature requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:1016 (May 2010), LR 38:

§329. Refrigeration Requirements for Shell-stock Harvested for Raw Consumption during the Months January through December [formerly paragraph 9:052-1]

A. - A.3. ...

B. For shellstock harvested for raw consumption, harvesters will adhere to the applicable time and temperature controls as established by the *Vibrio vulnificus* control plan in this Section developed by the Office of Public Health Molluscan Shellfish Program. The harvester must provide harvest records to the original shellfish dealer demonstrating compliance with the applicable time and temperature requirements. This record may be in the form of a harvester tag, trip record, or other record deemed appropriate by the Office of Public Health Molluscan Shellfish Program. The record must include the date and time harvest begins for each lot of shellfish harvested. It shall be the responsibility of the harvester to properly separate and identify each lot upon being placed under refrigeration. The Harvester shall

document the time harvest begins for each lot prior to harvest and shall immediately document the time each lot is placed under refrigeration. It shall also be the responsibility of the harvester to record the number of sacks contained within each lot immediately after oysters are placed under refrigeration. Harvest vessels equipped with refrigeration capabilities must provide documentation to the original dealer that the time and temperature requirements established by the *Vibrio vulnificus* control plan developed by the Office of Public Health Molluscan Shellfish Program (see §329.A) have been met.

C. Under the requirements of the *Vibrio vulnificus* control plan during the months of March through November, if oysters are removed from a vessel before the product reaches an internal temperature of 55°F or below, it is the dealer's responsibility to verify that all lots of oysters harvested and placed in mechanical refrigeration meet the internal temperature of 55°F or below in six hours. This shall be documented on the same log sheet that was provided to the dealer from the harvester.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:1016 (May 2010), LR 38: 0000 (June 2012).

§331. Refrigeration Requirements for Shell-Stock Harvested for Shucking or Post-Harvest Processing by a Certified Dealer during the months January through December [formerly paragraph 9:052-2]

A. Time to refrigeration requirements for shell-stock harvested for shucking or post-harvest processing consumption during the months January through December shall be based on the average monthly growing water temperatures developed by the Office of Public Health Molluscan Shellfish Program according to the following schedule.

1. Water Temperature: <50°F. Shellstock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 36 hours from the time harvesting begins.

2. Water Temperature: 50°F to 60°F. Shellstock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 24 hours from the time harvesting begins.

3. Water Temperature: 60°F - 80°F. Shellstock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 18 hours from the time harvesting begins.

4. Water Temperature: ≥81°F. Shellstock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 12 hours from the time harvesting begins.

B. Dealer/harvester tags utilized to identify shell-stock harvested for shucking or post-harvest processing consumption by a certified dealer must be identified with the green tag which states: "FOR SHUCKING BY A CERTIFIED DEALER OR POST-HARVEST PROCESSING ONLY".

C. For shellstock harvested for shucking or post-harvest processing consumption, harvesters will adhere to the applicable time and temperature controls as established in

this Section by the Office of Public Health Molluscan Shellfish Program. The harvester must provide harvest records to the original shellfish dealer demonstrating compliance with the applicable time and temperature requirements. This record may be in the form of a harvester tag, trip record, or other record deemed appropriate by the Office of Public Health Molluscan Shellfish Program. The record must include the date and time harvest begins for each lot of shellfish harvested. Harvest vessels equipped with refrigeration capabilities must provide documentation to the original dealer that the time and temperature requirements established by the Office of Public Health Molluscan Shellfish Program have been met.

D. "Green" or restricted use tag product may be shipped in commerce if the internal temperature is 50°F or below. If the oysters have not reached an internal temperature of 50°F or below, the product may be shipped provided a working time/temperature recording device accompanies every shipment. Shipments of 4 hours or less will not be required to have a working time/temperature recording device. The documentation stating the time of shipment will accompany the bill of lading and will be used to determine if shipment is less than 4 hours.

E. All shellstock that has been refrigerated must not be allowed to remain without mechanical refrigeration for more than 2 hours at points of processing or transfer such as loading docks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:1016 (May 2010), LR 38: 0000 (June 2012).

Jimmy Guidry, M.D.
State Health Officer
and
Bruce D. Greenstein
Secretary

1206#012

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Statewide Orders No. 29-B and 29-B-a—Operational and Safety Requirements for Wells Drilled in Search or for the Production of Oil or Natural Gas at Water Locations (LAC 43:XIX.Chapters 2 and 11)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by extending the effectiveness of the Emergency Rule it supersedes for

drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. The following Emergency Rule provides for the extension of the Rule allowing more time to complete comprehensive Rule amendments.

In light of the Gulf of Mexico Deepwater Horizon oil spill incident in federal waters approximately 50 miles off Louisiana's coast and the threat posed to the natural resources of the state, and the economic livelihood and property of the citizens of the state caused thereby, the Office of Conservation began a new review of its current drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. While the incidents of blowout of Louisiana wells is minimal, occurring at less than three-tenths of one percent of the wells drilled in Louisiana since 1987, the great risk posed by blowouts at water locations to the public health, safety and welfare of the people of the state, as well as the environment generally, necessitated the rule amendments contained herein.

After implementation of the Emergency Rule, Conservation formed an ad hoc committee to further study comprehensive rulemaking in order to promulgate new permanent regulations which ensure increased operational and safety requirements for the drilling or completion of oil and gas wells at water locations within the state. Based upon the work of this ad hoc committee, draft proposed rules that would replace these emergency rules are being created for the consideration and comment by interested parties. It is expected that these draft proposed rules will be published in the Potpourri Section of the *Louisiana Register* on July 20, 2012.

The Emergency Rule set forth hereinafter is intended to provide greater protection to the public health, safety and welfare of the people of the state, as well as the environment generally by extending the effectiveness of new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Following the Gulf of Mexico-Deepwater Horizon oil spill, the Office of Conservation ("Conservation") investigated the possible expansion of Statewide Orders No. 29-B and 29-B-a requirements relating to well control at water locations. As part of the rule expansion project, Conservation reviewed the well control regulations of the U.S. Department of the Interior's Mineral Management Service or MMS (now named the Bureau of Safety and Environmental Enforcement). Except in the instances where it was determined that the MMS provisions were repetitive of other provisions already being incorporated, were duplicative of existing Conservation regulations or were not applicable to the situations encountered in Louisiana's waters, all provisions of the MMS regulations concerning well control issues at water locations were promulgated in the preceding Emergency Rules, which this Rule supersedes, were integrated into Conservation's Statewide Orders No. 29-B and 29-B-a.

Conservation is currently performing a comprehensive review of its regulations as it considers future amendments to its operational rules and regulations found in Statewide Order No. 29-B and elsewhere. Specifically, the Emergency Rule extends the effectiveness of a new Chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to

provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional requirements for applications to drill, casing program requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the required use of storm chokes in oil and gas wells at water locations.

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the state, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally. By this Rule Conservation extends the effectiveness of the following requirements until such time as final comprehensive rules may be promulgated or 120 days from the effective date of this Rule, whichever occurs first.

Protection of the public and our environment therefore requires the commissioner of Conservation to extend the following Rule in order to assure that drilling and completion of oil and gas wells at water locations within the state are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel and the environment generally. The Emergency Rule, Amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) ("Emergency Rule") forth hereinafter are adopted and extended by the Office of Conservation.

The Emergency Rule signed by the commissioner on January 23, 2012 and effective January 23, 2012 is hereby rescinded and replaced by the following Emergency Rule.

The effective date of this Emergency Rule will be May 23, 2012. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an amendment to Statewide Order No. 29-B and Statewide Order No. 29-B-a as noted herein, whichever occurs first.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 2. Additional Requirements for Water Locations

§201. Applicability

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state shall comply with this Chapter.

B. Unless otherwise stated herein, nothing within this Chapter shall alter the obligation of oil and gas operators to meet the requirements of Chapter 1 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§203. Application to Drill

A. In addition to the requirements set forth in Section 103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the spill prevention control (SPC) plan that was submitted to DEQ pursuant to the provisions of Part IX of Title 33 of the Louisiana Administrative Code or any successor rule. Such plan shall become a part of the official well file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§204. Rig Movement and Reporting

A. The operator must report the movement of all drilling and workover rig units on and off locations to the appropriate district manager with the rig name, well serial number and expected time of arrival and departure.

B. Drilling operations on a platform with producing wells or other hydrocarbon flow must comply with the following.

1. An emergency shutdown station must be installed near the driller's console.

2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:

a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;

b. a drilling unit is moved or skid between wells on a platform;

c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.

3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

C. The movement of rigs and related equipment on and off a platform or from well to well on the same platform, including rigging up and rigging down, shall be conducted in a safe manner. All wells in the same well-bay which are capable of producing hydrocarbons shall be shut in below the surface with a pump-through-type tubing plug and at the surface with a closed master valve prior to moving well-completion rigs and related equipment, unless otherwise approved by the district manager. A closed surface-controlled subsurface safety valve of the pump-through type may be used in lieu of the pump-through-type tubing plug, provided that the surface control has been locked out of operation. The well from which the rig or related equipment is to be moved shall also be equipped with a back-pressure valve prior to removing the blowout preventer (BOP) system and installing the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§205. Casing Program

A. General Requirements

1. The operator shall case and cement all wells with a sufficient number of strings of casing and quantity and quality of cement in a manner necessary to prevent fluid migration in the wellbore, protect the underground source of drinking water (USDW) from contamination, support unconsolidated sediments, and otherwise provide a means of control of the formation pressures and fluids.

2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

3. All tubulars and cement shall meet or exceed API standards. Cementing jobs shall be designed so that cement composition, placement techniques, and waiting times ensure that the cement placed behind the bottom 500 feet of casing attains a minimum compressive strength of 500 psi before drilling out of the casing or before commencing completion operations.

4. Centralizers

a. Surface casing shall be centralized by means of placing centralizers in the following manner.

b. A centralizer shall be placed on every third joint from the shoe to surface, with two centralizers being placed on each of the lowermost three joints of casing.

c. If conductor pipe is set, three centralizers shall be equally spaced on surface casing to fall within the conductor pipe.

d. Intermediate and production casing, and drilling and production liners shall be centralized by means of a centralizer placed every third joint from the shoe to top of cement. Additionally, two centralizers shall be placed on each of the lowermost three joints of casing.

e. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the well history and work resume report (Form WH-1).

B. Conductor Pipe. A conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. A conductor pipe shall be used during the drilling of any oil and gas well and shall be set at depth that allows use of a diverter system.

C. Surface Casing

1. Where no danger of pollution of the USDW exists, the minimum amount of surface or first-intermediate casing to be set shall be determined from Table 1 hereof, except that in no case shall less surface casing be set than an amount needed to protect the USDW unless an alternative method of USDW protection is approved by the district manager.

Table 1		
Total Depth of Contact	Casing Required	Surface Casing Test Pressure (lbs. per sq. in.)
0-2500	100	300
2500-3000	150	600
3000-4000	300	600
4000-5000	400	600
5000-6000	500	750
6000-7000	800	1000
7000-8000	1000	1000
8000-9000	1400	1000
9000-Deeper	1800	1000

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and

additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

2. Surface casing shall be cemented with a sufficient volume of cement to insure cement returns to the surface.

3. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in Table 1 after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of test pressure as outlined in Table 1, the operator shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure. The provisions of Paragraph E.7, below, for the producing casing, shall also apply to the surface casing.

4. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

D. Intermediate Casing/Drilling Liner

1. Intermediate casing is that casing used as protection against caving of heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata. Intermediate casing/drilling liner shall be set when required by abnormal pressure or other well conditions.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the Office of Conservation after due hearing. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the intermediate casing.

3. Intermediate casing/drilling liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The drilling liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. Before drilling the plug in the intermediate string of casing, the casing shall be tested by pump pressure, as determined from Table 2 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

Table 2. Intermediate Casing and Liner	
Depth Set	Test Pressure (lbs. per sq. in.)
2000-3000'	800
3000-6000'	1000

Table 2. Intermediate Casing and Liner	
Depth Set	Test Pressure (lbs. per sq. in.)
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. If the test is unsatisfactory, the operator shall not proceed with the drilling of the well until a satisfactory test has been obtained.

E. Producing String

1. Producing string, production casing or production liner is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the Office of Conservation.

3. Cement shall be by the pump-and-plug method, or another method approved by the Office of Conservation. Production casing/production liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as a producing string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The production liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test in the producing or oil string. Under pressure is complied with if one or more float valves

are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from Table 3 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

Depth Set	Test Pressure (lbs. per sq. in.)
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the district office, signed by the operator and witness, shall be furnished to the district office showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

F. Cement Evaluation

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with LAC 43:XIX.205.D.3 and E.3.

2. Remedial cementing operations that are required to achieve compliance with LAC 43:XIX.205.D.3 and E.3 shall be conducted following receipt of an approved work permit from the district manager for the proposed operations.

3. Cementing and wireline records demonstrating the presence of the required cement tops shall be retained by the operator for a period of two years.

G. Leak-off Tests

1. A pressure integrity test must be conducted below the surface casing or liner and all intermediate casings or liners. The district manager may require a pressure-integrity test at the conductor casing shoe if warranted by local geologic conditions or the planned casing setting depth. Each pressure integrity test must be conducted after drilling at least 10 feet but no more than 50 feet of new hole below the casing shoe and must be tested to either the formation leak-off pressure or to the anticipated equivalent drilling fluid weight at the setting depth of the next casing string.

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

b. While drilling, a safe drilling margin must be maintained. When this safe margin cannot be maintained, drilling operations must be suspended until the situation is remedied.

H. Prolonged Drilling Operations

1. If wellbore operations continue for more than 30 days within a casing string run to the surface:

a. drilling operations must be stopped as soon as practicable, and the effects of the prolonged operations on continued drilling operations and the life of the well evaluated. At a minimum, the operator shall:

- i. caliper or pressure test the casing; and
- ii. report evaluation results to the district manager and obtain approval of those results before resuming operations;

b. if casing integrity as determined by the evaluation has deteriorated to a level below minimum safety factors, the casing must be repaired or another casing string run. Approval from the district manager shall be obtained prior to any casing repair activity.

I. Tubing and Completion

1. Well-completion operations means the work conducted to establish the production of a well after the production-casing string has been set, cemented, and pressure-tested.

2. Prior to engaging in well-completion operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review by the Office of Conservation.

3. When well-completion operations are conducted on a platform where there are other hydrocarbon-producing wells or other hydrocarbon flow, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station.

4. No tubing string shall be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

5. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

6. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure off of the casing.

7. Wellhead Connections. Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the Office of Conservation. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

8. When the tree is installed, the wellhead shall be equipped so that all annuli can be monitored for sustained pressure. If sustained casing pressure is observed on a well, the operator shall immediately notify the district manager.

9. Wellhead, tree, and related equipment shall have a pressure rating greater than the shut-in tubing pressure and shall be designed, installed, used, maintained, and tested so as to achieve and maintain pressure control. New wells completed as flowing or gas-lift wells shall be equipped with a minimum of one master valve and one surface safety valve, installed above the master valve, in the vertical run of the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§207. Diverter Systems and Blowout Preventers

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;
2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;
3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;
4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;
5. anchor and support systems to prevent whipping and vibration;
6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.
2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.

4. Function tests and pressure tests shall be alternated between control stations.

5. Recordkeeping Requirements

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing.

1. BOP system components for drilling activity located over a body of water shall be designed and utilized, as necessary, to control the well under all potential conditions that might occur during the operations being conducted and at minimum, shall include the following components:

- a. annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. two sets of hydraulically-operated pipe rams.

2. Drilling activity with a tapered drill string shall require the installation of two or more sets of conventional or variable-bore pipe rams in the BOP stack to provide, at minimum, two sets of rams capable of sealing around the larger-size drill string and one set of pipe rams capable of sealing around the smaller-size drill string.

3. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

4. All connections used in the surface BOP system must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

5. The commissioner of Conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.207.C-J.

D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following:

1. a hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system;
2. a backup to the primary accumulator-charging system, supplied by a power source independent from the

power source to the primary, which shall be sufficient to close all BOP components and hold them closed;

3. accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost;

4. at least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable;

5. a drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines;

6. a kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. The choke line shall be installed above the bottom ram. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore;

7. a valve installed below the swivel (upper kelly cock), essentially full-opening, and a similar valve installed at the bottom of the kelly (lower kelly cock). An operator must be able to strip the lower kelly cock through the BOP stack. A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew. If drilling with a mud motor and utilizing drill pipe in lieu of a kelly, you must install one kelly valve above, and one strippable kelly valve below the joint of pipe used in place of a kelly. On a top-drive system equipped with a remote-controlled valve, you must install a strippable kelly-type valve below the remote-controlled valve;

8. an essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew;

9. a safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole;

10. locking devices installed on the ram-type preventers.

F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

b. immediately following installation of the BOPs;

c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner.);

e. Not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone.);

f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2. in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70 percent of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

6. If the BOP equipment does not hold the required pressure during a test, the problem must be remedied and a retest of the affected component(s) performed. Additional BOP testing requirements.

a. Use water to test the surface BOP system.

b. If a control station is not functional operations shall be suspended until that station is operable.

c. Test affected BOP components following the disconnection or repair of any well-pressure containment seal in the wellhead or BOP stack assembly.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder. All documents are to be retained for inspection at the wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

J. Well Control Operations

1. The operator must take necessary precautions to keep wells under control at all times and must:

a. use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick;

b. have a person onsite during drilling operations who represents the operators interests and can fulfill the operators responsibilities;

c. ensure that the tool pusher, operator's representative, or a member of the drilling crew maintains continuous surveillance on the rig floor from the beginning of drilling operations until the well is completed or abandoned, unless you have secured the well with blowout preventers (BOPs), bridge plugs, cement plugs, or packers;

d. use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

2. Whenever drilling operations are interrupted, a downhole safety device must be installed, such as a cement plug, bridge plug, or packer. The device must be installed at an appropriate depth within a properly cemented casing string or liner.

a. Among the events that may cause interruption to drilling operations are:

i. evacuation of the drilling crew;

ii. inability to keep the drilling rig on location; or

iii. repair to major drilling or well-control equipment.

3. If the diverter or BOP stack is nipped down while waiting on cement, it must be determined, before nipping down, when it will be safe to do so based on knowledge of formation conditions, cement composition, effects of nipping down, presence of potential drilling hazards, well conditions during drilling, cementing, and post cementing, as well as past experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§209. Casing-Heads

A. All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§211. Oil and Gas Well-Workover Operations

A. Definitions. When used in this Section, the following terms shall have the meanings given below.

Expected Surface Pressure—the highest pressure predicted to be exerted upon the surface of a well. In calculating expected surface pressure, reservoir pressure as well as applied surface pressure must be considered.

Routine Operations—any of the following operations conducted on a well with the tree installed including cutting paraffin, removing and setting pump-through-type tubing plugs, gas-lift valves, and subsurface safety valves which can be removed by wireline operations, bailing sand, pressure surveys, swabbing, scale or corrosion treatment, caliper and gauge surveys, corrosion inhibitor treatment, removing or replacing subsurface pumps, through-tubing logging, wireline fishing, and setting and retrieving other subsurface flow-control devices.

Workover Operations—the work conducted on wells after the initial completion for the purpose of maintaining or restoring the productivity of a well.

B. When well-workover operations are conducted on a well with the tree removed, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station, except when there is no other hydrocarbon-producing well or other hydrocarbon flow on the platform.

C. Prior to engaging in well-workover operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time

of safety meetings shall be recorded and available for review.

D. Well-control fluids, equipment, and operations. The following requirements apply during all well-workover operations with the tree removed.

1. The minimum BOP-system components when the expected surface pressure is less than or equal to 5,000 psi shall include one annular-type well control component, one set of pipe rams, and one set of blind-shear rams.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams.

3. BOP auxiliary equipment in accordance with the requirements of LAC 43:XIX.207.E.

4. When coming out of the hole with drill pipe or a workover string, the annulus shall be filled with well-control fluid before the change in such fluid level decreases the hydrostatic pressure 75 pounds per square inch (psi) or every five stands of drill pipe or workover string, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and the equivalent well-control fluid volume shall be calculated and posted near the operator's station. A mechanical, volumetric, or electronic device for measuring the amount of well-control fluid required to fill the hold shall be utilized.

5. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- a. a fill-up line above the uppermost BOP;
- b. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
- c. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. The minimum BOP-system components for well-workover operations with the tree in place and performed through the wellhead inside of conventional tubing using small-diameter jointed pipe (usually 3/4 inch to 1 1/4 inch) as a work string, i.e., small-tubing operations, shall include two sets of pipe rams, and one set of blind rams.

1. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

F. For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system.

1. BOP system components must be in the following order from the top down when expected surface pressures are less than or equal to 3,500 psi:

- a. stripper or annular-type well control component.
- b. hydraulically-operated blind rams.
- c. hydraulically-operated shear rams.
- d. kill line inlet
- e. hydraulically operated two-way slip rams.
- f. hydraulically operated pipe rams

2. BOP system components must be in the following order from the top down when expected surface pressures are greater than 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.

3. BOP system components must be in the following order from the top down for wells with returns taken through an outlet on the BOP stack:

- a. stripper or annular-type well control component.
- b. hydraulically-operated blind rams.
- c. hydraulically-operated shear rams.
- d. kill line inlet
- e. hydraulically-operated two-way slip rams.
- f. hydraulically-operated pipe rams.
- g. a flow tee or cross.
- h. hydraulically-operated pipe rams.
- i. hydraulically-operated blind-shear rams on wells

with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

4. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

5. A set of hydraulically-operated combination rams may be used for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

6. A dual check valve assembly must be attached to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing well-workover operations. To conduct operations without a downhole check valve, it must be approved by the district manager.

7. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

8. The hydraulic-actuating system must provide sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure without assistance from a charging system.

9. All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

10. The coiled tubing connector must be tested to a low pressure of 200 to 300 psi, followed by a high pressure test to the rated working pressure of the connector or the expected surface pressure, whichever is less. The dual check valves must be successfully pressure tested to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less.

G. The minimum BOP-system components for well-workover operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, i.e., snubbing operations, shall include the following:

1. one set of pipe rams hydraulically operated, and
2. two sets of stripper-type pipe rams hydraulically operated with spacer spool.

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be five minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

I. Wireline Operations. The operator shall comply with the following requirements during routine, as defined in Subsection A of this Section, and nonroutine wireline workover operations.

1. Wireline operations shall be conducted so as to minimize leakage of well fluids. Any leakage that does occur shall be contained to prevent pollution.

2. All wireline perforating operations and all other wireline operations where communication exists between the completed hydrocarbon-bearing zone(s) and the wellbore shall use a lubricator assembly containing at least one wireline valve.

3. When the lubricator is initially installed on the well, it shall be successfully pressure tested to the expected shut-in surface pressure.

J. Following completion of the well-workover activity, all such records shall be retained by the operator for a period of two years.

K. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§213. Diesel Engine Safety Requirements

A. Each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

1. A diesel engine that is not continuously manned, must be equipped with an automatic shutdown device.

2. A diesel engine that is continuously manned, may be equipped with either an automatic or remote manual air intake shutdown device.

3. A diesel engine does not have to be equipped with an air intake device if it meets one of the following criteria:

- a. starts a larger engine;
- b. powers a firewater pump;
- c. powers an emergency generator;
- d. powers a BOP accumulator system;
- e. provides air supply to divers or confined entry personnel;
- f. powers temporary equipment on a nonproducing platform;
- g. powers an escape capsule; or
- h. powers a portable single-cylinder rig washer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§215. Drilling Fluids

A. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

B. Well-control fluids, equipment, and operations shall be designed, utilized, maintained, and/or tested as necessary to control the well in foreseeable conditions and circumstances.

C. The well shall be continuously monitored during all operations and shall not be left unattended at any time unless the well is shut in and secured.

D. The following well-control-fluid equipment shall be installed, maintained, and utilized:

1. a fill-up line above the uppermost BOP;
2. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
3. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. Safe Practices

1. Before starting out of the hole with drill pipe, the drilling fluid must be properly conditioned. A volume of drilling fluid equal to the annular volume must be circulated with the drill pipe just off-bottom. This practice may be omitted if documentation in the driller's report shows:

- a. no indication of formation fluid influx before starting to pull the drill pipe from the hole;
- b. the weight of returning drilling fluid is within 0.2 pounds per gallon of the drilling fluid entering the hole.

2. Record each time drilling fluid is circulated in the hole in the driller's report.

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that you may pull must be calculated before you fill the hole. Both sets of numbers must be posted near the driller's

station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

4. Controlled rates must be used to run and pull drill pipe and downhole tools so you do not swab or surge the well.

5. When there is an indication of swabbing or influx of formation fluids, appropriate measures must be taken to control the well. Circulate and condition the well, on or near-bottom, unless well or drilling-fluid conditions prevent running the drill pipe back to the bottom.

6. The maximum pressures must be calculated and posted near the driller's console that you may safely contain under a shut-in BOP for each casing string. The pressures posted must consider the surface pressure at which the formation at the shoe would break down, the rated working pressure of the BOP stack, and 70 percent of casing burst (or casing test as approved by the district manager). As a minimum, you must post the following two pressures:

a. the surface pressure at which the shoe would break down. This calculation must consider the current drilling fluid weight in the hole; and

b. the lesser of the BOP's rated working pressure or 70 percent of casing-burst pressure (or casing test otherwise approved by the district manager).

7. An operable drilling fluid-gas separator and degasser must be installed before you begin drilling operations. This equipment must be maintained throughout the drilling of the well.

8. The test fluids in the hole must be circulated or reverse circulated before pulling drill-stem test tools from the hole. If circulating out test fluids is not feasible, with an appropriate kill weight fluid test fluids may be bullhead out of the drill-stem test string and tools.

9. When circulating, the drilling fluid must be tested at least once each work shift or more frequently if conditions warrant. The tests must conform to industry-accepted practices and include density, viscosity, and gel strength; hydrogen ion concentration; filtration; and any other tests the district manager requires for monitoring and maintaining drilling fluid quality, prevention of downhole equipment problems and for kick detection. The test results must be recorded in the drilling fluid report.

F. Monitoring Drilling Fluids

1. Once drilling fluid returns are established, the following drilling fluid-system monitoring equipment must be installed throughout subsequent drilling operations. This equipment must have the following indicators on the rig floor:

a. pit level indicator to determine drilling fluid-pit volume gains and losses. This indicator must include both a visual and an audible warning device;

b. volume measuring device to accurately determine drilling fluid volumes required to fill the hole on trips;

c. return indicator devices that indicate the relationship between drilling fluid-return flow rate and pump discharge rate. This indicator must include both a visual and an audible warning device; and

d. gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must

continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

G. Drilling Fluid Quantities

1. Quantities of drilling fluid and drilling fluid materials must be maintained and replenished at the drill site as necessary to ensure well control. These quantities must be determined based on known or anticipated drilling conditions, rig storage capacity, weather conditions, and estimated time for delivery.

2. The daily inventories of drilling fluid and drilling fluid materials must be recorded, including weight materials and additives in the drilling fluid report.

3. If there are not sufficient quantities of drilling fluid and drilling fluid material to maintain well control, the drilling operations must be suspended.

H. Drilling Fluid-Handling Areas

1. Drilling fluid-handling areas must be classified according to API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class I, Division 1 and Division 2 or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class 1, Zone 0, Zone 1, and Zone 2. In areas where dangerous concentrations of combustible gas may accumulate. A ventilation system and gas monitors must be installed and maintained. Drilling fluid-handling areas must have the following safety equipment:

a. a ventilation system capable of replacing the air once every 5 minutes or 1.0 cubic feet of air-volume flow per minute, per square foot of area, whichever is greater. In addition:

i. if natural means provide adequate ventilation, then a mechanical ventilation system is not necessary;

ii. if a mechanical system does not run continuously, then it must activate when gas detectors indicate the presence of 1 percent or more of combustible gas by volume; and

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following:

(a). a pressure-sensitive alarm;

(b). open-door alarms on each access to the area;

(c). automatic door-closing devices;

(d). air locks; or

(e). other devices approved by the district manager;

b. gas detectors and alarms except in open areas where adequate ventilation is provided by natural means. Gas detectors must be tested and recalibrated quarterly. No more than 90 days may elapse between tests;

c. explosion-proof or pressurized electrical equipment to prevent the ignition of explosive gases. Where air is used for pressuring equipment, the air intake must be located outside of and as far as practicable from hazardous areas; and

d. alarms that activate when the mechanical ventilation system fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

Subpart 4. Statewide Order No. 29-B-a

Chapter 11. Required Use of Storm Chokes

§1101. Scope

A. Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 38:

§1103. Applicability

A. All wells capable of flow with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;
2. located in bodies of water being actively navigated;
3. located in wildlife refuges and/or game preserves;
4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;
5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area east of a north-south line drawn through New Iberia and south of an east-west line through Opelousas;
6. located within 660 feet of state and federal highways in northeast Louisiana, in that area bounded on the west by the Ouachita River, on the north by the Arkansas-Louisiana line, on the east by the Mississippi River, and on the south by the Black and Red Rivers;
7. located within 660 feet of the following highways:
 - a. U.S. Highway 71 between Alexandria and Krotz Springs;
 - b. U.S. Highway 190 between Opelousas and Krotz Springs;
 - c. U.S. Highway 90 between Lake Charles and the Sabine River;
8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 38:

§1104. General Requirements for Storm Choke Use at Water Locations

A. This Section only applies to oil and gas wells at water locations.

B. A subsurface safety valve shall be designed, installed, used, maintained, and tested to ensure reliable operation.

1. The device shall be installed at a depth of 100 feet or more below the seafloor within 2 days after production is established.

2. Until a subsurface safety device is installed, the well shall be attended in the immediate vicinity so that emergency actions may be taken while the well is open to flow. During testing and inspection procedures, the well

shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the subsurface safety device is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute Recommended Practice 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

C. Temporary Removal for Routine Operations

1. Each wireline or pumpdown-retrievable subsurface safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R,

2. The well shall be identified by a sign on the wellhead stating that the subsurface safety device has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a subsurface safety valve is removed, the reason for its removal, and the date it is reinstalled.

D. Emergency Action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSV's must be inspected, installed, maintained, and tested in accordance with API RP 14H, Recommended Practice for Installation, Maintenance, and Repair of Surface Safety Valves and Underwater Safety Valves Offshore.

2. Testing requirements for subsurface safety devices are as follows.

a. All SSSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than six weeks elapse between tests. SSSV's must be tested in accordance with the test procedures specified in API RP 14H. If a SSSV does not operate properly or if any fluid flow is observed during the leakage test, the valve shall be repaired or replaced.

b. Each subsurface-controlled SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of two years for each safety device installed.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

§1105. Waivers

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the district manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 38:

James H. Welsh
Commissioner

1206#008

Rules

RULE

Amite River Basin and Water Conservation District

Expropriation of Property (Chapter 3)

In accordance with the provisions of R.S. 38:3302 et seq., the Amite River Basin Drainage and Water Conservation District hereby adopts the following Rule. The purpose of this Rule is to establish policies and procedures for the acquisition of property for the Comite Diversion Canal Project.

AMITE RIVER BASIN DRAINAGE AND WATER CONSERVATION DISTRICT

Chapter 3. Expropriation of Property by a Declaration of Taking by the Amite River Basin Drainage and Water Conservation District

§301. Short Title

A. This Chapter shall be known as Expropriation of Property by a Declaration of Taking by the Amite River Basin Drainage and Water Conservation District.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1383 (June 2012).

§302. Legislative Declaration

A. The Board of Commissioners for the Amite River Basin Drainage and Water Conservation District was created by La. R.S. 38:3302. Any rules or regulations for comprehensive drainage, flood control and water resources development, reservoir, and diversion canal systems shall be adopted in accordance with R.S. 38:3306. Therefore, prior to the adoption, amendment, or repeal of any rule or regulation by the board, the proposed rule or regulation shall be submitted to the House Committee on Transportation, Highways, and Public Works and the Senate Committee on Transportation, Highways, and Public Works. Oversight review of rules and regulations shall be conducted by the respective committees. The board shall have the authority to establish adequate drainage, flood control, and water resources development to include but not be limited to construction of reservoirs, diversion canals, gravity and pumped drainage systems, and other flood control works. It is further noted that under R.S. 38:3306, the board may expropriate property subject to and in accordance with R.S. 48:441-460, and this Chapter shall be construed to carry out those objectives and purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1383 (June 2012).

§303. Statement of Purpose

A. It is the purpose of this Chapter to outline a procedure for expropriation of property by the Amite River Basin Drainage and Water Conservation District in order to

promote, preserve, and protect public safety by and through the effective control of all public drainage, flood control and water resources development, reservoirs, and diversion canals in the district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1383 (June 2012).

§304. Property Defined

A. As used in this Part, the term “property” means immovable property, including servitudes and other rights in or to immovable property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1383 (June 2012).

§305. Authority to Expropriate and Acquisition of Property Prior to Judgment

A. Where the Amite River Basin Drainage and Water Conservation District cannot amicably acquire property needed for canal or bridge purposes, the Board of Commissioners may acquire the same by expropriation.

B. In any suit for the expropriation of property, including both corporeal property and servitudes, the Board of Commissioners may acquire the property prior to judgment in the trial court in the manner provided in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1383 (June 2012).

§306. Contents of Petition for Expropriation; Place of Filing

A. The rights of expropriation granted by this Part shall be exercised in the following manner.

1. A petition shall be filed by the plaintiff in the district court of the parish in which the property to be expropriated is situated. However, where the property to be expropriated extends into two or more parishes and the owner of the property resides in one of them, the petition shall be filed in the district court of the parish where the owner resides, but if the owner does not reside in any one of the parishes into which the property extends, the petition may be filed in any one of the parishes. In all such cases, the court wherein the petition is filed shall have jurisdiction to adjudicate as to all the property involved.

2. The petition shall contain a statement of the purpose for which the property is to be expropriated, describing the property necessary therefore with a plan of the same, a description of the improvement thereon, if any, and the name of the owner or owners as shown in the public records.

3. The petition shall have annexed thereto the following:

a. a certified copy of a certificate of authorization to expropriate executed by resolution of the Board of

Commissioners, declaring that the taking is necessary or useful for the purposes of this Part;

b. a certificate signed by the executive director of Amite River Basin Commission or, in his absence, his principal assistant, declaring that he has fixed the right-of-way in a manner sufficient in his judgment to provide presently and in the future for the public interest, safety, and convenience;

c. a certificate signed by the executive director of Amite River Basin Commission, declaring that the location and design of the proposed improvements are in accordance with the best modern practices adopted in the interest of the safety and convenience of the public. In the absence of the executive director of Amite River Basin Commission, his chief assistant may sign for him;

d. an itemized statement of the amount of money estimated to be the full extent of the owner's loss for the taking or the damage, or both, as the case may be, the methodology used in the estimate, and all of the information required by R.S. 48:443 relative to estimators. It shall be signed by those who made the estimate, showing the capacity in which they acted, and the date on which it was made. The executive director of the Amite River Basin Drainage and Water Conservation District or his designated representative shall signify his approval on the face thereof. It shall not be grounds to dismiss the taking if it is shown that the estimate is or may be less than the full extent of the owner's loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1383 (June 2012).

§307. Appointment of Estimators; Restrictions in Selection

A. The executive director of the Amite River Basin Drainage and Water Conservation District shall select one or more persons to make the estimate of just compensation except when the estimate is expected to exceed the amount of thirty thousand dollars in which case he shall select two or more persons. However, when the Board of Commissioners cannot amicably acquire clear title to property solely for reasons unrelated to the amount of just compensation to be paid such as unopened successions, absentee defendants, or partial interests, one person shall be selected to make the estimate regardless of the amount. The estimate shall be performed by either a real estate appraiser or real estate specialist or a licensed Louisiana appraiser certified pursuant to the Louisiana Real Estate Appraisers Law. The person performing the estimate shall be familiar with land values in the vicinity of the property to be taken and shall conduct the appraisal in accordance with real estate appraisal guidelines.

B. Each estimator in determining the extent of the owner's loss shall consider the replacement value of the property taken.

C. Prior to filing its petition, the Board of Commissioners shall provide to the owner the following information with respect to each estimate of the owner's loss:

1. the name, address, and qualifications of the person or persons preparing the estimate;
2. the amount of the estimate;
3. a description of the methodology used in the estimate;

4. upon request by the owner, a copy of the estimate prepared by each estimator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1384 (June 2012).

§308. Minable Minerals

A. Before exercising the rights of expropriation provided for in this Part, the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, except political subdivisions but specifically including levee districts and their boards, shall, upon request of the owner whose property is to be taken, provide the owner with the results of tests by the Louisiana Geological Survey that show whether or not sand or gravel is present in the property. The test shall be done at no cost to the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1384 (June 2012).

§309. Prayer of Petition; Ex Parte Order of Taking

A. The petition shall conclude with a prayer that the property be declared taken for the acquisition of right of ways or mitigation lands in connection with bridge or canal purposes. Upon presentation of the petition, the court shall issue an order directing that the amount of the estimate be deposited in the registry of the court and declaring that the property described in the petition has been taken for the acquisition of right of ways or mitigation lands in connection with bridge or canal purposes at the time of the deposit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1384 (June 2012).

§310. Vesting of Title

A. Upon the deposit of the amount of the estimate in the registry of the court, for the use and benefit of the persons entitled thereto, the clerk shall issue a receipt showing the amount deposited, the date it was deposited, the style and number of the cause, and the description of the property and property rights, as contained in the petition. Upon such deposit, title to the property and the property rights specified in the petition shall vest in the Board of Commissioners and the right to just compensation therefore shall vest in the persons entitled thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1384 (June 2012).

§311. Notice to Defendant

A. Upon receipt of the deposit, the clerk of court shall issue a notice to each defendant in the suit, notifying him that the property described in the petition has been expropriated for bridge or canal purposes.

B. This notice, together with a certified copy of the order, the petition, and the clerk's receipt for the deposit, shall be delivered by the clerk to the proper sheriff for service on each defendant in the manner provided for the service of citations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1384 (June 2012).

§312. Contesting Validity of Taking; Waiver of Defenses

A. Any defendant desiring to contest the validity of the taking on the ground that the property was not expropriated for a public purpose or on the ground that the petition and attached exhibits do not satisfy the provisions contained in R.S. 48:442-444 may file a motion to dismiss the suit within 20 days after the date on which the notice was served on him. He shall certify thereon that a copy thereof has been served personally or by mail on either the plaintiff or its attorney of record in the suit. This motion shall be tried contradictorily with the plaintiff to the judge alone and shall be decided prior to fixing the case for trial.

B. Failure to file the motion within the time provided constitutes a waiver of all defenses to the suit except claims for compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1385 (June 2012).

§313. Right of Possession; Limitation by Court

A. If there are no buildings located wholly or partially upon the property described in the petition, the Board of Commissioners is entitled to enter upon and take possession of the property upon the deposit of the estimated compensation.

B. If any building is located wholly or partially upon the property described in the petition, the court may postpone the right of entry for any period not to exceed thirty days from the date on which the last of any parties defendant was served with the notice. However, the Board of Commissioners in its discretion, may request the court to order possession surrendered after a longer delay. The court may fix a reasonable rental to be paid to the Board of Commissioners by a defendant in possession of the property for each day he remains in possession after the withdrawal of any part of the amount deposited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1385 (June 2012).

§314. Withdrawal of Amount Deposited

A. Upon the application of any party in interest, and upon due notice to all parties, the court may order that the money deposited, or any part thereof, be paid forthwith to the person entitled thereto for or on account of the just and adequate compensation to be awarded in the proceedings.

B. The court may make such orders as shall be just and equitable to direct the payments of taxes, encumbrances and other charges out of the money deposited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1385 (June 2012).

§315. Defendant's Answer; Requirements; Delay for Filing

A. Where an entire lot, block or tract of land is expropriated, any defendant may apply for a trial to determine the measure of compensation to which he is entitled, provided:

1. he files an answer within 90 days from the date he is served with the notice;
2. his answer sets forth the amount he claims;
3. his answer has a certificate thereon showing that a copy thereof has been served personally or by mail on all parties to the suit who have not joined in the answer.

B. Where a portion of a lot, block, or tract of land is expropriated, any defendant may apply for a trial to determine the measure of compensation to which he is entitled, provided:

1. he files an answer within one year from the date he is served, in the same manner provided for service of the petition, with a copy of the Board of Commissioners' notice of acceptance, which has been filed with the clerk of court of the parish in which the action is pending, declaring that it has finally accepted the construction of the project for which the property was expropriated; provided however, that he may file his answer at any time prior thereto;
2. his answer sets forth the amount he claims, including the value of each parcel expropriated and the amount he claims as damages to the remainder of his property;
3. his damage claim is reasonably itemized;
4. his answer has a certificate thereon showing that a copy thereof has been served personally or by mail on all parties to the suit who have not joined in the answer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1385 (June 2012).

§316. Fixing for Trial; Notice

A. After answer is filed, if no motion to dismiss the suit pursuant to R.S. 48:447 is pending before the court, either party may, upon ex parte motion, request that the matter be docketed for trial. The court shall fix the time for the trial of the suit not more than 60 days after the filing of the motion, and the trial shall be conducted with preference and with the greatest possible dispatch. The clerk of court shall thereupon issue to all parties a notice of the time fixed for the trial. This notice shall be served at least 30 days before the time fixed for the trial and in the manner provided by law for the service of citations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1385 (June 2012).

§317. Right to Trial by Jury

A. In an expropriation proceeding pursuant to this Part any party has the right to demand a trial by jury to determine just compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1385 (June 2012).

§318. Time Limit for Demanding Jury Trial; Waiver of Demand for Jury Trial; Limitations

A. A defendant may demand jury trial in his answer or by motion filed within the delays provided for the filing of his answer.

B. The Board of Commissioners may demand jury trial by motion filed no later than 15 days after service upon the Board of Commissioners of an answer filed by a defendant.

C. For purposes of this Section, answers filed by attorneys appointed to represent absent or unknown defendants shall not cause these delays to begin to run, unless that answer indicates that the appointed attorney has been retained or employed by the owner to assert and prosecute a claim in his behalf.

D. Once any party has timely demanded a jury trial, that demand is effective against and binding upon all parties to the suit, and cannot thereafter be waived without the consent of all parties. With the consent of all parties, a demand for jury trial may be waived at any time prior to the swearing of the jury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§319. Deposit of Security for Jury Costs

A. The court shall require any party, including the Board of Commissioners, who demands a jury trial, to post a bond or other security as may be required in ordinary similar jury cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§320. Trial of Less than all Issues; Stipulation

A. The trial of all issues for which jury trial has been requested shall be by jury unless the parties stipulate that the jury trial shall be as to certain issues only, but in all cases there shall be but one trial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§321. Qualification and Exemption of Jurors

A. The qualifications and exemptions of jurors and the method of choosing and summoning the general venire in jury cases are provided by special laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§322. Procedure in General

A. In cases to be tried by jury, six jurors summoned in accordance with law shall be chosen by lot to try the case. The method of calling and drawing by lot shall be at the discretion of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§323. Swearing of Juror before Examination

A. Before being examined every prospective juror shall be sworn to answer truthfully such questions as may be propounded to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§324. Examination of Juror

A. The court shall permit the parties or their attorneys to conduct the examination of a prospective juror and may itself conduct an examination, which shall be limited to ascertaining the qualifications of the juror.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§325. Peremptory Challenges

A. Each side is allowed three peremptory challenges. If there is more than one party on any side, the court may allow each side additional peremptory challenges, not to exceed two. Each side shall be allowed an equal number of peremptory challenges. If the parties on a side are unable to agree upon the allocation of peremptory challenges among themselves, the allocation shall be determined by the court before the examination on the voir dire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§326. Challenges for Cause

A. A juror may be challenged for cause based upon any of the following:

1. when the juror lacks a qualification required by law;
2. when the juror has formed an opinion in the case or is not otherwise impartial, the cause of his bias being immaterial;
3. when the relations, whether by blood, marriage, employment, friendship, or enmity, between the juror and any party or his attorney are such that it must be reasonably believed that they would influence the juror in coming to a verdict;
4. when the juror served on a previous jury which tried the same case or one arising out of the same facts;
5. when the juror refuses to answer a question on the voir dire examination on the ground that his answer might tend to incriminate him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§327. Time for Peremptory Challenge

A. After the entire jury has been accepted and sworn, no party has the right to challenge peremptorily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1386 (June 2012).

§328. Challenging or Excusing Jurors after Acceptance

A. Although the entire jury may have been accepted and sworn, up to the beginning of the taking of evidence, a juror may be challenged for cause by either side or be excused either for cause or by consent of both sides, and the panel completed in the ordinary course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§329. Swearing of Jurors; Selection of Foreman

A. When the jury has been accepted by all parties, the jurors shall be sworn to try the case in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence. When the jury has retired, the jurors shall select a foreman to preside over them and sign the verdict which they may render.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§330. Alternate Jurors

A. The court may direct that one or two jurors in addition to the regular panel be called and empanelled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the principal jurors. An alternate juror who does not replace a principal juror shall be discharged when the jury retires to consider its verdict. If one or two alternate jurors are called, each side shall have an equal number of peremptory challenges. The court shall determine how many challenges shall be allowed and shall allocate them among the parties on each side. The additional peremptory challenges may be used only against an alternate juror, and the other peremptory challenges allowed by law shall not be used against the alternate jurors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§331. Time for Charging the Jury; Recordation of Charge

A. After the trial of the case and the presentation of all the evidence and arguments, the court shall charge the jury in accordance with law. This charge shall be in writing or recorded in the same manner as testimony taken in the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§332. Contents of Charge to Jury

A. In his charge to the jury, the judge shall instruct the jurors on the law applicable to the cause submitted to them, but he shall not recapitulate or comment upon the evidence in such manner as to exercise any influence upon their decision as to the facts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§333. Instruction to Jury; Objections

A. At the close of the evidence or at an earlier time during the trial as the court reasonably directs, a party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall inform counsel of its proposed action upon the requests prior to their arguments to the jury.

B. A party may not assign as error the giving or the failure to give an instruction unless he objects thereto before the jury retires to consider its verdict, stating specifically the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§334. Taking Evidence to Jury Room

A. In reaching a verdict, the jurors should rely upon their memories, and when they retire to the jury room to deliberate, they shall not be allowed access to any written evidence or to any notes of the testimony of any witness, with the following exceptions.

1. The judge may permit the jury to take into the jury room a concise summary of the property affected containing only the following: the size of the owner's affected property immediately before the expropriation; the size of the area expropriated; the size of the owner's remaining affected property immediately after the expropriation; a list of any improvements expropriated, and a list of any improvements not taken but which may have been affected by the expropriation, provided said summary has been admitted into evidence.

2. The judge may permit the jury to take into the jury room a statement of the relevant value conclusions reached by each expert witness, if applicable, provided said statement has been admitted into evidence. Such statements shall not contain any corroborative or persuasive material and should consist solely of the name of the witness, the effective date of the value estimate, and a recitation of the pertinent value conclusions, and unit value conclusions, if applicable, testified to by the witness.

3. The jury may take with them into the jury room any object or document received in evidence which requires a physical examination to enable them to arrive at a just conclusion.

4. The parties may stipulate that appraisal reports or summaries of appraisal reports testified to by expert witnesses may be taken into the jury room.

5. The jury shall be permitted to take into the jury room an itemized statement of the loss the owner alleges he has suffered if testimony has been presented as to each item of loss, and if such statement has been admitted into evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1387 (June 2012).

§335. Number Required for Verdict

A. In order to reach any verdict, five of the jurors trying the case must concur therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§336. Special Verdicts

A. With the consent of all parties, the court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event, the court may submit to the jury written questions susceptible of categorical or other brief answer, or may submit written forms of the several findings which might properly be made under the pleadings and evidence, or may use any other appropriate method of submitting the issues and requiring the written findings thereon. The court shall give to the jury such explanation and instruction concerning the matter submitted as may be necessary to enable the jury to make its findings upon each issue. If the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to trial by jury of the issue omitted, unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand, the court may make a finding, or, if it fails to do so, it shall be presumed to have made a finding in accord with the judgment on the special verdict.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§337. General Verdict Accompanied by Answer to Interrogatories; Objection

A.1. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict.

2. When the general verdict and the answers are harmonious, the court shall direct the entry of the appropriate judgment upon the verdict and answers.

3. When the answers are consistent with each other, but one or more is inconsistent with the general verdict, the court may direct the entry of judgment in accordance with the answers, notwithstanding the general verdict, or may return the jury for further consideration of its answers and verdict, or may order a new trial.

4. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general

verdict, the court shall not direct the entry of judgment, but may return the jury for further consideration of its answers or may order a new trial.

B. At any time prior to argument, a party may file written requests that the court submit to the jury written interrogatories as set forth in this Section. The court shall inform counsel of its proposed action upon the requests prior to their arguments to the jury.

1. A party may not assign as error the submission or failure to submit a written interrogatory unless he objects thereto before the jury retires to consider its verdict, stating specifically the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§338. Remittitur or Additur as Alternative to New Trial; Reformation of Verdict

A. If the trial court is of the opinion that the verdict is so excessive or inadequate that a new trial should be granted for that reason only, it may indicate to the party or his attorney the time within which he may enter a remittitur or additur. This remittitur or additur is to be entered only with the consent of the plaintiff or the defendant, as the case may be, as an alternative to a new trial, and is to be entered only if the amount of the excess or inadequacy of the verdict or judgment can be separately and fairly ascertained. If a remittitur or additur is entered, then the court shall reform the jury verdict or judgment in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§339. New Trial on Showing of Misconduct by Jury

A. A new trial shall be granted if it is proved that the jury was bribed or has behaved so improperly that impartial justice has not been done.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§340. Laches by Defendant Forfeits Defenses; Judgment

A. If a defendant fails to file his answer timely, the Board of Commissioners shall thereafter give affirmative notice, by certified mail, to such defendant of the pendency of the proceedings. If an answer is not filed within ten days after the date on which such notice is mailed, the court shall render final judgment fixing just compensation in the amount deposited into the registry of court and awarding that sum to the defendant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§341. Abandonment in Trial and Appellate Court

A. An owner's claim for an increase in the compensation is perfected when he timely files his answer as provided in

R.S. 48:450 and is thereafter abandoned when he fails to take any step in the prosecution of that claim for a period of three years. This provision shall be operative without formal order, but on ex parte motion of the Board of Commissioners the trial court shall render final judgment fixing just compensation in the amount deposited in the registry of the court and awarding that sum to the defendant and dismissing with prejudice any claim for any increase in compensation.

B. An appeal is abandoned when the parties fail to take any step in its prosecution or disposition for the period provided in the rules of the appellate court, which shall be not less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1388 (June 2012).

§342. Measure of Compensation; Burden of Proof; Extent of Loss

A. The measure of compensation for the property expropriated is determined as of the time the estimated compensation was deposited into the registry of the court, without considering any change in value caused by the proposed improvement for which the property is taken.

B. The measure of damages, if any, to the defendant's remaining property is determined on a basis of immediately before and immediately after the taking, taking into consideration the effects of the completion of the project in the manner proposed or planned.

C. The owner shall be compensated to the full extent of his loss. The court shall include in its consideration the difference between the rate of interest of any existing mortgage on an owner-occupied residence and the prevailing rate of interest required to secure a mortgage on another owner-occupied residence of equal value.

D. The defendant shall present his evidence of value first.

E. Reasonable attorney fees may be awarded by the court if the amount of the compensation deposited in the registry of the court is less than the amount of compensation awarded in the judgment. Such attorney fees in no event shall exceed 25 percent of the difference between the award and the amount deposited in the registry of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1389 (June 2012).

§343. Replacement Compensation According to Amite River Basin Drainage and Water Conservation Statute

A. The owner of residential property or commercial property, including homes, businesses, barns, outbuildings and churches, shall be paid the replacement cost of any such property expropriated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1389 (June 2012).

§344. Trial According to Code of Civil Procedure and the General Expropriation Laws

A. Except as provided in this Part, these suits are tried in accordance with the provisions of the Code of Civil Procedure and general expropriation laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1389 (June 2012).

§345. Judgment to Provide Interest

A. If the amount finally awarded for compensation exceeds the amount deposited, the judgment shall include legal interest on the excess from the date the defendant files an answer as provided in R.S. 48:450 until paid, but such interest shall not accrue on any award made for expert fees or attorney fees prior to judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1389 (June 2012).

§346. Judgment as to Difference Awarded; Payment of Judgment

A. If the amount finally awarded exceeds the amount so deposited, the court shall enter judgment against the Board of Commissioners and in favor of the persons entitled thereto for the amount of the deficiency. The judgment shall not be an in globo award, but shall list separately the amounts awarded, but not deposited, for:

1. an increase in the fair market value of the part taken;
2. an increase in severance damages;
3. attorney fees;
4. expert witness fees; and
5. any other type of loss or damage.

B. Those portions of the final judgment which award an increase in the value of the part taken, an increase in severance damages, compensation for any other type of loss or damage, together with interest payable on those sums not deposited, attorney fees, and expert witness fees shall be paid within ninety days after becoming final. Thereafter, upon application by the owner or owners, the trial court may issue a writ of mandamus to enforce payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1389 (June 2012).

§347. Estimate Less than Deposit

A. The plaintiff shall not be required to amend its petition in order to obtain judgment in an amount less than that originally deposited into the registry of the court, but the plaintiff may not introduce evidence as to any special benefits unless specially pleaded. If severance damages are pleaded by the defendant, the plaintiff shall have the opportunity to plead special benefits 20 days prior to trial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1389 (June 2012).

§348. Distribution of Final Award

A. The court also has the power to make such orders as are just and equitable with respect to distribution of the amount finally awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1390 (June 2012).

§349. Grant as Additional Authority

A. The right to take possession and title in advance of final judgment, as provided herein, is in addition to any right or authority conferred by the laws of this state under which expropriation proceedings may be conducted, and shall not be construed as abrogating, eliminating, or modifying any such right or authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1390 (June 2012).

§350. Devolutive Appeal; Effect of Appeal

A. A devolutive appeal shall lie from expropriation suits tried pursuant to this Chapter without any additional deposit by the plaintiff, and no appeal from any expropriation suit brought under the provisions of this Part shall operate to prevent or delay the vesting of title in the plaintiff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1390 (June 2012).

§351. Divesting of Title

A. The plaintiff shall not be divested by court order of any title acquired under these provisions except where such court finds that the property was not taken for a public purpose. In the event of such findings, the court shall enter such judgment as is necessary to compensate the defendant for the period during which the property was in the possession of the plaintiff and to recover for the plaintiff any award paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1390 (June 2012).

§352. Right of Way and Mitigation Acquisition Activities

A. Where it is necessary for the Amite River Basin Drainage and Water Conservation District to acquire a right of way and/or mitigation property for the purpose of the Comite River Diversion Canal Project, said right of way acquisition activities shall be subject to and in accordance with the Louisiana Department of Transportation and Development Office of Right of Way Operations Manual, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1390 (June 2012).

§353. Prohibition of Expropriation of any Mitigation Property

A. Where it is necessary for the Amite River Basin Drainage and Water Conservation District to acquire mitigation property for the purpose of the Comite River Diversion Canal Project, said acquisition activities shall be subject to and in accordance Act 734 of the 2010 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3302.

HISTORICAL NOTE: Promulgated by the Amite River Basin Drainage and Water Conservation District, LR 38:1390 (June 2012).

Dietmar Rietschier
Executive Director

1206#014

RULE

**Department of Children and Family Services
Division of Programs
Economic Stability and Self-Sufficiency Section**

KCSP Grant Reduction and Termination of Post-FITAP Transitional Services (LAC 67:III.5329 and 5729)

The Department of Children and Family Services (DCFS), Division of Programs, Economic Stability and Self-Sufficiency Section, in accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, amends the Louisiana Administrative Code, Title 67, Part III, Subpart 13, Kinship Care Subsidy Program (KCSP), Chapter 53, Subchapter B, and Section 5329, and Subpart 16, Strategies to Empower People (STEP) Program, Chapter 57, Subchapter C, Section 5729.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, adjustments to KCSP eligibility criteria reduce the Income After Pretest monthly limit and monthly payment amount from \$280 to \$222. The department is terminating the STEP Program's transitional support service benefits, which are commonly known as Post-FITAP Supportive Services.

Action is required in this matter as funding is no longer available and the department is required to maintain fiscal responsibility by reducing expenditures to reconcile with available funding. These changes have been born of necessity to maximize available funding while minimizing the impact to clients. The adjustments to KCSP will result in minimal reductions in the number of children served and payment amounts. Transitional supportive services are approved at the discretion of the secretary and are subject to available funding. This action was made effective by an Emergency Rule dated and effective December 1, 2011.

Title 67

SOCIAL SERVICES

**Part III. Economic Stability and Self-Sufficiency
Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§5329. Income
A. - B.3. ...**

C. Income after Pretest. The child is determined eligible for KCSP if the child's monthly countable income is, effective December 1, 2011, less than \$222. If the child's monthly countable income is, effective December 1, 2011, \$222 or more, the child is ineligible.

D. Payment Amount. Effective December 1, 2011, payment amount is \$222 per month for each eligible child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), LR 38:1390 (June 2012).

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter C. STEP Program Process

§5729. Support Services

A. Clients may be provided support services that include but are not limited to:

1. a full range of case maintenance and case management services designed to lead to self-sufficiency;
2. transportation assistance;
3. Supplemental Nutrition Assistance Program (SNAP) benefits;
4. Medicaid benefits;
5. child care;
6. TANF-funded services; and
7. other services necessary to accept or maintain employment.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 38:1391 (June 2012).

Ruth Johnson
Secretary

1206#072

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.601, 613, and 2403)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §601. Defining a Graduation Index, §613. Calculating a Graduation Index, and §2403. Transfer of Schools out of the Recovery School

District. Changes in Bulletin 111, Chapter 6, provide detail for how the graduation index is calculated. Changes in Bulletin 111, Chapter 24, provide detail for removing policy related to the recovery school district. The Board of Elementary and Secondary Education adopted Bulletin 129 this past spring with the goal of creating one bulletin to comprehensively address the rules and regulations applicable to the recovery school district (RSD). The revisions move language from *Bulletin 111—The Louisiana School, District and State Accountability System*, Section 2403, that is exclusively applicable to schools in the RSD, to *Bulletin 129—The Recovery School District*, Section 505. This language references the procedures to be followed for schools that are under the jurisdiction of the recovery school district for five or more years. Moving this language to Bulletin 129 will ensure that any person consulting Bulletin 129 will have access to this important information. 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 that are required to change in response to state and federal laws and regulations.

Title 28

EDUCATION

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

Chapter 6. Graduation Cohort, Index, and Rate

§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 for schools with 10 or more students in a cohort.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 38:1391 (June 2012).

§613. Calculating a Graduation Index

A. Points shall be assigned for each member of a cohort during the cohort's fourth year of high school according to the following table.

1. Students who do not dropout and 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
Academic OR Career/Technical Endorsement	180
TOPS Opportunity Award	160
BESE Approved Industry Based Certification OR TOPS Tech and Dual Enrollment OR TOPS Tech and Articulated Credit	140
Regular HS Diploma	120
GED	90
Skills Certificate/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.

1. Beginning with the 2011 baseline SPS, the baseline graduation index shall be adjusted using a factor derived from the cohort graduation rate used in the current subgroup component (see §708).

2. Beginning with the 2012 growth SPS, the growth graduation index shall be adjusted using a factor derived from the cohort graduation rate used in the prior year's subgroup component (see §708).

3. The cohort graduation rate adjustment factor shall be calculated using the formula: unadjusted graduation index + [(graduation rate - graduation rate target) * 1.5].

4. The graduation rate target shall be 65 percent in 2011 and 2012.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012).

Chapter 24. Recovery School District

§2403. Transfer of Schools out of the Recovery School District

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2596 (September 2011), repealed LR 38:1392 (June 2012).

Catherine R. Pozniak
Executive Director

1206#020

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.Chapters 1, 5-19, 27, and 39)

Editor's Note: This Rule is being repromulgated in its entirety to correct errors. The original Rule can be viewed in the March 20, 2012 edition of the *Louisiana Register* on pages 750-753.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: Chapters 1, 5-19, 27, and 39. This Rule will ensure the greater effectiveness of charter schools throughout the state. Additionally, during the 2011 Regular Legislative Session, several charter school bills were passed into law. The laws allowed for authorizers to grant extended or shortened opening timelines for approved charters, remove requirements regarding the months a school may open, corporate partnerships with charter schools, the allowance of residential charter schools, and for applications to be revised and resubmitted as part of the application process.

Title 28 EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. - F. ...

G. *Management Organization*—a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements.

H. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012).

Chapter 5. Charter School Application and Approval Process

§512. Application Process for Locally Authorized Charter Schools

A. - A.2. ...

3. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to revise and resubmit the proposal based on the independent evaluation of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:869 (March 2011), amended LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012).

§513. Stages of Application Cycle for BESE-Authorized Charter Schools

A. - G. ...

H. Prior to the consideration of a charter school proposal by BESE, each charter applicant shall be afforded the opportunity to revise and resubmit the proposal based on the independent evaluation of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012).

§515. Charter School Application Components

A. - D.48. ...

49. a description of any proposed corporate partnerships as specified in Chapter 39 of this bulletin.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012).

§517. Consideration of Charter Applications and Awarding of Charters by BESE

A. ...

B. BESE shall consider each Type 5 charter school application that is recommended by the State Superintendent

of Education, based on a recommendation by the Office of Parental Options and the recovery school district, and may vote to approve or deny the recommended application.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:870 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012).

Chapter 7. Charter School Performance Contract

§701. Charter School Contract with BESE

A. ...

B. The charter school contract shall define the performance standards to which the charter school will be held accountable and the general terms and conditions under which the charter school will operate. The charter school contract template shall include, but not be limited to, provisions regarding the establishment of the charter school; the operation of the charter school; charter school financial matters; charter school personnel; charter term, renewal and revocation; and other provisions determined necessary by BESE. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate, including but not limited to, the pre-opening requirements; student discipline policy; student enrollment; and management organization contract.

C. ...

D. Any contracts entered into between a charter operator and a management organization shall:

1. set forth material terms including but not limited to: performance evaluation measures; methods of contract oversight and enforcement by the charter school board; compensation structure and all fees to be paid to the management organization; and conditions for contract renewal and termination;

2. contain provisions relative to the submission of documents, including but not limited to student records and financial information, upon request and in a timely manner. The contract shall specify that any documents not provided by a management organization to the charter operator must be reported by the charter operator to the department. If such documents are financial documents, the department shall notify BESE and the Office of the Louisiana Legislative Auditor. Failure to comply with requests for documents may render the management organization ineligible to contract with any BESE-authorized charter school as a management organization for up to five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:2385 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1393 (June 2012).

Chapter 9. Opening of Charter School

§901. Timeline for Charter School Opening

A. A charter school shall begin operation by not later than 24 months after the final approval of the charter, unless such charter school is engaged in desegregation compliance issues and, therefore, must begin operation by not later than 36 months. However, upon request, the chartering authority

may extend the time period within which any charter school must begin operation.

B. ...

C. A charter school other than a Type 5 shall not begin operation sooner than eight months after approval of the charter school has been granted, unless the chartering authority agrees to a lesser time period.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:870 (March 2011), LR 37:2385 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1393 (June 2012).

Chapter 11. Ongoing Review of Charter Schools

§1101. Charter School Evaluation

A. - E.6. ...

F. Legal and Contract Performance

1. BESE shall evaluate a charter school's performance based on the Department of Education's oversight and monitoring of the charter school's compliance with its statutory, regulatory, and contractual obligations and all reporting requirements. Type 5 charter schools will be subject to oversight in these areas by the department and the recovery school district, which shall regularly report findings to the Office of Parental Options.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1393 (June 2012).

Chapter 13. Charter Term

§1303. Third Year Review

A. ...

B. Each Type 2, Type 4, and Type 5 charter school's comprehensive report and its third year evaluation shall be used to determine if the school will receive a two-year extension, as follows.

1. Contract Extension

- a. Each charter school shall provide a comprehensive report to its chartering authority at the end of the third year, to be considered in addition to the academic, financial, and legal and contractual performance data collected by the Office of Parental Options or the recovery school district for the charter school's first three years. If such report and performance data reveal that the charter school is achieving the following goals and objectives, the board shall, by January of the school's fourth year, permit the charter school to complete the remainder of its initial five-year term:

- a.i. - b. ...

2. Schools That Fail to Meet Extension Standards

- a. If a charter school fails to meet any of the standards set forth in Paragraph B.1 of this Section, BESE may, at the superintendent's recommendation, take one of the following actions based on information provided by the Office of Parental Options and the recovery school district, if the school is a Type 5 charter school:

- 2.a.i. - 3.b.i. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1393 (June 2012).

Chapter 15. Charter Renewal

§1503. Charter Renewal Process and Timeline

A. - E.1. ...

2. Not later than January of the charter school's fifth year, the state superintendent of education will make a recommendation to BESE about the disposition of any school whose contract is up for renewal. The basis for the recommendation will be the charter school's student, financial, and legal and contractual performance during years one through four of the charter contract.

3. Based on the school's academic, financial, and contractual performance, the state superintendent of education may recommend one of three actions:

E.3.a. - F.2. ...

3. Not later than January of the charter school's final contract year, the state superintendent of education will make a recommendation to BESE about the disposition of any school whose contract is up for renewal. The basis for the recommendation will be the charter school's student, financial, legal and contractual performance during its current charter contract.

4. Based on the school's academic, financial, and legal and contractual performance over the current charter contract term, the state superintendent may recommend one of the following actions:

F.4.a. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1394 (June 2012).

Chapter 17. Revocation

§1703. Revocation Proceedings

A. Recommendation to Revoke Charter for BESE-Authorized Charter Schools

1. A recommendation to revoke a charter shall be made to BESE by the state superintendent of education based on information provided by the Office of Parental Options and the recovery school district, if the school is a Type 5 charter school, at least one BESE meeting prior to the BESE meeting at which the recommendation may be considered, except as otherwise provided herein when the health, safety, and welfare of students is at issue.

2. Prior to the BESE meeting at which the state superintendent of education will make a recommendation that BESE commence a revocation proceeding, the Department of Education will inform the charter operator that it is requesting such and the reasons therefor and may meet with the charter operator, upon request, to discuss the revocation recommendation.

3. Following the state superintendent of education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

A.4. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1394 (June 2012).

Chapter 19. Amendments to BESE-Authorized Charters

§1903. Material Amendments for BESE-Authorized Charter Schools

A. A material amendment to a charter is an amendment that makes substantive changes to a charter school's governance, operational, or academic structure. Material amendments include:

1. changes in legal status or management, including the structure of the governing board, or assignment of or changes in management organization;

A.2. - D. ...

E. BESE shall delegate authority to the Department to approve a material amendment regarding Paragraphs A.3 and A.4 of this Section for any charter school meeting—the following conditions, as determined by the department:

1. ...

2. is not in "dialogue" with the department, as defined in §1101.E.5.c; and

3. - 3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:2389 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1394 (June 2012).

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. - D. ...

E. Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a Type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this Bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5 charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:750 (March 2012), repromulgated LR 38:1394 (June 2012).

§2707. Application Period

A. ...

B. A student application period shall not be less than one month nor more than three months.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:750 (March 2012), repromulgated LR 38:1394 (June 2012).

§2709. Enrollment of Students, Lottery, and Waitlist

A. - F. ...

G. Any charter school not participating in the recovery school district's unified enrollment system in Paragraph J. of this Section shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

G.1. - I. ...

J. Type 5 charter schools and traditional public schools in Orleans Parish transferred to the recovery school district pursuant to R.S. 17:10.5 and R.S. 17:10.7 shall comply with any unified enrollment system established by the recovery school district. Other charter schools located within Orleans Parish may participate in the unified enrollment system upon approval by their charter boards. Other traditional public schools in Orleans Parish may participate in the unified enrollment system upon approval by the local school board. The recovery school district may create any policies and procedures to implement a unified enrollment system not prohibited by this chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers or entering the public school system at any point in time. In addition, the recovery school district shall, in consultation with a participating school, determine the number of students assigned per grade level for the school each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:750 (March 2012), repromulgated LR 38:1395 (June 2012).

Chapter 39. Corporate Partnerships

§3901. Corporate Partnerships and Enrollment

A. Notwithstanding geographic or other requirements for enrollment contained in this bulletin, a charter agreement may provide, initially or by amendment, for the enrollment of and an enrollment preference for dependent children of permanent employees of a corporate partner.

B. Up to 50 percent of the school's maximum enrollment may be reserved for the enrollment of such children.

C. The charter agreement shall specify both the school's maximum enrollment and the maximum proportion set aside for implementation of this enrollment preference.

D. An enrollment preference established as part of the corporate partnership defined in this Chapter shall not be implemented in a way that displaces children enrolled at the school at the time the charter agreement or amendment providing for the preference is authorized.

E. Enrollment at the school shall otherwise be as provided by this Chapter except that the requirement of R.S. 17:3991(B)(1)(a)(i) shall apply to and be based upon only students who are not dependent children of permanent employees of a corporate partner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:750 (March 2012), repromulgated LR 38:1395 (June 2012).

§3903. Requirements for Corporate Partnerships

A. A corporate partner is any legal entity, whether for profit or not for profit, registered with the secretary of state, except a corporation identified in R.S. 18:1505.2(L)(3), that has, acting individually or as part of a consortium of corporations, donated one or more of the following to the school:

1. the land on which the school is built;
2. the school building or the space the school occupies. If the corporate partner is leasing the building or space to the school, the enrollment preference or board membership may only be provided in the charter agreement if the lease provides that the building or space is made available without cost and if the term of the lease is not less than the duration of the charter agreement;
3. major renovations to the existing school building or other capital improvements including major investments in technology.

B. For purposes of this Chapter, a major renovation to the existing school building means changes that provide significant opportunities for substantial improvement including but not limited to:

1. a structural change to the foundation, roof, floor, or interior or exterior walls or extension of an existing facility to increase its floor area;
2. an extensive alteration of an existing facility, such as a change in its function or purpose, even if such renovation does not include any structural change to the facility.

C. A major investment in technology includes but is not limited to a donation of:

1. hardware;
2. software;
3. internet access;
4. internet hardware;
5. enterprise systems;
6. software licenses;
7. smart board technology; or
8. audiovisual equipment.

D. The value of a major renovation or of an investment of technology shall be equal to at least 50 percent of the per pupil allocation of state funds by the minimum foundation program formula for that year for the parish in which the school is located multiplied by the school's enrollment as defined in the charter agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:750 (March 2012), repromulgated LR 38:1395 (June 2012).

§3905. Corporate Partner Representation on Charter Boards

A. A charter agreement may provide, initially or by amendment, for a corporate partner to have representation on its governing or management board; however, such representation may not constitute a majority of the board. Such membership is subject to all other provisions of law except any contrary provision in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:750 (March 2012), repromulgated LR 38:1395 (June 2012).

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1206#010

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District Return of Schools to LEA (LAC 28:CXLV.505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District: §505. Return of Schools to LEA*. The Board of Elementary and Secondary Education adopted Bulletin 129 this past spring with the goal of creating one bulletin to comprehensively address the rules and regulations applicable to the Recovery School District (RSD). The revisions move language from *Bulletin 111—The Louisiana School, District and State Accountability System*, Section 2403, that is exclusively applicable to schools in the RSD, to *Bulletin 129—The Recovery School District*, Section 505. This language references the procedures to be followed for schools that are under the jurisdiction of the recovery school district for five or more years. Moving this language to Bulletin 129 will ensure that any person consulting Bulletin 129 will have access to this important information. Further, the language in Bulletin 111 has been revised to reference the Section in Bulletin 129 where the language will be moved to, so that any person searching for this information in its prior location will be directed to Bulletin 129. The revisions in Bulletin 129 also remove duplicative language and contain minor modifications to clarify some unfamiliar terms and processes in the current language.

Title 28

EDUCATION

Part CXLV. Bulletin 129—The Recovery School District Chapter 5. Failed Schools

§505. Return of Schools to LEA

A. Schools transferred to the jurisdiction of RSD shall remain with the RSD for a period of not less than five years.

1. A school that has been under the jurisdiction of the RSD for a minimum of five years as either a direct-run RSD school or a Type-5 charter school may be returned to its former local educational agency (LEA) or an alternative governing authority (AGA), if authorized by law, based upon the RSD's report and recommendation to BESE. The RSD's report shall include the following:

a. the status of the school, the nature of its faculty and administration, the demographics and size of the student body, its organizational and management structure, whether student academic performance has improved, the amount of any improvement, an explanation of why student academic performance has or has not improved, and to what extent performance targets were achieved;

b. the RSD report shall also include a recommendation as to whether the school should:

i. remain within the RSD in the same operational status;

ii. remain within the RSD in a new operational status;

iii. close, with the reasons why it should close; or

iv. return to the original LEA, with proposed stipulations and conditions for the return.

B. An eligible school may elect to transfer from the RSD and return to its former local educational agency (LEA) or an alternative governing authority (AGA), if authorized by law. If a school chooses not to transfer to its former LEA or an AGA, it will automatically remain within the RSD for an additional school year. The school will have the opportunity to choose to return to its former LEA or AGA every year the school continues to meet eligibility criteria, in accordance with the procedures outlined below.

C. No school shall be eligible for transfer from the jurisdiction of the recovery school district until the conclusion of the 2011-2012 school year. No school shall be transferred from the RSD without the approval of the Louisiana Board of Elementary and Secondary Education School (BESE) and the recipient LEA or AGA.

D. A non-failing school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years as either a direct-run RSD school or a Type-5 charter school. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school has earned for the past two consecutive years a school performance score (SPS) of 80.0 or above. If the academically unacceptable school (AUS) bar is raised above 75.0, then the school must have earned for the past two consecutive years a school performance score that is at least 5.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system.

3. The school elects to transfer from the RSD and has notified BESE in writing, no later than December 1 of the year preceding the effective date of the proposed transfer.

a. Type 5 Charter School. The charter school's governing authority, in accordance with its by-laws, shall notify BESE in writing of its desire to transfer from the jurisdiction of the RSD.

b. Direct-Run RSD School. The superintendent of the RSD, in consultation with the parents of students attending the school, and the school's staff, shall make a recommendation to BESE seeking transfer from the jurisdiction of the RSD.

4. No later than January 1 of the school year preceding the effective date of the proposed transfer, BESE shall make a determination whether or not to allow an eligible non-failing school to seek transfer to its former LEA or an AGA. At that time, BESE may require the school to agree to comply with certain requirements prior to the effective date of the proposed transfer.

5. If BESE approves the transfer, the former LEA or the AGA must notify BESE, in writing, whether it has agreed to accept jurisdiction of the transferring school no later than March 1 of the school year prior to the effective date of the proposed transfer.

6. The following parties must agree to the transfer no later than April 1 of the school year preceding the effective date of such transfer:

- a. the governing authority of a charter school, if a charter school; or
- b. the superintendent of the RSD, if a direct-run RSD school; and
- c. BESE; and
- d. the recipient LEA or AGA.

E. A direct-run RSD school that is deemed a failing school may be eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years at the conclusion of the school year preceding the effective date of the proposed transfer. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school is labeled as in AUS status as defined by the statewide school and district accountability system during its fifth year, or any subsequent year the school remains within the RSD.

3. The school is not undergoing a charter conversion or phase-out, as defined in Subsection J below.

4. The recipient LEA or AGA has agreed to accept the school and has developed a proposal for the school's turnaround.

5. BESE has approved the recipient authority's turnaround proposal for the school.

6. The following parties have agreed to such transfer from the RSD:

- a. the superintendent of the RSD; and
- b. BESE; and
- c. the recipient LEA or AGA.

F. Type 5 Charter Schools. The transfer of a Type 5 charter school from the RSD shall become effective on July 1 of the year following BESE's approval of such transfer.

1. The charter school must negotiate a new charter contract agreement with the recipient authority to become either a Type 3 or Type 4 charter school. A copy of the signed negotiated charter contract agreement must be provided to BESE no later than April 1 preceding the effective date of the proposed transfer. The new charter contract agreement must:

- a. be effective on the date of transfer (July 1);
- b. be consistent with all state and federal laws governing charter school authorization;
- c. contain academic performance standards and other requirements for extension and renewal that are equal to or greater than Type 5 charter school performance standards as enumerated in BESE Bulletin 126; and
- d. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer (prior to January 1).

2. Transfer to a Type 3 Charter School. If the charter school elects to become a Type 3 charter school, the non-profit charter organization shall apply to the recipient authority to operate the school. The charter contract agreement must conform to all the laws and requirements governing Type 3 charter schools.

3. Transfer to a Type 4 Charter School. If the charter school elects to become a Type 4 charter school, the recipient authority must apply to BESE to operate the charter school, with the approval from the charter operator. The charter contract agreement must conform to all the laws and requirements governing Type 4 charter schools.

G. Direct-Run RSD Schools. A direct-run RSD school may transfer directly to the recipient authority as a direct-run school, or may transfer as a Type 3 or Type 4 charter school.

1. Transfer to a Charter School. A non-failing direct-run RSD school may elect to transfer to the recipient authority as either a Type 3 or a Type 4 charter school. Such transfer to the recipient authority shall be made in the same manner as described in Paragraph F.1 above.

2. Transfer as a Direct-Run School. A direct-run RSD school may elect to become a direct-run school under the recipient authority, in which case the recipient authority shall enter into a memorandum of understanding (MOU) with BESE. The MOU shall be effective for a maximum of three years, and shall provide, at a minimum, the following.

a. Non-Failing Direct-Run RSD Schools

i. Preserve the Existing School Autonomy. The transferring school shall retain its existing level of autonomy over such elements, including but not limited to, its educational program and curricula, its staffing, and its budget decisions.

ii. Continued Performance. The recipient authority shall be required to maintain school performance equal to or greater than that achieved by the RSD. Should the transferring school become AUS during the term of the MOU, the school shall be immediately returned to the jurisdiction of the RSD.

iii. School Budget. The transferring school shall maintain its school-level budget at a level at least equal to that school-level budget it maintained while in the RSD, adjusted for current enrollment, the MFP and/or federal, local and/or other sources of revenue.

iv. Recourse. Violation of the MOU may result in the school being returned to the RSD.

b. Failing Direct-Run RSD Schools

i. Turnaround Plan. The MOU shall identify key benchmarks and milestones demonstrating the turnaround strategy being executed and successfully improving student academic outcomes.

H. The RSD has the responsibility to maintain high educational standards for all direct-run schools and charter schools under its jurisdiction.

I. Type 5 Charter School Accountability. The renewal of a charter agreement for any Type 5 charter school that is labeled AUS in its fifth year of operation shall be governed by provisions found in Bulletin 126. If not renewed, the charter school will either revert to the direct control of the RSD, be closed, or may be transferred to another non-profit charter organization.

J. Direct-Run RSD Schools. Any direct-run RSD school that is labeled AUS in its fifth year of operation within the RSD shall be subject to one of the following.

1. Phase-Out. The school will be closed according to a timeline and its students will be transferred to other high performing schools.

2. Charter Conversion. The school may be converted to the control of a charter school that has a proven ability to implement a school turnaround model and will operate as a Type 5 charter school.

3. Transfer to a Recipient LEA or AGA. The school may be transferred to a recipient LEA or AGA, which has the proven ability to implement a school turnaround plan.

4. Remain within the RSD. The school may remain within the RSD for an additional five-year period. The school performance will be reviewed on an annual basis and, if the school remains in AUS, a charter operator or recipient authority may submit a proposal to BESE for operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012).

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1206#021

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Adult Education Programs (LAC 28: CXV. Chapter 27)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: Chapter 27. Adult Education Programs. Effective July 1, 2010, the governance of the Adult Education program changed from the Department of Education to the Louisiana Community and Technical College System. This Rule implements changes as a result of the elimination of the division of adult and community education within the Department of Education and transferred the responsibility for adult education programs from BESE to the Louisiana Community and Technical College System. As a result of this change, it is necessary to repeal Chapter 27, Adult Education Programs, Sections 2701-2715, as they currently exist, from Bulletin 741. This Rule implements changes as per Act 132 of the 2010 Regular Session of the Louisiana Legislature.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 27. Adult Education Programs

§2701. Program Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1305 (June 2005), amended LR 35:2317 (November 2009), repealed LR 38:1398 (June 2012).

§2703. Requirements for Students

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005), amended LR 35:2318 (November 2009), repealed LR 38:1398 (June 2012).

§2705. Requirements for Taking the GED Test

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005), amended LR 35:2318 (November 2009), repealed LR 38:1398 (June 2012).

§2707. Requirements for Passing the GED Test

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005), amended LR 35:2318 (November 2009), repealed LR 38:1398 (June 2012).

§2709. Requirements for GED Retesting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1306 (June 2005), amended LR 35:2318 (November 2009), repealed LR 38:1398 (June 2012).

§2711. Issuance of Equivalency Diplomas

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14; R.S. 17:7(5)(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1307 (June 2005), amended LR 35:2318 (November 2009), repealed LR 38:1398 (June 2012).

§2713. Regular High School Diploma for Veterans or Members of the United States Armed Forces

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1307 (June 2005), repealed LR 38:1398 (June 2012).

§2715. Evening Schools for Adults

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), repealed LR 38:1398 (June 2012).

Catherine R. Pozniak
Executive Director

1206#022

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Compulsory Attendance (LAC 28: CXV.1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §1103. Compulsory Attendance. This policy, related to compulsory attendance for grades K through 12, will ensure that LEAs follow proper procedures for exiting students in need of adult education. This policy revision was deemed necessary for inclusion in the bulletin, especially once Chapter 27 (Adult Education Programs) is repealed.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1103. Compulsory Attendance

A. Students who have attained the age of seven years shall attend a public or private day school or participate in an approved home study program until they reach the age of 18 years. Any child below the age of seven who legally enrolls in school shall also be subject to compulsory attendance. Refer to Chapter 33 for information on home study programs.

B. A parent, tutor, or legal guardian who has a student who is under the age of 18 and meets one of the requirements below shall be in compliance with the compulsory attendance law.

1. A student, under 18 years of age, who withdraws from school prior to graduating from high school and who has been ruled to be a truant, pursuant to the provisions of Chapter 15 of Title VII of the Louisiana Children's Code, by a court of competent jurisdiction can be ordered by the court to exercise one of the following options within 120 days of leaving school:

a. reenroll in school and make continual progress toward completing the requirements for high school graduation;

b. enroll in a high school equivalency diploma program and make continual progress toward completing the requirements for earning such diploma;

c. enlist in the Louisiana National Guard or a branch of the United States Armed Forces, with a commitment for at least two years of service, and earn a high school equivalency diploma during such service period.

2. If a student is under the age of 18, the parent or guardian may withdraw the student from high school if that student is seeking admission to a National Guard Youth Challenge Program in this state.

3. For a student who is under the age of 18 and enrolled in school beyond his/her sixteenth birthday, the parent or guardian may request a waiver from the local superintendent for that student to exit school to enroll in an adult education program approved by the Louisiana Community and Technical College System (LCTCS).

a. In the case of a student with no parent or guardian, the local school superintendent may act on behalf of the student in requesting a waiver if appropriate documentation is on file at the local school board office and one or more of the following hardships exist:

- i. pregnant or actively parenting;
- ii. incarcerated or adjudicated;
- iii. institutionalized or living in a residential facility;
- iv. chronic physical or mental illness;
- v. family and/or economic hardships.

(a). Family and/or economic hardship is defined as a student who acts as a caregiver or must work to support the family due to a parent's death or illness, or needs to be removed from an existing home environment.

b. The local school superintendent or his/her designee may approve the request for exiting public or home school without requesting action from BESE. If the request to exit school to enroll in a LCTCS approved adult education program is denied at the local level, a student may request the waiver from the DOE for approval by BESE with documentation of reason for denial at the local level. Students seeking to exit school to enroll in adult education, who are enrolled in a formal education setting other than a public K-12 institution, may request a waiver from the institutional agency head or his/her designee. Mandatory attendance components shall be met in all of the above circumstances.

B.4. - N. ...

NOTE: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3-4; R.S. 17:226.1; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR, 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012).

Catherine R. Pozniak
Executive Director

1206#023

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Technology Education (LAC 28: CXV.2385)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2385. Technology Education. This action is necessary in order to set forth policy listing state recognized technology education course offerings within the CTE program. The two course offerings will provide specific instruction and training to students interested in pursuing careers in petrochemical industry. These courses will cover content which is required of individuals pursuing careers in oil and gas production.

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**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§2385. Technology Education

A. Technology Education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Wood Technology	10-12	1
Aerospace Engineering	11-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Wood Technology	9-12	1
Civil Engineering and Architecture	11-12	1
Communication/Middle School	6-8	-
Communication Technology	9-12	1
Computer Integrated Manufacturing	11-12	1
Construction/Middle School	6-8	-
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Digital Electronics	9-10	1
Energy, Power, and Transportation Technology	9-12	1
Engineering Design I, II	11-12	1
Engineering Design and Development	11-12	1
General Technology Education	9-12	1
Introduction to Engineering Design	8-12	1
Manufacturing Technology	9-12	1
Manufacturing Technology/Middle School	6-8	-
Marine Engineering	11-12	0.5
Materials and Processes	10-12	1
Modular Technology/Middle School	6-8	-
Oil and Gas Production Operations	11-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Principles of Engineering	9-10	1
T2 Safety Systems for Oil and Gas Production	11-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Transportation Technology/Middle School	6-8	-
Welding Technology	10-12	1
Industry-Based Certifications		
Advanced Technical Drafting	10-12	1
Architectural Drafting	10-12	1
Basic Technical Drafting	9-12	1
NCCER Carpentry I, II TE	11-12	1-3
NCCER Electrical I, II TE	11-12	1-3
NCCER Industrial Maintenance	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Insulating	11-12	1-3
NCCER Pipe Fitter I, II TE	11-12	1-3
NCCER Welding Technology I, II TE	11-12	1-3
Process Technician I, II	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 35:1229 (July 2009), LR 35:2323 (November 2009), LR 35:2747 (December 2009), LR 36:1997 (September 2010), LR 38:1400 (June, 2012).

Catherine R. Pozniak
Executive Director

1206#024

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel—Counselor K-12
(LAC 28:CXXXI.405 and 659)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §405. Counselor K-12 (Counselor in a School Setting) and §659. Counselor K-12 (Counselor in a School Setting). The policy revision will require the completion of a master’s degree program from a regionally accredited college or university which has met the Council for Accreditation of Counseling and Related Educational Program (CACREP) guidelines for a standards based program in school counseling. The program must include a practicum/internship in school counseling, and the individual must receive a passing score on the PRAXIS examination in school guidance and counseling.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**Chapter 4. Ancillary School Service Certificates
Subchapter A. General Ancillary School Certificates
§405. Counselor K-12 (Counselor in a School Setting)**

A. Valid for Five Years. Universities that plan to admit new candidates into school counseling programs after December 31, 2012 must provide the Louisiana Department of Education by January 1, 2013 with a copy of the application submitted to the Council for Accreditation of Counseling and Related Educational Program (CACREP) for national accreditation. Universities that submit CACREP applications must be CACREP accredited by July 1, 2015 to admit new candidates into school counseling programs after June 30, 2015. Universities that do not submit CACREP applications by January 1, 2013 may not admit new candidates into their school counseling programs after December 31, 2012. Candidates who are already in the process of working toward certification under the previous guidelines will be given until June 30, 2017 to complete all coursework. Individuals who have completed all courses and degree requirements for the previous policy by June 30, 2017 will be allowed to have this endorsement added to their certificates.

B. Eligibility requirements:

1. completion of a standards based master’s degree program in school counseling from a regionally accredited college or university approved by the Council for

Accreditation of Counseling and Related Educational Program (CACREP);

2. practicum/internship requirements:

a. a practicum in school counseling to include 100 contacts hours in a school setting; or

b. an internship in school counseling to include 600 contact hours in a school setting;

3. completion of the PRAXIS examination in school guidance and counseling (0420).

C. Renewal Requirements. For purposes of maintaining a valid counseling endorsement, any school counselor receiving certification after July 1, 2013 is required to either provide verification of a current licensed professional counselor (LPC) license or complete 150 hours of continuing learning units (CLUs) over a five-year time period that are consistent with the individual professional growth plan (IPGP). These CLUs must be standards based and follow the models of the American School Counseling Association (ASCA) and CACREP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 33:280 (February 2007), LR 34:432 (March 2008), LR 38:1400 (June, 2012).

Chapter 6. Endorsements to Existing Certificates

Subchapter C. All Other Teaching Endorsement Areas

§659. Counselor K-12 (Counselor in a School Setting)

A. Universities that plan to admit new candidates into school counseling programs after December 31, 2012 must provide the Louisiana Department of Education by January 1, 2013 with a copy of the application submitted to the Council for Accreditation of Counseling and Related Educational Program (CACREP) for national accreditation. Universities that submit CACREP applications must be CACREP accredited by July 1, 2015 to admit new candidates into school counseling programs after June 30, 2015. Universities that do not submit CACREP applications by January 1, 2013 may not admit new candidates into their school counseling programs after December 31, 2012. Candidates who are already in the process of working toward certification under the previous guidelines will be given until June 30, 2017 to complete all coursework. Individuals who have completed all courses and degree requirements for the previous policy by June 30, 2017 will be allowed to have this endorsement added to their certificates.

B. Eligibility requirements:

1. valid Louisiana teaching certificate;

2. completion of a standards-based master's degree program in school counseling from a regionally accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP);

3. practicum/internship requirements:

a. a practicum in school counseling to include 100 contacts hours in a school setting; or

b. an internship in school counseling to include 600 contact hours in a school setting;

4. completion of the PRAXIS examination in school guidance and counseling (0420).

C. Renewal Requirements. For purposes of maintaining a valid counselor endorsement, any school counselor receiving certification after July 1, 2013 is required to either provide verification of a current License Professional Counselor (LPC) license or complete 150 hours of continuing learning units (CLUs) that are consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. These CLUs must be standards based and follow the models of the American School Counseling Association (ASCA) and CACREP.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 33:1618 (August 2007), LR 38:1401 (June, 2012).

Catherine R. Pozniak
Executive Director

1206#025

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Expenditures (LAC 28:XLIII.133)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*, Subpart 1. Regulations for Students with Disabilities: §133. Expenditures. The rules implement Act 515 of the 2010 Regular Legislative Session, the School Choice Pilot Program for Certain Students with Exceptionalities. The rules clarify the requirements for participating school and student eligibility. The policy clarifies the obligations of participants and gives clear timelines for reporting the entrance, exit, and transfer of students at participating schools. The policy also clarifies the financial obligations of the Department of Education and participating schools and families. This includes a requirement that schools not increase tuition after the school submits eligibility documentation to the state as part of the eligibility process conducted by the state. The policy ensures payments to participating schools are aligned with the same schedule for public schools receiving money from the state.

Title 28

EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

Subpart 1. Regulations for Students with Disabilities Chapter 1. State Eligibility Subchapter F. Students with Disabilities Enrolled by their Parents in Private Schools

§133. Expenditures

A. - D. ...

E. School Choice Pilot Program for Certain Students with Exceptionalities

1. Introduction

a. The purpose of the school choice pilot program for certain students with exceptionalities, hereafter referred to as the “program,” shall be to provide certain students with exceptionalities the opportunity to attend schools of their parents’ choice that provide educational services specifically tailored to address said students’ specific needs.

2. Definitions

a. *Approved Non-public School*—

i. non-public school that meets the following criteria:

(a). approved, provisionally approved, or probationally approved by the state Board of Elementary and Secondary Education pursuant to R.S. 17:11 and according to *Brumfield, et al. v. Dodd, et al.* 425 F. Supp. 528.

b. *Continuous Attendance*—

i. student is enrolled and actively attending school.

c. *Educational Certificate*—

i. award amount allocated to an eligible school on behalf of an eligible student by the Louisiana Department of Education that shall be equivalent to 50 percent of the per pupil allocation of state funds to the city, parish, or other local public school district in which the eligible student is residing for that school year, but shall not exceed the amount of tuition charged by the eligible nonpublic school.

d. *Enrollment Status*—

i. the category of enrollment at an eligible non-public school as evidenced by attendance and registration.

e. *Entrance Requirements*—

i. requirements for entry into a participating non-public school.

f. *IEP*—

i. a plan that provides the basis for programming for students with exceptionalities as specified in Bulletin 1530.

g. *Transfer*—

i. a change in enrollment status resulting from the movement of an eligible student from one approved non-public school to another eligible non-public school during the current school year.

h. *Tuition*—

i. the total costs associated with one year of enrollment at an eligible non-public school as assessed to similarly situated students.

i. *Services Plan*—

i. a plan that provides the basis for services programming for students with exceptionalities as specified in Bulletin 1530.

3. Eligibility

a. Student Eligibility

i. A student shall be eligible to participate in the program after submission of an application to the Louisiana Department of Education not later than February 10 of the year prior to the year of eligibility and in accordance with the following requirements:

(a). evaluation of the student by a local education agency as defined in R.S. 17:1942 and resulting in a determination that services are required for one of the following exceptionalities:

- (i). autism;
- (ii). mental disability;
- (iii). emotional disturbance;

- (iv). developmental delay;
- (v). other health impairment;
- (vi). specific learning disability; or
- (vii). traumatic brain injury;

(b). having an individual education plan or a services plan for any service excluding gifted and talented as defined in R.S. 17:1942 and in accordance with Title 34 of the Code of Federal Regulations Part 300.37;

(c). residence within an eligible parish in accordance with Act 515;

(d). eligibility to attend public school and enter into kindergarten or grades 1-8.

ii. An eligible student may be expelled from the school in accordance with the school’s discipline policies or may be disqualified from enrollment if the student is no longer eligible for the program as determined by the department.

b. School Eligibility

i. A non-public school shall be eligible to enroll students through the program if it:

(a). is an approved non-public school, as determined by the state Board of Elementary and Secondary Education pursuant to R.S. 17:11 and has been so approved for the school year prior to the school’s participation in the program; and

(b). has provided needed educational services to students with exceptionalities, as defined in R.S. 17:1942, excluding students deemed to be gifted or talented, for at least two years; and

(c). has provided needed services to students by teachers holding appropriate special education certification or other appropriate education and training as defined in Bulletin 1706; and

(d). provides services and instruction in accordance with a student’s individual education plan and/or services plan.

ii. A non-public school seeking eligibility for this program shall provide the Louisiana Department of Education with the following documents in accordance with timelines determined by the Louisiana Department of Education:

(a). a list of student exceptionalities that the school is able and willing to serve, as defined in R.S. 17:1942;

(b). an itemized tuition calculation including all costs for special education services by specific disability as listed in this Section of Bulletin 1706 and all mandatory fees for the upcoming year, as well as the previous year.

iii. Any non-public school that does not meet these requirements shall not receive approval for program participation.

c. Eligible School Obligations

i. Once a non-public school is determined to be eligible for the program it shall provide the following assurances and information, as well as meet the following deadlines in order to retain eligibility:

(a). determination of the number of eligible students it will accept in any year of program participation and establishment of criteria for enrollment of students;

(b). no student seeking to enroll and participate in the program shall be required to take an entrance exam;

(c). provision of all rules, policies, and procedures of the school, including but not limited to academic policies and disciplinary policies and procedures, to the parent or guardian of an eligible student;

(d). completion of student enrollment by April thirtieth of the school year prior to the non-public school's participation in the program;

(e). submission to the Louisiana Department of Education of a list of all eligible students conditionally enrolled in the school by June first of the year prior to the program year.

4. Finances

a. Parental Obligations

i. Parents of eligible students shall declare all other federal, state, local, and private financial aid to the student for educational purposes to the Louisiana Department of Education.

ii. Parents of eligible students shall be responsible for paying any outstanding tuition obligations regardless of the educational certificate award, except for undisbursed educational certificate funds.

b. School Obligations

i. Any eligible school shall declare all other federal, state, local, and private financial aid to eligible students for educational purposes to the Louisiana Department of Education.

ii. Any eligible school shall not increase tuition above itemized calculations provided to the Louisiana Department of Education by the school during eligibility determination.

iii. Any eligible school shall not require parents to pay for undisbursed educational certificate funds, unless student becomes ineligible for the pilot program but remains at the school.

iv. Any eligible school shall be subject to an audit of educational certificate funds by the Department of Education.

c. Louisiana Department of Education Obligations

i. The Louisiana Department of Education shall determine the total amount of the educational certificate after declaration by both parent and school of all other financial aid, subtracting any such aid from the maximum educational certificate value.

ii. The Louisiana Department of Education shall disburse educational certificate funds in four separate payments to the eligible school in the months of September, November, February, and May.

iii. Payments shall be based on per pupil count dates as determined by the Louisiana Department of Education. The count dates used are the fifteenth of September, November, February, and the fifth of May.

iv. Should any of the count dates occur on a weekend, the count shall take place no later than the next business day.

v. Should an eligible student begin attending an eligible non-public school after the start of the school year, the Louisiana Department of Education shall determine the method of disbursing the appropriate educational certificate amount.

5. Notifications of Change

a. School Notification Requirements

i. Any participating school shall notify the Louisiana Department of Education in writing within 10 days when there are changes in eligibility requirements including but not limited to: tuition, enrollment status, transfer, IEP, continuous attendance, and other types of financial aid as defined in this bulletin.

6. Student Records

a. Any participating school shall make all program participants' records available upon request by the Louisiana Department of Education.

7. Re-enrollment

a. Each eligible school and student shall submit a re-enrollment application to continue participation in the pilot program the following school year. If either the school or student loses eligibility, another initial application for the pilot program may be submitted to the Louisiana Department of Education.

8. Lottery

a. The Louisiana Department of Education shall hold a lottery for eligible, non-continuing students prior to the start of the school year, if demand for the pilot program exceeds available slots.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2041 (October 2008), amended LR 38:1401 (June 2012).

Catherine R. Pozniak
Executive Director

1206#026

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities (LAC 28:XLIII.543)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act: Subpart 1. Regulations for Students with Disabilities, §543. Restrictions on the Use of Seclusion or Physical Restraint*. The Rule was developed in response to Act 328 of the 2011 Regular Session of the Louisiana Legislature. The Act requires the state Board of Elementary and Secondary Education to approve rules related to the use of seclusion and restraint for students with exceptionalities in local education agencies in the state. The Rule includes definitions, how seclusion will be used and who will determine the use of seclusion. The Rule defines the attributes of a seclusion room. The use of physical restraint is described. Restrictions on the use of seclusion and physical restraint are included in the Rule. Notification of parents or legal guardians and the school district's director or supervisor of special education is required when seclusion or restraint is used. Documentation of the use of seclusion or restraint is necessary, and if a student is involved in five incidents in a school year, the student's individualized

education plan team shall review and revise the plan if necessary. School districts are required to adopt written guidelines and procedures concerning reporting requirements, notification to parents and school officials and explanations or methods of physical restraint and school employee training. The local school district will report instances where seclusion or physical restraint are used to the Department of Education, which will maintain a database of all reported instances of seclusion and physical restraint.

**Title 28
EDUCATION**

**Part XLIII. Bulletin 1706—Regulations for
Implementation of the Children with
Exceptionalities Act**

**Subpart 1. Regulations for Students with Disabilities
Chapter 5. Procedural Safeguards
Subchapter C. Seclusion and Physical Restraint**

**§543. Restrictions on the Use of Seclusion or Physical
Restraint**

A. - E. ...

F. The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The school shall document all efforts, including conversations, phone calls, electronic communications, and home visits, to notify the parent of a student who has been placed in seclusion or physically restrained.

1. The student's parent or other legal guardian shall also be notified in writing, within 24 hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

G. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012), repromulgated LR 38:1225 (May 2012), amended LR 38:1404 (June 2012).

Catherine R. Pozniak
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1206#027

RULE

Board of Elementary and Secondary Education

Finance and Property, Minimum Foundation Program,
Add-on Students/Units (LAC 28:I.1107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the *Louisiana Administrative Code*, Title 28, Part I, §1107.D, MFP: Add-on Students/Units. The *Louisiana Administrative Code*, Title 28, Part I, §1107, Subsection D contains the required data for establishing the data sets used in determining the add-on students/units. A technical amendment is required to the definition for at-risk students to align virtual schools students with the MFP resolution. Currently, the required data to determine an at-risk student is a free or reduced lunch application. The Rule

will now define an at-risk student as a student who is qualified to participate in the federal free and reduced price breakfast and lunch program, instead of a student who has an approved application to participate. This is necessary because low-income students enrolled in virtual schools do not fill out free or reduced lunch forms because they do not eat lunch at the school. This change will allow the MFP formula to calculate the add-on students/units for at-risk students correctly.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 11. Finance and Property
§1107. Minimum Foundation Program**

A. - C.1.b.x. ...

D. MFP: Add-on Students/Units

1. Required Data. For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. At-risk student count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE and the number of students identified as English language learners (ELL) that were not included based on income eligibility guidelines. The current income eligibility guidelines include those students qualifying to participate in the federal free and reduced price breakfast and lunch program. The fall count is determined by the number of students qualifying for the free and reduced price lunch program and those ELL students not included on income eligibility guidelines during the month of October as reported in the Student Information System (SIS). For any additional required count date(s), the at-risk student count will be those qualifying for free and reduced lunch and those ELL students not included on income eligibility guidelines as reported in SIS, as of that count date.

b. - e. ...

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011), LR 37:3219 (November 2011), LR 38:1404 (June, 2012).

Catherine R. Pozniak
Executive Director

1206#028

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for
Nonpublic School Administrators
(LAC 28:LXXIX.115, 705, 707, 905, 2103, and 3303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §115. Pre-Kindergarten/Kindergarten, §705. Length of the School Day, §707. Class Size and Ratio, §905. Age Requirements, §2103. Minimum Time Requirements, and §3303. Definitions. The revisions are necessary to align current policies with the new policies in Chapter 30, which was recently added. Chapter

30 provides the rules and regulations to protect the health and safety of three-year-old children who attend prekindergarten at an approved nonpublic elementary school, as required by Act 102 of the 2011 Regular Legislative Session. The changes to Sections 115, 705, 707, 905, 2103, and 3303 reflect the changes to pre-kindergarten policy, length of the school day, class size and ratio, age requirements, minimum time requirements, and definitions, as contained in the new regulations for three-year-old students.

Title 28 EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators— Programs of Study

Chapter 1. Operation and Administration

§115. Pre-Kindergarten/Kindergarten

A. The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

B. The pre-kindergarten program shall be listed on the annual school report when operated as a developmental program within the total school program or when operated as a separate program.

C. The term *pre-kindergarten* includes developmental programs for children ages three through four, the minimum age being three by September 30 of the school year in which the student enters pre-kindergarten.

D. Pre-kindergarten programs may be operated as part of an approved elementary school program in conjunction with other grades or may be operated solely as an approved pre-kindergarten program. These approved programs are considered to be elementary schools.

E. Non-public schools are not required to offer pre-kindergarten programs nor are children required to attend these programs.

F. Any other program which operates in a school as a childcare program shall follow the day care standards as prescribed by the appropriate state agency and is not to be listed on the annual school report.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3073 (December 2005), LR 36:2848 (December 2010), LR 38:1405 (June 2012).

Chapter 7. Scheduling

§705. Length of the School Day

A. The minimum instructional day for a full-day pre-kindergarten and/or kindergarten program shall be 330 minutes and for a one-half day pre-kindergarten and/or kindergarten program, the minimum instructional day shall be 165 minutes.

B. For grades 1-12, the minimum school day shall include 330 minutes of instructional time exclusive of recess, lunch, and planning periods.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November

2003), amended LR 31:3077 (December 2005), LR 38:1405 (June 2012).

§707. Class Size and Ratio

A. The maximum enrollment allowed in any class or section shall not exceed 35 students except in certain activity classes such as physical education, music, art, etc.

B. The class size for pre-kindergarten developmental programs for four year-olds shall not exceed 20 children for one teacher. Schools that choose to use the assistance of a full-time aide may have a maximum of 30 children per class.

C. The class size for pre-kindergarten developmental programs for three year-olds shall not exceed 13 children for one teacher. Schools that choose to use the assistance of a full-time aide may have a maximum of 20 children per class.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:3078 (December 2005), LR 38:1405 (June 2012).

Chapter 9. Student Services

§905. Age Requirements

A. The minimum age for pre-kindergarten shall be age three by September 30 of the year in which the student enters pre-kindergarten.

B. The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

C. Each school system and/or independent school may adopt by rule and enforce ages for entrance into first grade in school. It is recommended that a child entering first grade be six years of age on or before September 30 of that school year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), LR 36:2848 (December 2010), LR 38:1405 (June 2012).

Chapter 21. Curriculum and Instruction

Subchapter B. Elementary Program of Studies

§2103. Minimum Time Requirements

A. Pre-Kindergarten/ Kindergarten

1. The pre-kindergarten, and/or kindergarten elementary school grades should be planned to meet the developmental needs of young children and should be informal in nature, with teacher-directed and student-initiated activities.

A.2.a. - B.6.m. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:3080 (December 2005), LR 34:229 (February 2008), LR 36:2848 (December 2010), LR 38:1405 (June 2012).

Chapter 33. Glossary

§3303. Definitions

* * *

Early Childhood Program—Repealed.

* * *

Elementary School—a school composed of any span of grades pre-kindergarten, and/or kindergarten through the eighth grade.

* * *

Pre-Kindergarten—developmental programs for children ages 3-4, the minimum age being three by September 30 of the school year in which the student enters pre-kindergarten.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:230 (February 2008), amended LR 36:2848 (December 2010), LR 38:1405 (June 2012).

Catherine R. Pozniak
Executive Director

1206#029

RULE

Office of the Governor Division of Administration Office of State Purchasing

Reverse Auctions (LAC 34:I.Chapter 6)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Purchasing, has adopted Chapter 6, Reverse Auctions, to allow for a competitive online electronic bidding procedure when advantageous and to regulate the overall process.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part I. Purchasing

Subpart 1. Central Purchasing Procedures

Chapter 6. Reverse Auctions

§601. Definition

A. For the purpose of this Section, *using agency* means the Office of State Purchasing using the reverse auction process on its own behalf or on behalf of other state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1406 (June 2012).

§603. Application

A. Where the using agency utilizes the reverse auction process on behalf of a single state agency, the head of the state agency requesting a reverse auction shall provide:

1. reasons that the best interest of the state would be served and that electronic online bidding is more advantageous than other procurement methods;
2. specifications and terms and conditions to be used for the procurement.

B. When the using agency uses the reverse auction process on its own behalf or on behalf of multiple state

agencies, the director of state purchasing shall be considered the department head of the using agency.

C. Vendors shall register before the opening date and time, and as part of the registration, shall agree to any terms and conditions and other requirements of the solicitation.

D. Vendors and/or products shall be prequalified prior to placing bids and only bidders who are prequalified will be allowed to submit bids.

1. The prequalification criteria shall be prescribed in the solicitation.

2. The prequalification period shall be announced in the solicitation.

3. The prequalification period shall end 10 days prior to the beginning of the auction.

4. Bidders shall be notified as to whether they have been prequalified in writing at least seven days prior to the beginning of the auction.

5. When applicable, prequalified products for a particular solicitation shall be announced on the state's internet-based system for posting vendor opportunities seven days prior to the beginning of the auction.

6. Any bidder aggrieved by the pre-qualification process shall have the right to protest the solicitation in accordance with the provisions of R.S. 39:1671.

E. The solicitation shall designate an opening date and time and the closing date and time. The closing date and time may be fixed or remain open depending on the nature of the item being bid.

1. Online reverse auctions shall last no less than one hour.

F. At the opening date and time, the using agency shall begin accepting online bids and continue accepting bids until the bid is officially closed. Registered bidders shall be allowed to lower the price of their bid below the lowest bid posted on the Internet until the closing date and time.

G. Bidders' identities shall not be revealed during the bidding process; only the successively lower prices, ranks, scores, and related bid details shall be revealed.

H. All bids shall be posted electronically and updated on a real-time basis. All prices must be received in the state's system by the announced closing time regardless of what time it was submitted by the vendor.

I. The using agency shall retain the right to cancel the solicitation if it determines that it is in the agency's or the state's best interest.

J. The using agency shall retain its existing authority to determine the criteria that shall be used as a basis for making awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1406 (June 2012).

§605. Addenda Modifying a Reverse Auction

A. Addenda will be issued in accordance with §505 of these rules.

B. It is the responsibility of the bidder to obtain any solicitation amendment(s) if the solicitation and addenda are posted on the state's internet-based system for posting bid opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1406 (June 2012).

§607. Price Submittals

A. Bidders may submit multiple prices during the event. The lowest price offered will become the price portion of the bid response.

B. The preference provisions of R.S. 39:1595, 1595.1, 1595.2, 1595.3, 1595.6, and 1595.7 shall apply to the reverse auction process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012).

§609. Withdrawal of Bids

A. Withdrawal of bids will be handled in accordance with §521 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012).

§611. Tie Bids

A. In the event that multiple bidders submit identical prices for the same goods or services, the bid received first will be considered to be the lowest. Any other identical bids received later will be considered in the order received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012).

§613. Rejected Bids

A. The awarding authority may reject any bid, in whole or in part, if any of the following occur:

1. bids offered for materials, supplies, services, products, or equipment that are not in compliance with the requirements, specifications, terms or conditions as stated in the reverse auction;
2. the price of the lowest responsive and responsible bid exceeds the amount budgeted for the procurement;
3. it is determined that awarding any item is not in the best interest of the agency/department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012).

§615. Public Viewing of Auction Event

A. The public may view the internet auction event which will be conducted such that the names of the bidders will not be disclosed until after the completion of the auction, at which time the event record will be available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012).

§617. Security

A. All reverse auctions shall be conducted in accordance with the electronic security requirements of the Office of Information Technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012).

Denise Lea
Assistant Commissioner

1206#017

RULE

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

Daily Double (LAC 35:XIII.10501)

Editor's Note: This Rule, submitted for publication in the May 20, 2012 *Louisiana Register*, was inadvertently omitted.

The Louisiana State Racing Commission hereby amends Daily Double (LAC 35:XIII.10501) as follows.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 105. Daily Double

§10501. Daily Doubles

A. Daily doubles shall be permitted during any single race card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:441 (December 1976), amended LR 3:37 (January 1977), LR 4:282 (August 1978), LR 6:542 (September 1980), LR 12:289 (May 1986), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1407 (June 2012).

Charles A. Gardiner III
Executive Director

1206#003

RULE

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

Mandatory Health Screening (LAC 35:I.1304)

Editor's Note: This Rule, submitted for publication in the May 20, 2012 *Louisiana Register*, was inadvertently omitted.

The Louisiana State Racing Commission hereby amends Mandatory Health Screening (LAC 35:I.1304) as follows.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 13. Health Rules

§1304. Mandatory Health Screening

A. ...

B. No horse shall be allowed to enter the confines of a racetrack of any association holding a license to conduct a race meeting or race in Louisiana unless it has had an Equine Piroplasmosis (EP) test taken within 12 months of the date of entry upon the racetrack and/or race, with a negative result for Theileria equi. Record of the negative test shall be attached to registration papers of the horse upon entry to the racetrack. The trainer of the horse is responsible for insuring that a negative Piroplasmosis test result is in the racing secretary's office as required by this rule.

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

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 14:226 (April 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011), LR 38:1407 (June 2012).

Charles A. Gardiner III
Executive Director

1206#002

RULE

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

**Nonsteroidal and/or Anti-Inflammatory Medication
(LAC 35:I.1505)**

Editor's Note: This Rule, submitted for publication in the May 20, 2012 *Louisiana Register*, was inadvertently omitted.

The Louisiana State Racing Commission hereby amends Nonsteroidal and/or Anti-Inflammatory Medication (LAC 35:I.1505) as follows.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1505. Nonsteroidal and/or Anti-Inflammatory Medication

A. No nonsteroidal and/or anti-inflammatory medication may be administered to or used on a horse in training and eligible to be raced at a race meeting in this state except by a licensed veterinarian or a licensed trainer, or under his or her personal order; provided, however, that any such medication given hypodermically may only be administered by a licensed veterinarian. The nonsteroidal, anti-inflammatory medications designated below may be used in training but may not be administered within 24 hours of a race in which a horse is entered. The maximum analytical test result levels of the urine and blood of such horse, regardless of time of administration, shall be as follows, unless otherwise specified herein.

1. Urine Levels

Post-Race Urine Levels	Total of Drug and/or Metabolite
Phenylbutazone	165 micrograms per milliliter
Oxyphenylbutazone	165 micrograms per milliliter

2. Blood Levels

Post-Race Blood Levels	Total of Drug and/or Metabolite
Phenylbutazone	5.0 micrograms per milliliter
Oxyphenylbutazone	5.0 micrograms per milliliter

B. ...

C. For all horses entered in a graded stakes race, the maximum analytical test result levels of the blood of such horse, regardless of time of administration, shall be as follows.

Post-Race Blood Level	Total of Drug and/or Metabolite
Phenylbutazone	2.0 micrograms per milliliter

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:547 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1408 (June 2012).

Charles A. Gardiner III
Executive Director

1206#001

RULE

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

Pick Five (LAC 35:XIII.11001)

Editor's Note: This Rule, submitted for publication in the May 20, 2012 *Louisiana Register*, was inadvertently omitted.

The Louisiana State Racing Commission hereby adopts Pick Five (LAC 35:XIII.11001) as follows.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 110. Pick Five

§11001. Pick Five

A. The pick five pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

B. A pick five pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the pick five provisions and rules.

C. A pick five may be given a distinctive name by the association conducting the meeting, subject to approval of the commission.

D. The pick five pari-mutuel pool consists of amounts contributed for a selection for win only in each of five races designated by the association with the approval of the commission. Each person purchasing a pick five ticket shall

designate the winning horse in each of the five races comprising the pick five.

E. Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the pick five shall race as a single wagering interest for the purpose of the pick five pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the pick five calculation and the selection shall not be deemed a scratch.

F. The pick five pari-mutuel pool shall be calculated as follows.

1. The net amount in the pari-mutuel pool referred to in this Section is defined as the pari-mutuel pool created by pick five wagering on that particular day and does not include any amounts carried over from previous days' betting as provided by in Subparagraph F.3.a and Subparagraph F.4.a below.

2. One hundred percent of the net amount in the pari-mutuel pool is subject to distribution to a single unique winning ticket holder, plus any carryover resulting from provisions of Paragraph F.3 and Paragraph F.4 shall be distributed to the unique winning ticket holder of the single pari-mutuel ticket which correctly designates the official winner in each of the five races comprising the pick five.

3. In the event there is more than one pari-mutuel ticket properly issued which correctly designates the official winner in each of the five races comprising the pick five, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the five races comprising the pick five.

4. In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the five races comprising the pick five, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the most official winners, but less than five, in each of the five races comprising the pick five.

5. Should no distribution be made pursuant to Paragraph F.1 on the last day of the association meeting,

then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the five races comprising the pick five for that day or night; the provisions of Subsections I and J have no application on said last day.

G. In the event a pick five ticket designates a selection in any one or more of the races comprising the pick and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. In the event the amount wagered in the win pool on two or more favorites is identical, the favorite with the lowest number on the program will be designated as the actual favorite.

H. In the event of a dead heat for win between two or more horses in any pick five race, all such horses in the dead heat for win shall be considered as winning horses in that race for the purpose of calculating the pool.

I. No pick five shall be refunded except when all of the races comprising the pick five are canceled or declared as "no contest." The refund shall apply only to the pick five pool established on that racing card. Any net pool carryover accrued from a previous pick five feature shall be further carried over to the next scheduled pick five feature operated by the association.

J. In the event that any number of races less than five comprising the pick five are completed, 100 percent of the net pool for the pick five shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick five pool in which less than five races have been completed. Any net pool carryover accrued from a previous pick five feature shall be further carried over to the next scheduled pick five pool operated by the association.

K. No pari-mutuel ticket for the pick five pool shall be sold, exchanged or canceled after the time of the closing of wagering in the first of the five races comprising the pick five, except for such refunds on pick five tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick five pool or the number or amount of tickets selecting winners of pick five races until such time as the stewards have determined the last race comprising the pick five each day to be official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1408 (June 2012).

Charles A. Gardiner III
Executive Director

1206#005

RULE

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

Super Six (LAC 35:XIII.10901)

Editor's Note: This Rule, submitted for publication in the May 20, 2012 *Louisiana Register*, was inadvertently omitted.

The Louisiana State Racing Commission hereby amends Super Six (LAC 35:XIII.10901) as follows.

**Title 35
HORSE RACING
Part XIII. Wagering**

Chapter 109. Super Six

§10901. Super Six

A. - F.1. ...

2. Seventy percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders, plus any carryover resulting from provisions of Paragraph F.4, shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the super six.

F.3. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:542 (September 1980), amended LR 12:11 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 15:8 (January 1989), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1410 (June 2012).

Charles A. Gardiner III
Executive Director

1206#004

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Home and Community-Based Services Providers
Minimum Licensing Standards
Direct Service Worker Exemption (LAC 48:I.5001)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.5001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

**Chapter 50. Home and Community-Based Services
Providers Licensing Standards**

Subchapter A. General Provisions

§5001. Introduction

A. - C.7. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 3. ...

4. staffing agencies that supply contract workers to a health care provider licensed by the department;

5. any person who is employed as part of a departmentally authorized self-direction program; and

a. ...

6. any individual direct service worker providing respite services pursuant to a contract with the Statewide Management Organization (SMO) in the Louisiana Behavioral Health Partnership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012).

Bruce D. Greenstein
Secretary

1206#067

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Nursing Facility Minimum Licensing Standards
Nurse Aide Training and Competency Evaluation Program
(LAC 48:I.10015 and 10081)

This Rule was originally promulgated in the May 20, 2012 *Louisiana Register* in its entirety on pages 1241-1251. Sections 10015 and 10081 are being repromulgated to correct typographical errors.

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.Chapter 100 in the Medical Assistance Program as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

**Chapter 100. Nurse Aide Training and Competency
Evaluation Program**

Subchapter B. Training and Competency Requirements

§10015. Training Curriculum/Program Approval

A. Training Curriculum

1. Providers applying to have a training program after the effective date of this Rule shall use one of the state approved curriculums or any subsequent editions issued by the publisher or any future state approved curriculums.

2. The curriculum shall be a minimum of 80 hours in length, which includes 40 classroom hours and 40 clinical hours.

3. Each additional unit objective added to the approved curriculum, above the minimum 80 hours, shall be behaviorally-stated for each topic of instruction. Each objective shall state performance criteria which are measurable and shall serve as a basis for the competency evaluation.

a. The unit objectives shall be reviewed with the trainees at the beginning of each unit so each trainee will know what is expected of him/her in each part of the training.

4. - 5. Repealed.

B. Curriculum Goals and Content

1. The goal of the nurse aide training and competency evaluation program is the provision of quality services to residents by nurse aides who are able to:

a. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care;

b. demonstrate sensitivity to the emotional, social and mental health needs of resident's through skillful, directed interactions;

i. Repealed.

c. assist residents in attaining and maintaining functional independence;

d. exhibit behavior to support and promote the rights of residents; and

e. demonstrate proficiency in the skills needed to support the assessment of the health, physical condition and well-being of residents.

2. Facility and non-facility based training programs shall provide at least 16 hours of instruction prior to a trainee's direct involvement with a resident. The 16 hours of instruction shall be devoted to areas listed in Paragraph C of this Section.

C. The training program shall be conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies in the following areas:

1. basic nursing skills including, but not limited to:

a. bed-making;

b. taking vital signs;

c. measuring height and weight;

d. caring for the resident's environment;

e. measuring fluid and nutrient intake and output;

f. assisting in the provision of proper nutritional care;

g. ambulating and transferring residents;

h. using body mechanics;

i. maintaining infection control and safety standards;

j. understanding the protocols in facility policy for the performance of and attaining/maintaining proficiency in basic cardio-pulmonary resuscitation including one hour of in-service training that shall be provided by the facility annually;

k. caring for residents when death is imminent;

l. recognizing abnormal signs and symptoms of common diseases and conditions; and

m. caring for residents suffering from Alzheimer's disease or dementia;

2. personal care skills including, but not limited to:

a. bathing, including mouth care;

b. grooming and dressing;

c. toileting;

d. assisting with feeding and hydration; and

e. skin care;

3. mental health and social service needs including, but not limited to:

a. modifying his/her own behavior in response to a resident's behavior;

b. identifying developmental tasks associated with the aging process and using task analysis to increase independence;

c. providing training in and the opportunity for self-care according to a resident's capabilities;

d. demonstrating principles of behavior modification by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated;

e. demonstrating skills which support age-appropriate behavior by allowing the resident to make personal choices;

f. providing and reinforcing behavior consistent with maintaining a resident's dignity; and

g. utilizing a resident's family as a source of emotional support;

4. basic restorative services including, but not limited to:

a. the use of assistive devices in ambulation, eating and dressing;

b. maintenance of range of motion;

c. proper turning and positioning in a bed and a chair;

d. transferring a resident;

e. bowel and bladder training; and

f. care and use of prosthetic devices, such as hearing aids, artificial eyes or artificial limbs;

5. maintaining a resident's rights including, but not limited to:

a. assisting a resident to vote;

b. providing privacy and maintaining confidentiality;

c. allowing the resident to make personal choices to accommodate individual needs;

d. giving assistance in resolving grievances;

e. providing needed assistance in getting to, and participating in, resident and family groups and other activities;

f. maintaining reasonable care of a resident's personal possessions;

g. providing care which frees the resident from abuse, mistreatment or neglect and reporting any instances of poor care to appropriate facility staff; and

h. maintaining the resident's environment and care so as to minimize the need for physical and chemical restraints;

6. communication and interpersonal skills;

7. safety and emergency procedures;

8. promoting residents' independence; and

9. the Heimlich maneuver.

D. Program Approval

1. All training programs shall meet the guidelines established by the department.

2. To get a nurse aide training program approved, the facility or school shall submit to the department the application, completed in its entirety, which denotes the state approved curriculum that shall be used and all required documentation stipulated in the nurse aide training packet.

3. All schools applying for approval shall identify the physical locations used for classroom instruction and for the

clinical experience. Non-facility based programs shall also submit clinical contracts which meet the guidelines established by the department.

4. Approval to provide nurse aide training is granted specifically for the provider who submitted the application. There is no provision for subcontracting the training program.

5. If an approved program ceases to provide a nurse aide training and competency evaluation program for a two year period, the program shall be closed. The provider must reapply if they wish to provide training at a later date.

6. All approved providers shall maintain a current address, telephone and fax number, and e-mail address. The provider shall report to the department any changes in this information or other aspects of the approved program within five working days.

E. - F.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Financing LR 38:1242 (May 2012), repromulgated LR 38:1410 (June 2012).

Subchapter G. Medication Attendant Certified **§10081. General Provisions**

A. The Department of Health and Hospitals (DHH) establishes provisions for the use of medication attendants certified in licensed nursing facilities. The department shall maintain a registry of individuals who have, at a minimum, successfully completed a state-approved medication attendant certified training course and competency evaluation, and criminal background check.

B. The medication attendant certified registry shall contain the following items:

1. a list of individuals who have successfully completed a medication attendant certified training curriculum and competency evaluation. Each individual listed shall have the following information maintained on the registry:

a. - i.iv. ...

v. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired;

j. information relative to training and registry status which will be available through procedures established by the department; and

k. e-mail address.

C. Employers shall use the registry to determine if a prospective hire is a medication attendant certified and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

D. A certificate holder shall notify the department within 30 days after changing his or her address, telephone number, e-mail address or name.

E. A medication attendant certified or his or her employer, if aware, shall immediately notify the department of any arrest in any state.

F. A person who holds a valid license, registration or certificate as a medication attendant issued by another state shall also be certified in Louisiana if the transferring state's training program is at least 100 hours or more and the applicant passes the State competency examination.

1. The applicant shall submit a request for reciprocity to the Registry.

2. The application shall include a current copy of the rules of the other state governing its licensing and regulation of medication aides, a copy of the legal authority (law, act, code, or other) for the state's licensing program, and a certified copy of the license or certificate for which the reciprocal certificate is requested.

3. The department shall contact the issuing agency to verify the applicant's status with the agency.

G. When issued, an initial certificate shall be valid for 12 months from the date of issue. The registry will renew the certificate if:

1. - 2. ...

H. The department shall deny renewal of the certificate of a medication attendant certified who is in violation of this Chapter at the time of the application renewal.

I. A person whose certificate has expired shall not engage in activities that require a certificate until the certificate has been renewed.

J. A medication attendant certified shall function under the direct supervision of a licensed nurse on duty at the nursing facility. A certificate holder must:

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a nursing facility; and

2. comply with the department's rules applicable to personnel used in a nursing facility.

K. Persons employed as medication attendants certified in a nursing facility shall comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, the department's rule governing the Standards for Payment for Nursing Homes and Minimum Licensure Standards for Nursing Homes or subsequent amendments. Requirements are met if the individual is:

K.1. - L. ...

M. Nursing facilities may count the MAC in required nursing hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1 - 37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012), LR 38:1412 (June 2012).

Bruce D. Greenstein
Secretary

1206#069

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Hospital Licensing Standards
License Renewal and Dietary Services
(LAC 48:1.9303, 9305, and 9377)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:1.9303, §9305, and §9377 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2100-2115. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9303. Definitions

A. ...

* * *

License Under Suspensive Appeal—a full or provisional license against which the department has taken a licensing action and the hospital has filed an administrative appeal.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012).

§9305. Licensing Process

A. - B.1.b. ...

2. The department also has discretion in denying, suspending or revoking a license where there has been substantial noncompliance with these requirements in accordance with the hospital law. If a license is denied, suspended or revoked, an appeal may be made as outlined in the hospital law (R.S. 40:2110).

a. Suspensive Appeal. A hospital that appeals the action of the department in denying, suspending or revoking the license may file a suspensive appeal from the action of the department.

b. A renewal license shall not be issued, nor will any changes be processed to a hospital’s existing license, during the pendency of an administrative suspensive appeal of the department’s decision to deny, suspend or revoke a hospital’s license for substantial non-compliance. There is no

additional administrative remedy to the hospital for the non-renewal of a license.

c. The license for a hospital that is suspensively operating during the pendency of the appeal process shall be considered a license under suspensive appeal.

B.3. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012).

Subchapter G. Food and Dietetic Services

§9377. General Provisions

A. ...

B. A hospital may meet the requirements of §9377.A through a contractual agreement with a provider who is licensed by the department’s Health Standards Section or through a contract with an outside food management company. If the hospital has a contract with an outside food management company, the following requirements shall be met.

1. The hospital must provide written notices to the department’s Health Standards Section and to the department’s Office of Public Health within 10 calendar days of the effective date of the contract.

2. The outside food management company must possess a valid Department of Health and Hospitals, Office of Public Health retail food permit and meet all of the requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the most current version of the provisions found in Title 51, Part XXIII, Chapter 19, §1911.

3. Either the hospital or the food management company must employ or contract with a dietician who serves the hospital on a full-time, part-time, or consultant basis to ensure that the nutritional needs of the patients are met in accordance with the practitioners’ orders and acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012).

Bruce D. Greenstein
Secretary

1206#068

RULE

Department of Natural Resources Office of Conservation

Definitions (LAC 43:XI.101)

Editor's Note: This Rule is being repromulgated to show correct placement in the *Louisiana Administrative Code*. This Rule has been codified as LAC 43:XI.101.

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation—Pipeline Division

Subpart 1. Natural Gas and Coal

Chapter 1. Natural Gas and Coal

Pursuant to authority delegated under the laws of the state of Louisiana, and particularly Chapter 7 of Title 30 of the Revised Statutes of 1950, entitled the Natural Resources and Energy Act of 1973, after due notice having been given and all legal delays observed, and after public hearing held under Docket Number PL 81-290 in Baton Rouge, LA, on the seventeenth day of December, 1981, the following regulation is amended, reenacted and adopted by the commissioner of conservation as being reasonably necessary to govern and control matters involving the provisions of the Natural Resources and Energy Act of 1973.

§101. Definitions

A. The words and terms defined herein shall have the following meanings when used in these regulations. All other words and terms so used and not herein defined shall have their usual meanings unless specially defined in Chapter 7 of Title 30 of the Louisiana Revised Statutes of 1950.

Act or Chapter—the Natural Resources and Energy Act of 1973, being Act 16 of the Extraordinary Session of 1973, now Chapter 7 of Title 30 of the Louisiana Revised Statutes of 1950, as amended after 1950.

Commissioner—the commissioner of conservation of the state of Louisiana who shall be the commissioner of conservation within the Department of Natural Resources.

Excess Capacity of Intrastate Gas Pipelines—that part of the capability of a pipeline system to transport intrastate natural gas from point to point along its line in excess of the immediate needs of the pipeline company or its subsidiaries or its parent or the subsidiary companies of its parents. In determining excess capacity, the commissioner may disregard existing contracts for the transportation or sale of intrastate natural gas to the extent they are not then being performed or fulfilled. Excess capacity of intrastate pipelines may also be created as a result of intrastate natural gas delivery curtailment orders of the commissioner in the implementation of the allocation, rationing and conservation measures governing the endues of intrastate natural gas provided for in the Act.

Facility—any component of a pipeline or pipeline system except:

a. *auxiliary installations*—installations which are merely auxiliary or appurtenant to an existing transmission pipeline system and which are installed only for the purpose of obtaining more efficient or more economical operation of authorized transmission facilities, such as: gas cleaning and treating equipment; heaters; cooling and dehydration equipment; residual refining equipment; water pumping treating and cooling production compressors; measurement equipment; pressure or flow regulation or control

equipment; electrical and communication equipment and buildings;

b. *replacement of facilities*—facilities which constitute the replacement of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable, provided, that such replacement will not result in a reduction or abandonment of service rendered by means of such facilities. Provided further, that such replacement shall have substantially equivalent designed delivery capacity as the particular facilities being replaced;

c. *new delivery points*—metering and regulating installations and branch lines necessary to the establishment of new delivery points required for the delivery of gas, coal or lignite to an existing customer;

d. *taps*—taps on existing transporter pipelines which are installed solely for the purpose of enabling a purchaser or transporter to take delivery of gas, coal, or lignite from a producer.

Gas—any gas derived from or composed of hydrocarbons, including synthetic gas which is produced from coal, lignite, or petroleum coke and the heat content of which synthetic gas does not exceed 800 BTUs per standard cubic foot.

Interested Parties—those persons who have a direct interest in the subject matter for which an application is filed as such persons are specified in these regulations.

Intrastate Coal Slurry Pipeline—a pipeline located and operated in the state of Louisiana for the transportation of coal or lignite from within or outside state limits or any mixture of substances which includes coal or lignite, in any form, but does not include producer owned producing and gathering lines and facilities located within the mine limits associated and used in connection therewith, provided such lines and facilities are not used for hire in the transportation of coal or lignite for others.

Intrastate Coal Slurry Transporter—any person owning or operating an intrastate coal slurry pipeline.

Intrastate Natural Gas—gas produced, transported, and utilized wholly within the State of Louisiana, through the use of intrastate pipelines where such use of interstate pipelines is or may hereafter be exempt from the control of the Federal Energy Regulatory Commission under the Natural Gas Act or rules and regulations promulgated by the Federal Energy Regulatory Commission thereunder, and gas, wherever produced, which is or may be transported into this state and delivered to an intrastate pipeline in this state to be used or consumed wholly within this state.

Intrastate Natural Gas Pipeline—a pipeline which is located and operated wholly within the state of Louisiana, which does not extend beyond the boundaries of the state of Louisiana, and which is not merely a local branch of an interstate pipeline system but does not include producer owned producing and gathering lines and facilities associated and used in connection therewith, provided such lines and facilities are not used for hire in the transportation of natural gas for others, except as provided in R.S. 30:607.

Intrastate Natural Gas Transporter—any person owning or operating an intrastate natural gas pipeline.

Natural Gas Company—a person engaged in the sale of intrastate natural gas beyond the wellhead.

Person—any natural person, corporation, political subdivision, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind.

Rules of Procedure—the rules of procedure promulgated by the commissioner and which are stated to be applicable to the Act.

Sale of Intrastate Natural Gas at the Wellhead—the first transfer for value by the producer of such gas whether at the wellhead, a central gathering facility, or at the tailgate of a gas processing plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:76 (March 1978), amended LR 7:80 (March 1981), LR 8:15 (January 1982), repromulgated LR 38:1414 (June 2012).

James H. Welsh
Commissioner

1206#013

RULE

Department of Public Safety and Corrections Office of State Police

Issuance of Concealed Handgun Permits (LAC 55:I.1301 and 1307)

Editor's Note: Sections 1301 and 1307 are being repromulgated to correct submission errors. This Rule was originally promulgated in the May 20, 2012 *Louisiana Register* and can be viewed in its entirety on pages 1279-1286.

Under the authority of R.S. 40:1379.3(A)(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of State Police amends the concealed handgun permit regulations, LAC 55:I.Chapter 13. The amendments to the Rule are necessary to be in compliance with recent Acts passed by the Louisiana Legislature. In addition, the Rule makes technical changes to improve readability, eliminate duplicate items, and to codify current practice by the department regarding utilization of its statutory authority to levy fines under certain circumstances.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 13. Issuance of Concealed Handgun Permits

§1301. Applications and Permits

A. The rules contained herein are promulgated by the Concealed Handgun Permit Unit of the Department of Public Safety and Corrections, Office of State Police, in order to set forth the policies and procedures applicable to the issuance of concealed handgun permits to Louisiana citizens who qualify for such permits pursuant to R.S. 40:1379.1 and 40:1379.3; to provide statewide uniform standards for issuing permits to carry concealed handguns; and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of these rules. Any subsequent restatement, repeal, or amendment of these rules shall be in accordance with the aforementioned considerations.

B. Applicability. The policies and procedures provided herein shall be applicable to all Louisiana citizens who are eligible for a statewide concealed handgun permit.

C. Duties and Responsibilities. Persons issued concealed handgun permits have the authority only to carry a concealed weapon and are regarded as private citizens in all matters of law with no special powers or authority accruing by virtue of the concealed handgun permit.

D. Application. Eligible persons shall be entitled to receive the concealed handgun permit, as set forth above; provided that all requirements of the superintendent of state police relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the superintendent of state police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. Suspension/Revocation. The superintendent of state police or his designee may suspend or revoke concealed handgun permits when conditions and/or circumstances are such that the holder of such permit can no longer show need or when the holder commits acts contrary to law or uses the permit for self aggrandizement or in an unreasonable and imprudent manner.

F. Arrest Record. If the applicant has an arrest record, he shall present a notarized statement from the clerk of court or district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

G. - I.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1279 (May 2012), repromulgated LR 38:1415 (June 2012).

§1307. Applications and Permits

A. Application materials may be obtained submitting a completed "Request for Application To Carry A Concealed Handgun" (form DPSSP 4644) to the department or by accessing the Louisiana State Police website at www.lsp.org.

B. Initial Applications

1. All applications for a permit shall be submitted on forms provided by the department and mailed to:

Louisiana State Police
Concealed Handgun Permit Unit
P. O. Box 66375
Baton Rouge, LA 70896

2. Applicants shall provide all additional information requested by the department within 10 business days of receipt of the request, unless an extension is granted by the department. If any applicant fails to provide all additional information requested by the department, the application shall be considered incomplete and shall be denied.

3. All applicants shall submit with their application two color passport photographs that meet the following specifications:

a. photographs taken within 60 days of submission of application;

b. full frontal view photograph of the applicant including his head and hair;

c. sunglasses, hats, or caps may not be worn while taking photograph; and

d. the rear of the photograph shall be signed and dated by the employee of the law enforcement agency where the applicant's fingerprints are taken.

4. All applicants shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

5.a. For purpose of proof that the applicant is a resident of the state of Louisiana prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or valid Louisiana identification card.

i. An applicant shall have a Louisiana driver's license or identification card.

ii. In the event the applicant's Louisiana driver's license or Louisiana identification card has been issued within six months of application, proof of residency shall be established by any one of the following documents:

(a). United States passport;

(b). Louisiana voter registration card;

(c). any other documentation, which may adequately satisfy proof of compliance with the qualifications for residency.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

c. Applicants who claim Louisiana as their domiciliary state and are on U.S. military duty in another state shall submit a copy of their orders detailing them to such duty station, along with a copy of their military identification card. Applicants who do not claim Louisiana as their domiciliary state and are on U.S. military duty in this state shall submit a copy of their orders detailing them on permanent status to a duty station within this state. In addition, those applicants shall possess either a valid Louisiana driver's license or valid Louisiana identification card.

d. An applicant who is attending school in another state shall submit a copy of his school registration form and fee bill for each semester during the permit period that is applicable.

6. For purposes of proof that the applicant is at least 21 years of age, a photocopy of his valid Louisiana driver's license or valid Louisiana identification card which contains the applicant's date of birth shall suffice.

7. All application forms are to contain a properly notarized oath wherein the applicant swears that:

a. the information contained therein is true and correct;

b. the applicant has read the applicable law and these rules, and any other informational materials supplied by the department that pertain to concealed handgun permits;

c. the applicant agrees to comply with these rules and the law; and

d. the applicant understands that any omission or falsification of any information required in the application may subject the applicant to criminal penalties.

8. All applications shall contain the permittee's home and daytime telephone number and a permanent mailing address for receipt of correspondence and service of documents by the department.

9. All applications submitted to the department shall contain proof of competency with a handgun in accordance with §1311.

10. All applications shall include a properly executed affidavit, provided by the department, whereby the applicant agrees in writing to hold harmless and indemnify the department, the state or any peace officer for any and all liability arising out of the issuance or use of the concealed handgun permit.

11. Incomplete applications, including failure to pay fees, shall result in the rejection or denial of a permit application.

12. The applicant or permittee shall notify the department, in writing, of any change of address, name, phone number, or other information required in the application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website.

13. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and may be cause for denial, suspension, or revocation of the permit.

14. All applications shall be submitted with a certified check, money order or any other means of payment as approved by the department for the application or renewal fee as provided in §1307.B.15. An application is not complete unless it is submitted with the appropriate fee, is signed by the applicant, and contains all information required by the department.

15. All applicants shall submit with the application a non-refundable fee in the form of a certified check, money order or any other means of payment as approved by the department. The applicable fees are as follows:

a. for a five-year concealed handgun permit the fee shall be \$125;

b. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department;

c. any applicant who has not continuously resided within the state of Louisiana for the 15 years preceding the submission of the initial application shall enclose an additional non-refundable \$50 fee. This additional fee shall not be reduced for applicants 65 years of age or older.

d. Repealed.

C. Qualifications to Receive a Permit. To qualify for a concealed handgun permit, a citizen shall:

1. not be ineligible to possess a firearm under 18 U.S.C. 922(g); and

2. meet the requirements set forth in R.S. 40:1379.3 et seq.

D. Renewal of Permits

1. To renew a concealed handgun permit, a permittee shall file a renewal application no more than 120 days prior to the expiration of the permit and no later than the sixtieth day after expiration. Renewal applications submitted after the sixtieth day from expiration will not be accepted and the permittee shall complete a new original application with all documentation required for an original application. All

renewal applications shall include two new photographs of the applicant as specified in LAC 55:I.1307.B.3.

2.a. A renewal application shall be considered filed with the department when the department receives the application and the fees are processed. The applicable renewal fees are as follows:

i. for a five-year concealed handgun permit the fee shall be \$125;

ii. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department.

3. An incomplete renewal application shall be denied or rejected by the department for failure to provide requested documents or appropriate fees. Proof of residency shall conform to LAC 55:I.1307.B.5.a.

4. Each permittee applying for a renewal of his permit shall complete additional educational training pursuant to requirements of §1311 within one year prior to submitting a renewal application and submit proof of training with the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:848 (September 1996), amended LR 38:1281 (May 2012), repromulgated LR 38:1415 (June 2012).

Jill P. Boudreaux
Undersecretary

1206#078

RULE

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Motor Carrier Safety Revision Date and Weight
(LAC 33:V.10303 and 10305)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq, and R.S. 32:1501 et seq, hereby amends its rules regulating motor carrier safety and hazardous materials by updating the revision date of the adopted federal motor carrier regulations to February 1, 2012 and by clarifying the weight ratings of the vehicles to which these regulations apply.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials

§10303. Federal Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of February 1, 2012, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings
Motor Carrier Safety Regulations	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States
Part 373	Receipts and Bills
Part 374	Passenger Carrier Regulations
Part 375	Transportation of Household Goods in Interstate Commerce: Consumer Protection Regulations
Part 376	Lease and Interchange of Vehicles
Part 379	Preservation of Records
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 384	State Compliance with Commercial Driver's License Program
Part 385	Safety Fitness Procedures
Part 386	Rules of Practice for Motor Carrier, Broker, Freight Forwarder and Hazardous Materials Proceedings
Part 387	Minimum Levels of Financial Responsibility for Motor Carriers
Part 388	Cooperative Agreements with States
Part 389	Rulemaking Procedures-Federal Motor Carrier Safety
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 30:447 (March 2004), LR 32:641 (April 2006), LR 34:882 (May 2008), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 38:1417 (June 2012).

§10305. Applicability of Regulations

A. - A.3. ...

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons or vehicles not subject to the federal regulations, if the operated vehicle has a single or combined gross vehicle weight or gross vehicle weight rating, greater than 26,000 pounds and is used in commerce or industry.

C. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:298 (May 1988), LR 17:1115

(November 1991), repromulgated LR 18:78 (January 1992), amended LR 18:746 (July 1992), LR 20:58 (January 1994), LR 36:2573 (November 2010), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 38:1417 (June 2012).

Jill Boudreaux
Undersecretary

1206#018

RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Supervising Professionals and Use of Seals (LAC 46:LXI.2305 and 2701)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.2305 and 2701.

This is a technical revision of existing rules under which LAPELS operates. These changes clarify the role and responsibilities of supervising professionals of licensed firms and the sealing/signing of completed work by licensed firms.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 23. Firms

§2305. Supervising Professional

A.1. Each firm licensed with the board shall designate one or more supervising professionals. Each supervising professional shall be a licensed professional:

a. whose primary employment is with the firm on a full-time basis; or

b. whose secondary employment is with the firm, provided the supervising professional is an owner of the firm.

2. The supervising professionals of an engineering firm shall be professional engineers. The supervising professionals of a land surveying firm shall be professional land surveyors.

3. The responsibilities of a supervising professional include:

a. renewal of the firm's license and notification to the board of any change in the firm's supervising professionals;

b. institution and adherence of policies of the firm that are in accordance with the licensure law and the rules of the board; and

c. ensuring that all professional services provided by the firm are performed by or under the responsible charge of a licensed professional.

B. Nothing herein shall prohibit a supervising professional from also being in responsible charge of professional services provided by the firm.

C. A failure to comply with any of the provisions of this Chapter may subject both the licensed firm and the supervising professional to disciplinary action by the board.

D. Compliance with this Section will not be met by a contractual relationship between the firm and a licensed professional or a firm of licensed professionals in which such licensed professional or firm of licensed professionals is available on a consultative basis. Nor will it be considered compliance if a licensed professional is related to the firm solely in a nominal or inactive capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:2856 (December 2009), LR 38:1418 (June, 2012).

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 3.b.iii.(c). ...

4. Seal Use

a. Completed Work

i. - ii. ...

iii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed, signed and dated by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for each sheet.

iv. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee or licensees in responsible charge. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

4.b. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007),

Donna D. Sentell
Executive Director

1206#041

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Tuna Harvest Regulations
(LAC 76:VII.361)**

The Wildlife and Fisheries Commission hereby establishes landing restrictions and reporting requirement on recreational possession of yellowfin tuna. Reporting is designed to collect better harvest information on this state and federal cooperatively managed species.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish And Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§361. Tuna—Harvest Regulations

A. - C. ...

D. Permits

1. Recreational. Persons aboard a vessel whether within or outside Louisiana territorial waters possessing any of the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore are required to have a valid federal recreational tuna permit and a recreational offshore landing permit in their immediate possession on board the vessel.

D.2. - E. ...

F. Landing Restrictions

1. When possessing recreationally harvested yellowfin tuna on a vessel within Louisiana territorial waters a written harvest report must be maintained on such vessel indicating the date harvested, time put on board, permit number of the person catching the fish, location of catch and length of the fish. It is the responsibility of the person catching the fish or in the case of a chartered vessel the licensed captain to record and maintain such information on the vessel in order to legally possess the fish. Any person possessing such fish without such documentation shall be considered to be in violation of this Section. Harvest report forms will be made available by the department online to recreational offshore landing permit holders, but do not necessarily have to be used as long as the proper information is recorded and

maintained and available for immediate inspection on the fishing vessel.

2. No person shall transfer yellowfin tuna at sea. No person shall offload yellowfin tuna from a fishing vessel which were taken or possessed recreationally, prior to being validated by contacting the toll free number provided or other means approved by the department to validate the yellowfin tuna caught and possessed. When such validation is made, an authorization code will be provided which shall be recorded on the harvest report associated with that fish. The information required on the harvest report must be provided when validating the catch in order to obtain an authorization code. In the case where a minor possesses the yellowfin tuna the guardian of such minor shall be responsible for the documentation and validation.

3. A charter vessel captain is allowed to use numbered tags provided by the department as their authorization code on the harvest report instead of validation prior to offloading. The captain is required to contact the department by the fifteenth of each month to report harvest from the previous month. All tags issued to a charter captain must be accounted for when purchasing a new license or the captain will be removed from the tag program and required to validate catch as described in Paragraph F.2. A charter captain will be allowed to remain in the tag program as long as all of rules of the program are followed. Failure to abide by any of the rules will remove the captain from the tag program.

4. Failure to abide by these rules and regulations shall constitute a violation of this Section and shall be fined in accordance with the provisions of a class one violation pursuant to R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C) and R.S. 56:6(34).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2834 (December 2000), amended LR 27:2269 (December 2001), LR 37:3540 (December 2011), LR 38:1419 (June 2012).

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ann L. Taylor
Chairman

1206#044

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.409, 705, 707, and 3301)

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*: §409. Calculating a 9-12 Assessment Index, §705. AMO, §707. Safe Harbor, and §3301. Inclusion of New Schools. Proposed changes in Bulletin 111, Chapter 4, provide detail on how incentive points will be earned for End-of-Course (EOC) tests taken at the middle school. Proposed changes in Bulletin 111, Chapter 7, provide detail on proficiency levels for the Annual Measurable Objectives (AMO). Proposed changes in Bulletin 111, Chapter 7, provide detail to remove policy related to the Graduation Exit Examination (GEE), as the GEE will be replaced by End-of-Course Tests. Proposed changes in Bulletin 111, Chapter 33, provide detail to remove policy relative to the use of graduation cohorts in school performance score calculations.

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 that are required to change in response to state and federal laws and regulations.

Title 28 EDUCATION

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

Chapter 4. Assessment, Attendance, and Dropout Index Calculations

§409. Calculating a 9-12 Assessment Index

A. All operational end-of-course (EOC) tests will be used in the calculation of the assessment index.

1. All subjects will be weighted equally.
2. Algebra I EOC passing test scores earned by students at a middle school will be included in the SPS calculations of the high school to which the student transfers. The scores will be included in the accountability cycle that corresponds with the students' first year of high school. Middle schools will earn incentive points for EOC passing scores the same year in which the test was administered.

a. Incentive Points will be awarded as follows:

- i. excellent = 50;
- ii. good = 25.

A.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:

Chapter 7. Subgroup Component §705. AMO

A. The annual measurable objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English language arts and mathematics tests for 4th, 8th, and 10th grades.

1. Beginning in 2006, English language arts and mathematics test results from grades 3-8 LEAP, *i*LEAP, high school EOC Algebra I and English II, LAA 1, and LAA 2 will be used to calculate the percent proficient for the subgroup component (for schools and districts).

B. As required in NCLB, the AMOs have been established based on the baseline percent proficient score (proficient = CRT level of basic, mastery, or advanced) in English-language arts and mathematics in the 20th percentile school, using the 2002 CRT test scores in ELA and mathematics for grades 4, 8, and 10.

1. For Proficiency Levels see chart below.

Proficiency	
LEAP/ <i>i</i> LEAP	Basic, Mastery, Advanced
EOC	Good, Excellent
LAA 1	Meets or Exceeds Standard
LAA 2	Approaching Basic, Basic

C. - E. ...

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 33:253 (February 2007), LR 38:

§707. Safe Harbor

A. - E. ...

F. Beginning in 2006-07 for schools and districts, English language arts and mathematics test results from grades 3-8 LEAP, *i*LEAP, high school EOC Algebra I and English II, LAA 1, and LAA 2 will be used to calculate the reduction of non-proficient students in Safe Harbor.

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 32:1025 (June 2006), LR 33:253 (February 2007), LR 33:2594 (December 2007), LR 38:1213 (May 2012), LR 38:

Chapter 33. New Schools and/or Significantly Reconfigured Schools

§3301. Inclusion of New Schools

A. - E.3. ...

4. The graduation index calculated from the school's first graduating class shall be included as a baseline SPS indicator, along with two years of adjusted assessment data in year two of the school's operation.

F. - G. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:2765 (November 2005), LR 33:2599 (December 2007), LR 36:1992 (September 2010), LR 37:3201 (November 2011), LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
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)

Proposed changes in Bulletin 111, Chapter 4 provide detail on how incentive points will be earned for End-of-Course (EOC) tests taken at the middle school.

Proposed changes in Bulletin 111, Chapter 7 provide detail on proficiency levels for the Annual Measurable Objectives (AMO).

Proposed changes in Bulletin 111, Chapter 7 provide detail to remove policy related to the Graduation Exit Examination (GEE), as the GEE will be replaced by End-of-Course Tests.

Proposed changes in Bulletin 111, Chapter 33 provide detail to remove policy relative to the use of graduation cohorts in school performance score calculations.

The proposed rule changes will result in no cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections 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 directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#030

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Administrative Error (LAC 28: CXI.312)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: §312. Administrative Error. Bulletin 118, contains the State Board of Elementary and Secondary Education (SBESE) and the Office of Standards, Assessments and Accountability (OSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. It was necessary to revise the bulletin at this time to incorporate new and edited policy guidelines in the statewide assessment programs Chapter 3, Test Security. New policy language was added to Chapter 3.

**Title 28
EDUCATION**

Part CXI. Bulletin 118 Statewide Assessment Standards and Practices

Chapter 3. Test Security

§312. Administrative Error

A. - H. ...

I. Where retests are available, LEAs may request that SPS calculations include retest results through a waiver request to BESE for accountability purposes. In such waiver request, the LEA shall demonstrate that it financed retests for all affected students and that it took corrective action as necessary to prevent a recurrence of the irregularity, including specific measures regarding any employee found to have willfully caused the irregularity.

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 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008), LR 34:1351 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 38:33 (January 2012), LR 38:748 (March 2012), LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 118—Statewide Assessment Standards and Practices—Administrative Error**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
New and updated policy language will be added to Chapter 3, Test Security, regarding the Test Security Policy. Section 312, Administrative Errors, will provide new language about a district's right to appeal to the State Board of Elementary and Secondary Education for a waiver permitting the use of administrative error retests' results in the SPS calculations for accountability purposes. The proposed rule change will have no implementation cost to state or local governmental units.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections at the state or local governmental levels.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#031

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District—Type 5
Charter School (LAC 28:CXLV.703)

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 129—The Recovery School District: §703. Type 5 Charter School*. Currently, the RSD Student Hearing Office conducts all student expulsion hearings for RSD New Orleans direct-run schools, and on an as-requested basis, conducts expulsion hearings for RSD charter schools and Orleans Parish schools. If the proposed revision is adopted, beginning in the 2012-2013 school year, the RSD Student Hearing Office will conduct student expulsion hearings for all RSD schools in New Orleans, including RSD Type 5 charter schools. The RSD Student Hearing Office will work in consultation with the RSD's Special Education Services Office to ensure that students with special needs are being served appropriately. The RSD Student Hearing Office will use each charter school's individual student discipline policies, however, the actual expulsion hearing and appeal process will be the same for every student, regardless of which RSD school they attend. As part of the RSD's commitments to equity, the proposed revision to *Bulletin 129—The Recovery School District*, was created in collaboration with charter school leaders to provide for the use of the RSD Student Hearing Office for all expulsion hearings for students attending RSD schools in New Orleans. Use of a single hearing office will serve to ease administrative burdens on charter schools, increase student expulsion data reliability and availability, and ensure that proper due process procedures are applied uniformly for all students in RSD schools.

Title 28 EDUCATION

Part CXLV. **Bulletin 129—The Recovery School District Chapter 7. Manner of Operation of Failed Schools §703. Type 5 Charter School**

A. BESE may direct that a school transferred from an LEA to the RSD be operated by a nonprofit organization holding a charter for a Type 5 charter school, under the auspices of the RSD.

B. The RSD superintendent may require Type 5 charter schools to utilize a unified hearing office established by the recovery school district for student expulsion hearings. Type 5 charter schools shall comply with all policies and procedures established by the RSD to implement this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5 (A) (1), R.S. 17:10.5(B), R.S. 17:10.7(A)(1), R.S. 17:10.7(B)(1), R.S. 17:1990(A)(2); and R.S. 17:3973 (2)(b) (v)(aa).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1125 (April 2011), amended LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 129—The Recovery School District—Type 5 Charter School**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed policy updates Bulletin 129, *The Recovery School District*. The cost to publish and distribute the Bulletin will cost approximately \$2,000.

As part of the RSD's commitments to equity, the proposed revision to Bulletin 129, *The Recovery School District*, was created in collaboration with charter school leaders to provide for the use of the RSD Student Hearing Office for all expulsion hearings for students attending RSD schools in New Orleans. Use of a single hearing office will serve to ease administrative burdens on charter schools, increase student expulsion data reliability and availability, and ensure that proper due process procedures are applied uniformly for all students in RSD schools.

Currently, the RSD Student Hearing Office conducts all student expulsion hearings for RSD New Orleans direct-run schools, and on an as-requested basis, conducts expulsion hearings for RSD charter schools and Orleans Parish schools. If the proposed revision is adopted, beginning in the 2012-13 school year, the RSD Student Hearing Office will conduct student expulsion hearings for all RSD schools in New Orleans, including RSD Type 5 charter schools. The RSD Student Hearing Office will work in consultation with the RSD's Special Education Services Office to ensure that students with special needs are being served appropriately. The RSD Student Hearing Office will use each charter school's individual student discipline policies, however, the actual expulsion hearing and appeal process will be the same for every student, regardless of which RSD school they attend.

In the past, the operations of the RSD Student Hearing Office have been funded through the Model Regional Alternative Education Pilot grant. However, funding through this program will not be provided for the RSD Student Hearing Office for the 2012 fiscal year. In order to fund the operations of the hearing office, each RSD school (RSD direct-operated and RSD Type 5 charter schools) in New Orleans will pay \$10 per pupil per year to pay for use of the student hearing office by each school. The \$10 per pupil cost will be paid from each school's Minimum Foundation Program (MFP) allocation. Based on projections for next year's enrollment, the fee will generate approximately \$300,000 necessary to operate the hearing office. Currently, there are four full-time RSD employees working in the RSD Student Hearing Office. For the 2012-13 school year, an additional full-time employee will be hired to manage the data and compliance issues unique to Type 5 charter schools related to student expulsions and other charter school discipline and oversight issues. A portion (\$20,000) of the annual salary for this position will be funded through the \$10 per pupil amount. The remaining \$60,000 of the annual salary will be funded through the standard annual 1.75% charter administrative oversight fee received by the RSD.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Each RSD Type 5 charter school and RSD direct-operated school in New Orleans will pay \$10 per pupil on an annual basis for use of the RSD Student Hearing Office. This fee will be paid from each school's Minimum Foundation Program (MFP) allocation. Based on projections for next year's enrollment, the fee will generate approximately \$300,000 necessary to operate the hearing office.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
(LAC 28:CXLVII.105, 301, 305, 307, 309, 311, 319, 321, 323, 325, 701, 901, 903, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*: §105. Framework for LEA Personnel Evaluation Programs, §301. Overview of Personnel Evaluation, §305. Measures of Growth in Student Learning—Non-Tested Grades and Subjects, §307. Observation Tools, §309. Standards of Effectiveness, §311. Evaluators, §319. Staff Development for Personnel Involved in Evaluation, §321. Evaluation Records Guidelines, §323. Job Descriptions, §325. Extenuating Circumstances, §701. Annual Summary Reporting Format, §901. Appendix A, §903. Appendix B, and §905. Definitions. The proposed policy revisions provide guidelines for incorporating measures of student growth into teacher and administrator evaluations to align the evaluation of school personnel with Act 54 of the 2010 Regular Legislative Session. These changes reflect adjustments to this policy, based upon feedback gathered in the piloting of the Compass educator support and evaluation system.

Title 28 EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§105. Framework for LEA Personnel Evaluation Programs [Formerly §109]

A. ...

B. Local personnel evaluation plans defined by the board shall include, at a minimum, the following elements.

1. - 2. ...

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct a minimum of one formal, announced observation and at least one other informal observation of instructional practice per academic year. Each formal teacher observation must last at least one complete lesson. For each formal observation, evaluators shall conduct a pre-observation conference with their evaluatee during which the teacher or administrator shall provide the evaluator or evaluators with relevant information. For both formal and informal observations, evaluators shall provide evaluatees with feedback following the observation, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, the 50 percent of the evaluation based upon growth in student learning shall measure the growth of their students according to a pre-determined assessment method, using the value-added model, where available, and alternate measures of student growth according to state guidelines, where value-added data are not available. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth.

2. The 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of one formal, announced observation or site visit and at least one other informal observation or site visit. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:

§305. Measures of Growth in Student Learning—Non-Tested Grades and Subjects

A. - B. ...

C. A minimum of two student learning targets shall be identified for each teacher in NTGS. The department shall provide an evaluative tool for evaluators to use in assessing the quality and attainment of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where available. At the beginning of each academic year, the department shall publish a list of state-approved common assessments to be used in identified non-tested grades and subject areas.

2. Where no state-approved common assessments for NTGS are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets.

3. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:

§307. Observation Tools

A. ...

B. LEA observation tools shall adhere to the following minimum requirements.

1. The tool for teacher evaluation shall align to the *Louisiana Components of Effective Teaching*. The tool for administrator evaluation shall align to the *Performance Expectations and Indicators for Educational Leaders*, contained within *Bulletin 125—Standards for Educational Leaders in Louisiana*.

a. The *Louisiana Components of Effective Teaching* and the *Performance Expectations and Indicators for Educational Leaders* may be reviewed as needed by the department in collaboration with educators administering the evaluation system and appropriate third parties to determine the need for modifications and their continuing utility.

b. The board shall approve any changes made to the *Louisiana Components of Effective Teaching* and the *Performance Expectations and Indicators for Educational Leaders*.

2. Observation tools shall provide an overall score between 1.0 and 4.0. Total scores on observation tools may include tenths of points, indicated with a decimal point.

C. ...

D. LEAs which do not intend to use model observation tools developed or identified by the department shall submit proposed alternate tools to the department for evaluation and approval, LEAs shall submit proposed alternate observation tools to the department.

1. With the submission of proposed alternate observation tools, LEAs may request a waiver to use competencies and performance standards other than those provided in the *Louisiana Components of Effective Teaching* and the *Performance Expectations and Indicators for Educational Leaders*. Such requests shall include:

a. a justification for how the modified competencies and performance standards will support specific performance goals related to educator and student outcomes; and

b. an explanation of how the LEA will ensure the reliability and validity of the alternate observation tool intended to measure the modified competencies and performance standards.

2. The department may request revisions to proposed alternate observation tools to ensure their compliance with the minimum requirements set forth in this bulletin.

3. If requested, revisions to proposed alternate observation tools shall be submitted to the department by the LEA.

4. LEA-proposed alternate observation tools shall be either approved or denied by the department no later than August 1.

5. LEAs which secure department approval for use of an alternate observation tools need not submit them for approval in subsequent years, unless the alternate observation tools is revised, the *Louisiana Components of Effective Teaching or Performance Expectations and Indicators for Educational Leaders* are revised, or revisions to this Section are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:

§309. Standards of Effectiveness

A. Teachers and administrators shall receive a final composite score on annual evaluations to determine their effectiveness rating for that academic year.

1. The 50 percent of evaluations that is based on student growth will be represented by a sub-score between 1.0 and 4.0.

2. The 50 percent of evaluations that is based on a qualitative assessment of performance will also be represented by a sub-score between 1.0 and 4.0.

3. The final composite score for teachers and administrators shall be the average of the two sub-scores and shall be represented as a score between 1.0 and 4.0.

B. The composite score ranges defining *Ineffective*, *Effective (Emerging or Proficient)* and *Highly Effective* performance shall be as follows.

Effectiveness Rating	Composite Score Range
<i>Ineffective</i>	$x < 1.5$
<i>Effective: Emerging</i>	$1.5 \leq x < 2.5$
<i>Effective: Proficient</i>	$2.5 \leq x < 3.5$
<i>Highly Effective</i>	$3.5 \leq x$

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1217 (May 2012), amended LR 38:

§311. Evaluators

A. - C. ...

D. All evaluators shall be certified to serve as evaluators, according to the minimum requirements provided by the department.

1. The department, its contractors, and LEAs with approved alternate observation tools shall serve as the sole certifiers of evaluators.

2. The evaluator certification process shall include an assessment to ensure inter-rater reliability and accuracy of ratings, based on the use of the teacher or leader observational rubric.

3. Evaluators on record must renew certification to evaluate annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1217 (May 2012), amended LR 38:

§319. Staff Development for Personnel Involved in Evaluation [Formerly §335]

A. LEAs shall provide training on a continuing basis for all staff involved in the evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, and other observers, and classroom teachers). It is recommended that all training concentrate on fostering the elements listed below:

1. a positive, constructive attitude toward the teacher and administrator evaluation process;

2. a knowledge of state laws and LEA policies governing the evaluation process for teachers and administrators, along with the associated procedures for intensive assistance and due process;

3. an understanding of the *Louisiana Components of Effective Teaching* or an approved modified set of teacher competencies and performance standards;

4. an understanding of the *Performance Expectations and Indicators for Educational Leaders* or an approved modified set of leader competencies and performance standards;

5. an understanding of the measures of growth in student learning, as adopted by the board; and

6. an understanding of the process for calculating a composite score to determine final effectiveness ratings for teachers and administrators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:1219 (May 2012), LR 38:

§321. Evaluation Records Guidelines

A. Copies of evaluation results and any related documentation shall be retained by the LEA.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1219 (May 2012), amended LR 38:

§323. Job Descriptions [Formerly §339]

A. - B.4. ...

C. The following components shall be included in each job description developed:

1. position title;
2. overview of position;
3. position qualifications shall be at least the minimum requirements as stated in *Bulletin 746—Louisiana Standards for State Certification of School Personnel* (The qualifications shall be established for the position, rather than for the employee.);
4. title of the person to whom the employee reports;
5. performance standards, including statement on responsibility for growth in student learning;
6. salary or hourly pay range;
7. statement acknowledging receipt of job description; and
8. a space for the employee’s signature and date.

NOTE: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:1219 (May 2012), LR 38:

§325. Extenuating Circumstances

A. ...

B. Evaluation results shall be invalidated for any teacher or administrator with 60 or more excused absences in a

given academic year, due to approved extended leave, such as maternity leave, military leave, extended sick leave, or sabbatical leave.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1220 (May 2012), amended LR 38:

Chapter 7. Reporting and Monitoring

§701. Annual Summary Reporting Format

A. Each LEA will submit an annual personnel evaluation report of the most recent academic year to the department by July 15. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the department, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the department include, but are not limited to, the following items:

1. individual-level teacher evaluation results, by teacher;
2. the number of certified and other professional personnel, by categories, who were evaluated as performing ineffectively;
3. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.);
4. the number of certified personnel, by categories, who improved (from *Ineffective* to *Effective*) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.);
5. the number of formal grievances filed as a result of ineffective performance ratings or disagreement with evaluation results; and
6. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:1220 (May 2012), LR 38:

Chapter 9. General Provisions

§901. Louisiana Components of Effective Teaching

A. The chart below contains the domains and components which represent the *Louisiana Components of Effective Teaching*.

Domain	Component
1. <i>Planning and Preparation</i>	1c. Setting Instructional Outcomes
2. <i>The Classroom Environment</i>	2c. Managing Classroom Procedures
3. <i>Instruction</i>	3b. Questioning and Discussion Techniques
	3c. Engaging Students in Learning
	3d. Using Assessment in Instruction

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

§903. Appendix B

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

Promulgated by the Board of Elementary and Secondary Education, LR 36:2256 (October 2010), amended LR 38:1221 (May 2012), repealed LR 38:

§905. Definitions

A. In order that consistency in terminology be maintained on a statewide basis, the department has established a list of terms and definitions. Careful consideration of each should be given during the training and implementation of personnel evaluation programs. The definitions below must be adopted by all LEAs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA local personnel evaluation plan.

Accountability—shared responsibility for actions relating to the education of children.

Administrator—any person who serves in an academic leadership role at the school-level and is employed in a professional capacity other than a teacher. Principals, assistant principals, and academic deans shall be considered administrators according to this definition.

Beginning Teacher—any teacher in their first three years of the profession.

Board—state Board of Elementary and Secondary Education.

Certified School Personnel—those persons whose positions require certification.

Charter School—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana Charter School Law to provide a learning environment that will improve student achievement.

Classroom Visitation—an informal visit to a classroom of sufficient duration to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

Common Assessment—a state-approved assessment to be used for measuring student growth in grades and subjects where value-added data is not available.

Components of Effective Teaching—the elements of teaching performance defined by the board in formal, recognized collaboration with educators and other stakeholders involved in education, to be critical to providing effective classroom instruction.

Competencies—skills, knowledge, and abilities required to demonstrate a particular level of performance.

Criteria—demonstrable levels of performance upon which a judgment may be based.

Department—Louisiana Department of Education.

Due Process—fair and impartial treatment, including notice and an opportunity to be heard.

Duties—those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

Educational Leader—a person who is certified to serve in any school or district leadership capacity with the exception of superintendent.

Evaluation—process by which a local board monitors continuing performance of its teachers and administrators annually, by considering judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Evaluated—teacher or administrator undergoing evaluation.

Evaluator—one who evaluates; the school principal or assistant principal or respective supervisory level designees charged with evaluating teachers or the superintendent or other LEA-level supervisor charged with evaluating administrators.

Formal Observation—an announced observation of a teacher in which the evaluator observes the beginning, middle, and end of a lesson, that is preceded by a pre-observation conference and followed by a post-observation conference in which the teacher is provided feedback on his/her performance.

Formal Site Visit—an announced site visit by an administrator's evaluator, that is preceded by a pre-visit conference and followed by a post-visit conference in which the administrator is provided feedback on his/her performance.

Grievance—a procedure that provides a fair and objective resolution of complaint by an evaluatee that the evaluation is inaccurate due to evaluator bias, omission, or error.

Informal Observation—an observation of a teacher which provides evidence to be used in the evaluation process. Such observations may not last for the entirety of a lesson and may or may not be announced.

Intensive Assistance Plan—the plan that is implemented when it is determined, through the evaluation process, that personnel have not meet the standards of effectiveness. This plan includes the specific steps the teacher or administrator shall take to improve; the assistance, support, and resources to be provided by the LEA; an expected timeline for achieving the objectives and the procedure for monitoring progress, including observations and conferences; and the action to be taken if improvement is not demonstrated.

Job Description—a competency-based summary of the position title, qualification, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria, including improving student achievement, that specify the level of job skill required. Space shall be provided for signature and date.

Local Board—governing authority of the local education agency, parish/city school or local school system.

Local Education Agency (LEA)—city, parish, or other local public school system, including charter schools.

Non-Tested Grades and Subjects (NTGS)—grades and subjects for which a value-added score is not available for teachers or other certified personnel.

Objective—a devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

Observation—the process of gathering facts, noting occurrences, and documenting evidence of performance.

Observer—one who gathers evidence to be used in the evaluation process through the observation of educator performance.

Performance Expectations—the elements of effective leadership approved by the board that shall be included as evaluation criteria for all building-level administrators.

Performance Standards—the behaviors and actions upon which performance is evaluated.

Post-Observation Conference—a discussion between the evaluatee and evaluator for the purpose of reviewing an observation and sharing commendations, insights, and recommendations for improvement.

Pre-Observation Conference—a discussion between the evaluatee and the evaluator which occurs prior to a formal observation; the purposes are to share information about the lesson to be observed and to clarify questions that may occur after reviewing of the lesson plan.

Professional Growth Plan—a written plan developed to enhance the skills and performance of an evaluatee. The plan includes specific goal(s), objective(s), action plans, timelines, opportunities for reflection, and evaluation criteria.

Self-Evaluation/Self-Reflection—the process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation.

Standard Certificate—a credential issued by the state to an individual who has met all requirements for full certification as a teacher.

Standard of Effectiveness—adopted by the State Board of Elementary and Secondary Education as the final composite score required for teacher or administrator performance to be considered *Effective*.

Student Learning Target—a goal which expresses an expectation of growth in student achievement over a given period of time, as measured by an identified assessment and/or body of evidence.

Teacher—any person who provides direct instruction or direct instructional support to students, to whom he/she has been formally assigned. Classroom teachers, special education teachers, librarians, and guidance counselors shall be considered teachers according to this definition.

Teachers of Record—educators who are responsible for a portion of a student's learning outcomes within a subject/course.

Value-Added—the use of prior achievement history and appropriate demographic variables to estimate typical achievement outcomes through a statistical model for students in specific content domains based on a longitudinal data set derived from students who take state-mandated tests in Louisiana for the purpose of comparing typical and actual achievement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1222 (May 2012), amended LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 130: *Regulations for the Evaluation and Assessment of School Personnel* is being revised pursuant to Act 54 of the 2010 Regular Legislative Session. The proposed policy revisions align the evaluation of school personnel with Act 54. Local school districts may incur additional costs related to professional development for staff involved in the evaluation process, if they choose to provide resources outside of what may be provided by school and district personnel. Local funds may be used for those expenditures. However, such additional costs are not mandated.

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will not generate costs for individuals or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will require that data from performance evaluations be used to make employment decisions for public school teachers and administrators.

Beth Scioneaux
Deputy Superintendent
1206#033

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—Advanced Placement and International Baccalaureate (LAC 28: CXV.2325)

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*: §2325. Advanced Placement and International Baccalaureate. The revision increases the number of advanced placement (AP) or international baccalaureate (IB) courses available to students at each public high school. The number of courses increases by one each year from 2012-2013 to 2015-2016. Increasing the number of advanced placement and international baccalaureate courses at each school will provide students with more opportunities to take rigorous courses that have been shown to increase students' chances of succeeding in college.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2325. Advanced Placement and International Baccalaureate**

A. Each high school shall provide students access to advanced placement (AP) or international baccalaureate (IB) courses according to the schedule below:

1. at least one AP or IB course in each of two core content areas during the 2012-2013 school year;
2. at least one AP or IB course in each of three core content areas during the 2013-2014 school year;
3. at least one AP or IB course in each of four core content areas during the 2014-2015 school year;
4. at least one AP or IB course in each of four core content areas and one additional AP or IB course during the 2015-2016 school year.

B. - B.2.a. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37: 3198 (November 2011), LR 38:759 (March 2012), LR 38:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Advanced Placement and International Baccalaureate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revision to Section 2325 of *Bulletin 741: Louisiana Handbook for School Administrators* increases the number of Advanced Placement (AP) or International Baccalaureate (IB) courses available to students at each public high school. The number of courses increases by one each year from 2012-2013 to 2015-2016. These changes should not result in an increase in costs or savings to state or local governmental units. Schools can use current faculty or distance learning to provide these

- courses to students and the cost should not be greater than the normal cost per course per student.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#035

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—Foreign Languages (LAC 28:CXV.2345)

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*: §2345. Foreign Languages. The revision adds American Sign Language III and IV to the Foreign Language Program of Study. This revision allows students who have taken ASL I and II continue their study and receive credit toward graduation.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Chinese I, II, III, IV	1 each

B. Teachers of American sign language shall have a valid Louisiana teaching certificate and documentation of the following:

1. Provisional Level Certification from the American Sign Language Teachers Association (ASLTA); or
2. Certificate of Interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or
3. Certificate of Transliteration (CT) from the RID; or
4. Certified Deaf Interpreter certification (CDI) from the RID; or

5. Level IV or V Certificate of Competence from the National Association of the Deaf (NAD); or

6. Level IV or V Official Documentation of the videotaped version of the Educational Interpreter Performance Assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 273; R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Foreign Languages

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revision to Section 2345 of *Bulletin 741: Louisiana Handbook for School Administrators* adds American Sign Language III and IV to the Foreign Language Program of Study. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#036

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—Technology Education (LAC 28: CXV.2385)

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: §2385. Technology Education*. This action is to set forth policy listing state recognized technology education course offerings within the CTE program. The four proposed course offerings will provide specific instruction and training to students interested in pursuing careers in manufacturing. These courses will cover content which lead to industry recognized credentialing as a certified manufacturing specialist.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2385. Technology Education**

A. Technology education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Wood Technology	10-12	1
Aerospace Engineering	11-12	1
Automation in Manufacturing	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Wood Technology	9-12	1
Civil Engineering and Architecture	11-12	1
Communication/Middle School	6-8	-
Communication Technology	9-12	1
Computer Integrated Manufacturing	11-12	1
Construction/Middle School	6-8	-
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Digital Electronics	9-10	1

Course Title(s)	Recommended Grade Level	Units
Energy, Power, and Transportation Technology	9-12	1
Engineering Design I, II	11-12	1
Engineering Design and Development	11-12	1
General Technology Education	9-12	1
Introduction to Engineering Design	8-12	1
Manufacturing Process and Team Building	9-12	1
Manufacturing Technology	9-12	1
Manufacturing Technology/Middle School	6-8	-
Manufacturing Tools and Equipment	10-12	1
Marine Engineering	11-12	0.5
Materials and Processes	10-12	1
Modular Technology/Middle School	6-8	-
Oil and Gas Production Operations	11-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Principles of Engineering	9-10	1
T2 Safety Systems for Oil and Gas Production	11-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Transportation Technology/Middle School	6-8	-
Welding Technology	10-12	1
Industry-Based Certifications		
Advanced Technical Drafting	10-12	1
Architectural Drafting	10-12	1
Basic Technical Drafting	9-12	1
Introduction to Fabrication P-Tech and Manufacturing	10-12	1
NCCER Carpentry I, II TE	11-12	1-3
NCCER Electrical I, II TE	11-12	1-3
NCCER Industrial Maintenance	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Insulating	11-12	1-3
NCCER Pipe Fitter I, II TE	11-12	1-3
NCCER Welding Technology I, II TE	11-12	1-3
Process Technician I, II	11-12	1
T2 Safety Systems for Oil and Gas Production	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 35:1229 (July 2009), LR 35:2323 (November 2009), LR 35:2747 (December 2009), LR 36:1997 (September 2010), LR 38:

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.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Textbooks (LAC 28: CXV.1703)

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Technology Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Education recommends relevant policy revisions to Bulletin 741: *Louisiana Handbook for School Administrators* as they relate to Career and Technical Education (CTE), Technology Education course offerings. The policy includes four additional courses that may be offered to students interested in pursuing careers in manufacturing. There will be no costs to state governmental units as a result of this policy change. The Louisiana Department of Education anticipates no additional costs to Local Education Agencies as the cost to implement these courses will be similar to the costs incurred with offering other CTE course offerings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is 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 cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be an increased rate of students graduating prepared for postsecondary education and or entry into the workforce in a high wage, high demand career area.

Beth Scioneaux
Deputy Superintendent
1206#037

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

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*: §1703. Textbooks. The revision removes the restriction that districts can only use 10 percent of their textbook budget on textbooks that are not on the state adoption list. The revision also clarifies the time required to order books in alternate formats in order to receive them before school begins. The revision allows districts more flexibility in the purchase of textbooks and instructional materials.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 17. Instructional Support

§1703. Textbooks

A. Each school shall provide textbook materials for each student and shall have proper procedures for selection, storage, and preservation of textbooks.

B. In order to ensure the timely delivery of new instructional materials in the appropriate format (e.g., print, large print, Braille, audio, digital) for all students, each LEA shall place its instructional materials order at least six months in advance of the school year. Refer to *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC 28:XXXIII).

C. State funds appropriated through the MFP may be used to buy books on the state-adopted textbook lists and academically related ancillary materials or computer hardware according to the state guidelines.

1. The annual appropriation for the purchase of instructional materials and supplies (state approved textbooks) is defined in the MFP appropriation bill on a per-pupil amount. In order to facilitate the purchase and receipt of these textbooks each year, LEAs are required to submit state textbook orders to the Publisher's Depository, centrally located within the state, between March 15 and May 15.

2. LEAs may use state textbook dollars for the purchase of non-adopted instructional materials.

D. Refer to §711 for more policies related to textbooks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8, R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), amended LR 37:1141 (April 2011), LR 38:

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.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—CTTIE-1 and CTTIE-2 Certificates (LAC 28:CXXXI.505)

- 1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Textbooks

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The revision to Section 1703 of Bulletin 741: Louisiana Handbook for School Administrators removes the restriction that districts can only use 10% of their textbook budget on textbooks that are not on the state adoption list. The revision also clarifies the time required to order books in alternate formats in order to receive them before school begins. These changes will not result in an increase in costs or savings to state or local governmental units.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or non-governmental groups.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#034

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 746—Louisiana Standards for State Certification of School Personnel: §505. CTTIE-1 and CTTIE-2 Certificates. The proposed policy revision will allow candidates that served as athletic trainer graduate assistants while pursuing master’s degrees in athletic training to count those graduate assistant hours towards the two-year requirement for the CTTIE certificate in sports medicine. Currently, there are questions whether the hours worked as a graduate assistant pursuing a master’s degree in athletic training should be counted as work hours required to complete a CTTIE. The approval will clarify this grey area as well as allow consistency in the review process.

Title 28
EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel

§505. CTTIE-1 and CTTIE-2 Certificates

- A. - E.1. ...
F. Other Health Professions/Related Fields Instructor (e.g., Dental Assistant, Sports Medicine)—Eligibility Requirements

1. Applicant must be a graduate of an approved program in the area to be taught, with current state license or national certification where required. Nutrition instructors in nursing programs may meet certification requirements with a degree in Family and Consumer Sciences and a minimum of 12 semester hours in Foods and Nutrition.

2. Applicant must have a minimum of two years of occupational experience in the area in which he/she is to teach. One year of this experience must have been served within the last five years.

3. Sports medicine instructors shall have at least a Bachelor of Science degree and have received and maintained a current state and/or national certification as an athletic trainer and meet all CTTIE requirements.

a. Applicants pursuing a master’s degree in athletic training that are working as an athletic trainer graduate assistant at a regionally accredited university may count these work experience hours toward meeting the required work hours for the CTTIE application. CTTIE application must include a letter from the director of athletics at the university with the actual number of hours worked as well as assigned duties.

G. - G.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel CTTIE-1 and CTTIE-2 Certificates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed policy revision will allow candidates that served as Athletic Trainer Graduate Assistants while pursuing Master's Degrees in Athletic Training to count those graduate assistant hours towards the two-year requirement for the CTTIE certificate in Sports Medicine. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Nurse (LAC 28:CXXXI.411)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §411. School Nurse. The proposed policy revision will allow the renewal of a Type B or Type A school nurse certificate by the submission of a copy of his/her current Louisiana licensure to serve as a registered nurse and a request from a Louisiana employing school system to renew his/her certificate. The proposed policy will remove the requirement of submitting verification of continuing learning units for the renewal of the School Nurse certificate. The continuing learning units must be submitted to the Louisiana State Board of Nursing for the renewal of the RN license so those documents remain on file with the State Board of Nursing Office.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 4. Ancillary School Service Certificates Subchapter A. General Ancillary School Certificates §411. School Nurse

- A. Type C School Nurse—valid for three years.
 1. Eligibility requirements:
 - a. current Louisiana licensure as a registered professional nurse; and
 - b. minimum of two years experience as a registered nurse.
 2. Renewal Guidelines. May be renewed once for a three year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.
- B. Type B School Nurse—valid for five years.
 1. Eligibility requirements:
 - a. current Louisiana licensure as a registered professional nurse; and
 - b. three years of experience as a Type C school nurse.
 2. Renewal Guidelines. May be renewed once for a five year period, upon presentation of a copy of current

Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

C. Type A School Nurse—valid for five years.

1. Eligibility requirements:
 - a. current Louisiana licensure as a registered professional nurse;
 - b. baccalaureate degree in nursing or a health-related field from a regionally accredited college or university; and
 - c. five years experience as a certified Type B school nurse.
2. Renewal Guidelines. May be renewed once for a five year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—School Nurse

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will allow the renewal of a Type B or Type A School Nurse certificate by the submission of a copy of his/her current Louisiana licensure to serve as a Registered Nurse and a request from a Louisiana employing school system to renew his/her certificate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1206#038

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the
Children with Exceptionalities Act
(LAC 28:XLIII.508, 511, 512, 513,
514, 516, 518, 532, 904, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*, Subpart I. Regulations for Students with Disabilities: §508. Due Process Hearing Request, §511. Impartial Due Process Hearing and Hearing Officer Appointments, §512. Hearing Rights, §513. Hearing Decisions, §514. Finality of Decision; Appeal; and Compliance with Hearing Decisions, §516. Civil Action, §518. Student Status During Proceedings, §532. Appeal, §904. Abbreviations/Acronyms used in these Regulations; and §905. Definitions. The Rule was developed in response to Act 683 of the 2010 Regular Session of the Louisiana Legislature. The Act requires the state Board of Elementary and Secondary Education to approve rules related to the administration of special education due process hearings required under the Louisiana Education of Students with Exceptionalities Act. Act 683 requires the Department of Education to contract with the Division of Administrative Law to conduct those hearings. Previously, the Department of Education contracted with independent hearing officers to handle the due process hearings.

**Title 28
EDUCATION**

**Part XLIII. Bulletin 1706—Regulations
for Implementation of the Children
with Exceptionalities Act**

**Subpart I. Regulations for Students with Disabilities
Chapter 5. Procedural Safeguards
Subchapter A. Due Process Procedures for Parents and
Students**

§508. Due Process Hearing Request

A. - A.2. ...

3. When the LDE receives a written request for due process hearing, the LDE will provide a copy of the request to the other party. The date on which the LDE confirms that the other party has received the request will be the presumptive date of receipt.

4. Within two business days of receipt of a written request, the LDE shall transmit the request for due process hearing to the Division of Administrative Law, who shall docket the request and assign a hearing officer.

B. - D.1. ...

2. Within five days of receipt of notification under Paragraph D.1 of this Section, the hearing officer shall make a determination on the face of the written request for due process hearing, whether the due process hearing request meets the requirements of Subsection B of this Section, and shall immediately notify the parties and LDE in writing of that determination. If a determination of insufficiency is made, such determination shall include the nature of the insufficiency and may result in dismissal of the due process hearing.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2071 (October 2008), amended LR 38:

§511. Impartial Due Process Hearing and Hearing Officer Appointments

A. ...

B. Agency Responsible for Conducting the Due Process Hearing. The due process hearing described in Subsection A of this Section shall be conducted in accordance with the law.

C. Impartial Hearing Officer. The DAL shall designate hearing officers, who:

1. - 2.b. ...

c. have represented an LEA or a parent as an attorney in education litigation within the previous three years;

3. ...

4. the DAL shall maintain a list of administrative law judges qualified to conduct impartial due process hearings. The list shall include a statement of the qualifications of each of the hearing officers; and

5. the LDE and DAL shall ensure that impartial due process hearing officers designated pursuant to this Section have successfully completed a training program approved by the LDE. Additional training shall be required by the LDE whenever warranted by changes in applicable legal standards

or educational practices or as determined necessary by the LDE.

D. - D.1. ...

2. The DAL shall review any written challenge to the impartiality of the hearing officer and provide a written decision and notice to the parent and LEA within three business days after receipt of the written challenge.

3. If the DAL determines that doubt exists as to whether the proposed hearing officer is truly impartial, another hearing officer shall be immediately assigned.

E. - H.3. ...

I. Prehearing Conference. The hearing officer shall hold a prehearing conference. The hearing officer must initiate the prehearing conference, which may be conducted in person at a location within the school district or by telephone. At the prehearing conference, the hearing officer shall:

1. identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;

2. provide the self-represented litigant with a detailed explanation of trial procedures, burden of proof, elements of the claim, and remedies;

3. set up a scheduling order for the hearing and additional prehearing activities;

4. determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and

5. establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition. The determination of the location of the hearing should not impose additional costs on any party.

J. Burden of Proof. The burden of proof at a due process hearing is on the party seeking relief.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2072 (October 2008), amended LR 38:

§512. Hearing Rights

A. - B. ...

1. At least five business days prior to a hearing conducted pursuant to §511.A, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

B.2. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2073 (October 2008), amended LR 36: 1502 (July 2010), LR 38:

§513. Hearing Decisions

A. - C. ...

1. transmit the findings and decisions referred to in §512.A.5 to the state advisory panel established under §167; and

2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2073 (October 2008), amended LR 38:

§514. Finality of Decision; Appeal; and Compliance with Hearing Decisions

A. Finality of Hearing Decision. A decision made in a hearing conducted pursuant to §§507-513 or §§530-534 is final, except that any party involved in the hearing may appeal the decision under the provisions of §516.

B. - B.1.b. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2074 (October 2008), amended LR 38:

§516. Civil Action

A. General. Any party aggrieved by the findings and decision made under §§507-513 or §§530-534 has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under §507 or §§530-532. The action may be brought in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2074 (October 2008), amended LR 38:

§518. Student Status during Proceedings

A. - C. ...

D. If the hearing officer in a due process hearing conducted pursuant to §§507-513 or §§530-534 agrees with the student's parents that a change of placement is appropriate, that placement shall be treated as an agreement between the state and the parents for the purposes of Subsection A of this Section.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2075 (October 2008), amended LR 38:

Subchapter B. Discipline Procedures for Students with Disabilities

§532. Appeal

A. General. The parent of a student with a disability who disagrees with any decision regarding placement under §§530 and 531, or the manifestation determination under §530.E, or an LEA that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing pursuant to §§507 and 508.A and B.

B. - C. ...

1. Whenever a hearing is requested under paragraph A of this section, the parents or the LEA involved in the dispute shall have an opportunity for an impartial due process hearing consistent with the requirements of §§507, 508.A-C, and 510-514, except as provided in Paragraphs C.2 through 4 of this Section.

2. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2078 (October 2008), amended LR 38:

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§904. Abbreviations/Acronyms used in these Regulations

ALJ—administrative law judge.

DAL—Division of Administrative Law.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 38:

§905. Definitions

Administrative Law Judge—an employee of the Division of Administrative Law that has the qualifications and authority as listed in RS 49:994.

Division of Administrative Law—the independent state agency that conducts administrative hearings and renders decisions regarding state and federal law.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 36:1505 (July 2010), LR 38:

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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, 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 applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., July 20, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Prior to these statutorily mandated changes to the due process hearing procedures required under the Louisiana Education of Students with Exceptionalities Act, the hearings were conducted by independent contractors. Act 683 of the 2010 Regular Session of the Louisiana Legislature requires the hearings to be conducted by Administrative Law Judges employed through the Division of Administrative Law (DAL). The Department of Education's contract with the DAL is an annual contract for a flat fee of \$50,000 paid with federal funds. The flat amount allows the Department to better plan for annual expenditures and reflects an accurate estimate of the amounts billed annually by the independent contractors under the old procedures. In the event that the state experiences a significant reduction in the number and complexity of due process hearings held, the costs of contracting with DAL could exceed the costs of working on a case-by-case basis with independent contractors. However, it is unlikely that the number and complexity of due process hearings held will significantly decline. There are minimal estimated costs to state governmental units as the contract fee is approximately the same amount as previous years costs of the independent contractors.

These provisions are estimated to have no effect on local government costs. The changes in how hearings are conducted have no direct effect on costs to city, parish, or local school boards participating in the hearings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Division of Administrative Law will collect an annual fee to conduct the due process hearings. The contract amount is \$50,000 for FY 12-13. The contract amount in subsequent fiscal years is likely to remain the same.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The contract hearing officers will see a decline in receipts as they will no longer conduct the due process hearings for the Department of Education. However, the hearing officers will continue to be retained by the Department of Education to perform other services related to matters under the Louisiana Education of Students with Exceptionalities Act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment. The contract hearing officers have been retained by the Department to handle administrative complaints and

other dispute resolution matters provided under the Louisiana Education of Students with Exceptionalities Act.

Beth Scioneaux
Deputy Superintendent
1206#040

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of River Port Pilot Commissioners for the Port of New Orleans

River Port Pilots
(LAC 46:LXX.3103, 3205, 3207, 3209, and 3301)

In accordance with the Administrative Procedures Act R.S. 49:950 et seq. and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners hereby gives notice that it intends to amend and reenact LAC 46:LXX.Chapter 31 to 36.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 2. Board of River Port Pilot Commissioners Chapter 31. General Provisions

§3103. Definitions

A. ...

* * *

Apprentice Duties—any activity or requirement to in the apprenticeship program as required by the commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2068 (October 2003), amended LR 35:1882 (September 2009), LR 38:

Chapter 32. Licensing, Qualifications, and Apprenticeship

§3205. Education Qualifications

A. In addition to the requirements described herein, the Applicant must have a bachelor's degree or diploma granted by a college or university accredited by one of the six regional accreditation agencies recognized by the United States Department of Education for the accreditation of degree-granting institutions of higher education.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1833 (September 2009), LR 38:

§3207. Physical Qualifications

A. - B. ...

C. The applicants shall submit to drug and alcohol screening including hair test and expanded drug screen panels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1883 (September 2009), LR 38:

§3209. Apprenticeship

A. The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep draft vessel over the operating territory of the pilots under the tutelage of not less than 50 percent of the pilots. The apprentice must perform the duties of an apprentice in a professional, courtesies and prudent fashion. At all times the apprentice must be fit for duty, free from any substance that may adversely affect the apprentice's ability to perform apprentice duties. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising pilots. No apprentice shall be permitted to be examined for commissioning who has not fulfilled the requirements set forth by the board. The apprenticeship work must be certified by the board during the apprenticeship program. The board reserves the right to substitute work requirements, require satisfactory completion of additional trips, extended the apprenticeship, or terminate the apprenticeship, when deemed necessary.

B. - C. ...

D. Should the apprentice fail the examination, violate any rule or regulation of the board, fail to fulfill the duties of an apprentice or engage in any conduct or activity that is unsafe, unprofessional and/or demonstrates a lack of judgment the board, in its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

E. ...

F. The apprentice shall submit to drug and alcohol screening as determined by the board in its discretion.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1883 (September 2009), LR 38:

Chapter 33. Deputy Pilots

§3301. Restricted Duties Guidelines

A. The deputy pilots shall adhere to the following guidelines and restrictions. The failure to strictly adhere to these guidelines may subject the deputy pilot to disciplinary action at the board's discretion. The guidelines are divided into two tiers.

1. Tier one shall commence immediately after the deputy pilot is commissioned. The deputy pilot shall pilot:
 - a. vessels of 650 feet in length or less;
 - b. a minimum of 70 vessel;
 - d. for a period of not less than 180 calendar days.
2. Tier two shall commence upon the completion of tier one. The deputy pilot shall pilot:
 - a. vessels of 800 feet in length or less;
 - b. a minimum of 70 vessels;
 - d. for a period of not less than 180 calendar days.

B. During each tier, the deputy pilot must set forth a report providing the name of the vessel piloted, the date and time the vessel was piloted, the length, draft, tonnage of the vessel piloted, the route of the vessel piloted.

- C. A deputy pilot shall be prohibited from:
 1. piloting passenger vessels regardless of draft, tonnage or length;
 2. piloting tank vessels including OBO's (oil/bulk/ore);
 3. standing watch at the vessel traffic center;
 4. yachts;
 5. military vessels.

D. After a deputy pilot has completed each tier, the board shall evaluate the deputy pilot's ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the deputy pilot shall continue to be subject to any or all of the restrictions. The board reserves the right to substitute work requirements, require satisfactory completion of additional trips or extend the deputy pilot's restrictions when deemed necessary.

E. No persons are allowed on the bridge with the deputy pilot with the exception of the bridge team, U.S. Coast Guard representatives, government officials, the vessel's crew, or a commissioner or a designee of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1884 (September 2009), LR 38:

Family Impact Statement

The proposed rules of the Board of River Port Pilot Commissioners for the Port of New Orleans, 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. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed rules.

Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Such comments must be received no later than August 1, 2012, at 4:30 p.m., and should be sent to the Board of River Port Pilot Commissioners 2728 Athania Pky. Metairie, LA 70002 or to fax (504) 301-3594. Copies of this proposed regulation can be requested at the above referenced address.

Michael Delesdernier
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: River Port Pilots**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change updates regulations relative to the shipping industry and clarifies certain duties and definitions. The new regulations regarding deputy pilots will benefit the pilots and the users of pilot services. The amended regulation reduces the deputy pilot tiers from 3 to 2 and the vessel sizes were modified to address the vessels in current service.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments are anticipated to have no effect on competition and employment.

Michael R. Delesdernier
Executive Counsel
1206#073

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Field Less Than Five (LAC 35:XIII.11115)

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following Rule. The proposed Rule will allow trifecta wagering on a particular race card when there are five wagering interests entered, rather than six. The Rule also allows trifecta wagering upon commission approval on race cards with less than five betting interests when the purse value is \$200,000 or more.

Title 35.

HORSE RACING

Part XIII. Wagering

Chapter 111. Trifecta

§11115. Field Less Than Five

A. Trifecta wagering will be permitted when the number of wagering interests in a thoroughbred or quarter horse race is five or more. A late scratch after wagering begins on that race will not cancel trifecta wagering.

B. The commission may approve trifecta wagering on a race with a purse value of \$200,000 or more where the number of wagering interests is less than five.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 18:366 (April 1992), LR 22:13 (January 1996), LR 25:25 (January 1999), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability and/or autonomy as described in R.S. 49:972.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested

parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Field Less Than Five**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed rule change. The proposed amended rule reduces the minimum number of betting interests required in races to offer trifecta wagering to be reduced from six to five. Furthermore, the rule amends Section "B" allowing the commission to approve trifecta wagering on a race with a purse value of \$200,000 or more where the number of wagering interests is less than five rather than nine as the rule previously required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable increase in revenue collections by state and local government units as state and local governments tax a percentage of all amounts wagered at licensed racetracks in Louisiana. State and local government revenue collections may increase by an indeterminable amount as this rule allows trifecta wagering on races where there is a lesser number of horses entered, specifically defined as wagering interests.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule change may result in an indeterminable economic benefit to licensed racetracks in Louisiana by offering more trifecta wagering, which may result in increased wagering.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III
Executive Director
1206#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Superfecta (LAC 35:XIII.11701)

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following Rule. The proposed Rule will allow Superfecta wagering on a particular race card when there are six wagering interests entered, rather than eight. The proposed Rule also allows

Superfecta wagering upon commission approval on race cards with less than six wagering interests when the purse value is \$200,000 or more.

Title 35.

HORSE RACING

Part XIII. Wagering

Chapter 117. Superfecta

§11701. Superfecta

A. - J. ...

K. The minimum number of wagering interests required to offer Superfecta wagering shall be six. A late scratch after wagering begins on that race will not cancel Superfecta wagering.

L. The commission may approve Superfecta wagering on a race with a purse of \$200,000 or more where the number of wagering interests is less than six.

M. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149-149.3.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 22:805 (September 1996), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability and/or autonomy as described in R.S. 49:972.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Superfecta

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed rule change. The proposed amended rule reduces the minimum number of betting interests required in a race to offer superfecta wagering to be reduced from eight to six. Furthermore, the rule amends Section "B" allowing the commission to approve superfecta wagering on a race with a purse value of \$200,000 or more where the number of wagering interests is less than six rather than eight as the rule previously required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable increase in revenue collections by state and local government units as state and local governments tax a percentage of all amounts wagered at licensed racetracks in Louisiana. State and local government revenue collections may increase by an indeterminable amount as this rule allows superfecta wagering

on races where there is a lesser number of horses entered, specifically defined as wagering interests.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule change may result in an indeterminable economic benefit to licensed racetracks in Louisiana by offering superfecta wagering on races with six betting interests rather than eight, which may result in increased wagering.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III
Executive Director
1206#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Motor Vehicle Commission**

Sponsored Recreational Product Manufacturer Shows or Events (LAC 46:V.Chapter 17)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and in accordance with revised statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, hereby gives notice that the Louisiana Motor Vehicle Commission proposes to enact LAC 46:V.Chapter 17 setting forth procedures by which sponsored recreational product manufacturer shows or events can be conducted and licensed under the provisions of R.S. 32:1251 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 1. Louisiana Motor Vehicle Commission

Chapter 17. Sponsored Recreational Product Manufacturer Shows or Events

§1701. Definitions

Organizer—any person who alone or with others whose principal business activity is the promotion of shows or events supported by sponsors who are manufacturers or distributors of vehicles.

Product Specialist—any person selected by the sponsor to assist in its participation in the show or event.

Show or Event—a controlled event by an organizer who seeks sponsorships from manufacturers or distributors of vehicles in connection with the conduct of the show or event.

Sponsor or Participant—a manufacturer or distributor who pays cash or an in-kind fee to an organizer in return for access to the commercial potential associated with the show or event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 38:

§1703. Authorization for Show or Event

A. The commission may authorize or prohibit a sponsored recreational product manufacturer show or event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 38:

§1705. Show or Event License Fee and Application

A. An organizer shall obtain a license for the show or event from the commission and its request for a license shall be on an application prescribed by the commission requiring such information the commission deems necessary to determine the qualifications and eligibility of the show or event.

B. The application shall be accompanied by a license fee of \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 38:

§1707. Show or Event Requirements

A. The application for the show or event must be submitted to the commission no less than 60 days prior to the opening of the show or event.

B. Three or more sponsors or participants must participate in the show or event.

C. The show or event shall not exceed 10 days.

D. The show or event shall be a non-selling show however, the presence of product specialist, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. At the show or event, there shall be no execution of sales contracts, credit applications, taking of security deposits, or delivery of any vehicle.

E. No licensed dealer, operating in that capacity, may participate in the show or event.

F. The organizer shall furnish the commission a list of sponsors or participants no less than ten days prior to the show or event's opening day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 38:

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? The 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. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

Public Comments

Any person may submit data, views or positions, orally or in writing to the Louisiana Motor Vehicle Commission, 3519 Twelfth Street, Metairie, LA 70002 or by telephone at (504) 838-5207 and facsimile (504) 838-5416.

Lessie A. House
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Sponsored Recreational Product
Manufacturer Shows or Events**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in a minimal increase in Louisiana Motor Vehicle commission administrative costs associated with reviewing and preparing sponsored recreational product manufacturer shows or event licenses. The proposed rule change provides for the establishment of sponsored recreational product manufacturer shows or events and provides for definitions, license fees and applications, and show requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an increase in revenue in the amount of \$1000 annually due to the receipt of fees associated with license applications for shows and events covered by the rule. The expected increase in revenue is based on two shows being conducted annually (\$500 x 2).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sponsored recreational product manufacturers may have a minimal increase in paperwork associated with the application for the license. The licensed sponsored recreational product manufacturer show or event will receive income streams from sponsors, booth sales, and any admission charge that they may assess for attendance at the show or event.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition. Persons may be hired in connection with the production of the sponsored recreational product manufacturer show or event.

Lessie A. House
Executive Director
1206#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**CommunityCARE Program Termination
(LAC 50:I.Chapter 29)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:I.Chapter 29 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. 49:953(B)(1) et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program to establish the program as an optional statewide covered service under the Medicaid State Plan instead of a waiver service, and to provide for the exclusion of certain additional Medicaid recipients from mandatory participation in the program (*Louisiana Register*, Volume 32, Number 3).

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions that enhanced the CommunityCARE Program in order to create a more cost effective health care delivery system which provides a continuum of evidence-based, quality-driven health care services. This more cost effective health care delivery system, called the BAYOU HEALTH Program, will be implemented in parishes included in specific Geographic Service Areas of the state. Upon the implementation of the BAYOU HEALTH Program, the CommunityCARE Program will be terminated. Therefore, the department promulgated an Emergency Rule which repealed the provisions governing the CommunityCARE Program due to the implementation of the BAYOU HEALTH Program and thereby terminated the CommunityCARE Program (*Louisiana Register*, Volume 38, Number 5). This proposed Rule is being promulgated to continue the provisions of the June 1, 2012 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 29. CommunityCARE

§2901. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:908 (June 2003), amended LR 32:404 (March 2006), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2903. Recipient Participation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:908 (June 2003), amended LR 32:404 (March 2006), amended LR 32:1901 (October 2006), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2905. Provider Selection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and §1915(b)(1) 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 17:788 (August 1991), amended LR 19:645 (May 1993), LR 27:547 (April 2001), promulgated for LAC-LR 29:909 (June 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2907. Provider Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:909 (June 2003), amended LR 32:32:405 (March 2006), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2909. Emergency Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and §1915(b)(1) 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 17:788 (August 1991), amended LR 19:645 (May 1993), LR 25:669 (April 1999), promulgated for LAC-LR 29:909 (June 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2911. PCP Referral/Authorization

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:909 (June 2003), amended LR 32:405 (March 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:338 (January 2011), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2913. Physician Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and §1915(b)(1) 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 17:788 (August 1991), amended LR 19:645 (May 1993), LR 23:201. (February 1997) promulgated for LAC inclusion, LR 29:910 (June 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§2915. Immunization Pay-for-Performance

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2279 (October 2010), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Community First Choice Option Services
(LAC 50:XV.Chapter 131)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XV.Chapter 131 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.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS) Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11). In spite of the revisions to the LT-PCS Program, costs remain higher and eligibility remains limited in comparison to other states.

Section 2401 of the Affordable Care Act (ACA), established a new section 1915(k) of the Social Security Act that allows states, at their option, to provide home and community-based attendant services and supports to eligible recipients under their Medicaid state plan. This option, called the Community First Choice Option (CFCO), offers additional services, and allows states to receive a 6 percentage point increase in federal matching payments for expenditures related to the option.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to replace the current LT-PCS Program by adopting provisions to establish Community First Choice Option services as a covered service under the Medicaid state plan. The LT-PCS Program shall be terminated upon the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' approval of the corresponding CFCO state plan amendment.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: CommunityCARE Program Termination**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 11-12. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 11-12 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 11-12. It is anticipated that \$246 will be collected in FY 11-12 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the June 1, 2012 Emergency Rule, which repealed the provisions governing the CommunityCARE Program due to the implementation of the BAYOU HEALTH Program and thereby terminates the CommunityCARE program. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for directly affected persons or non-governmental groups in FY 11-12, FY 12-13, and FY 13-14 as these recipients will continue to receive Medicaid covered services through the BAYOU HEALTH Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1206#063

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 131. Community First Choice Option Services

§13101. General Provisions

A. The purpose of Community First Choice Option (CFCO) services is to assist individuals, who meet eligibility requirements, with functional impairments with their daily living activities. CFCO must be provided in accordance with an approved plan of care and supporting documentation. In addition, CFCO must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient, and will be considered in conjunction with those other services.

B. Each recipient requesting CFCO shall undergo a functional eligibility screening utilizing an eligibility screening tool called the Level of Care Eligibility Tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each CFCO applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring, and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for an annual services budget associated with that level.

1. If the applicant/recipient disagrees with his/her annual services budget, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for an increase in the annual services budget if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs an increase in the annual services budget to avoid entering into a nursing facility.

E. Requests for CFCO shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive CFCO;

2. an individual who is legally responsible for a recipient who may be in need of CFCO; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting CFCO.

F. Each recipient who requests CFCO services has the option to designate a responsible representative. For purposes of these provisions, a responsible representative

shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining CFCO services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the recipient in the assessment, care plan development, and service delivery processes; and

b. to aid the recipient in obtaining all necessary documentation for these processes.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13103. Self-Direction Option

A. The self-direction option is a voluntary, self-determination option which allows the participant to coordinate the delivery of CFCO services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the participant utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Participant Responsibilities. CFCO participants choosing the self-directed services option must understand the rights, risks, and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he/she must have a responsible representative who understands the rights, risks, and responsibilities of managing his/her care and supports within his/her individual budget.

C. Termination of the Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the plan of care, the elimination of the fiscal agent and the selection of the Medicaid-enrolled service provider(s) of choice.

1. Voluntary Termination. A participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him/her to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-directed option;

b. the participant is no longer able to direct his/her own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the responsible representative; or

- d. the participant or responsible representative:
 - i. places barriers to the payment of the salaries and related state and federal payroll taxes of direct support staff;
 - ii. fails to follow the POC;
 - iii. fails to provide required documentation of expenditures and related items;
 - iv. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures; or
 - v. violates Medicaid Program rules or guidelines of the self-directed option.

D. Employee Qualifications. All employees under the self-direction option must:

- 1. be at least 18 years of age on the date of hire; and
- 2. complete all training mandated by OAAS within the specified timelines.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13105. Covered Services

A. CFCO services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

- 1. eating;
- 2. bathing;
- 3. dressing;
- 4. grooming;
- 5. transferring (getting in/out of the tub, from a bed to a chair);
- 6. ambulation;
- 7. toileting; and
- 8. bed mobility.

B. IADLs are those activities that are considered essential, but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when he/she is absent from the home. IADLs include tasks such as:

- 1. light housekeeping;
- 2. food preparation and storage;
- 3. shopping;
- 4. laundry;
- 5. assisting with scheduling medical appointments when necessary;
- 6. accompanying the recipient to medical appointments when necessary;
- 7. assisting the recipient to access transportation;
- 8. reminding the recipient to take his/her medication as prescribed by the physician; and
- 9. non-complex medical tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

C. CFCO services also include assistance with:

- 1. the acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks;
- 2. back-up systems or mechanisms to ensure continuity of services and supports;
- 3. training on how to select, manage, and dismiss attendants for persons who choose the self-direction option.

D. Emergency and nonemergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of CFCO. Providers may choose to furnish transportation for recipients during the course of providing CFCO. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

1. Self-direction participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

E. Constant or intermittent supervision and/or sitter services are not a component of CFCO services.

F. CFCO services may be provided by one worker for up to three recipients who live together and who have a common direct service provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13107. Eligibility Criteria

A. CFCO services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and have a disability. Persons with a disability must meet the disability criteria established by the Social Security Administration.

B. Recipients must meet the eligibility criteria established by OAAS or its designee. CFCO services are medically necessary if the recipient:

- 1. meets the medical standards for admission to a nursing facility and requires limited assistance with at least one or more activities of daily living; and
- 2. is able, either independently or through a responsible representative to participate in his/her care and direct the services provided by the CFCO services worker.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13109. Recipient Rights and Responsibilities

A. Recipients who receive services under the CFCO Program have the right to actively participate in the development of their plan of care and the decision-making

process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of CFCO services and to participate in the following activities:

1. interviewing and selecting the CFCO worker who will be providing services in their home;
2. developing the work schedule for their CFCO worker;
3. training the individual CFCO worker in the specific skills necessary to maintain the recipient's independent functioning while maintaining him/her in the home;
4. developing an emergency component in the plan of care that includes a list of CFCO staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;
5. signing off on payroll logs and other documentation to verify staff work hours and to authorize payment;
6. evaluating the CFCO worker's job performance; and
7. transferring or discharging the CFCO worker assigned to provide their services;
8. an informal resolution process to address their complaints and/or concerns regarding CFCO services; and
9. a formal resolution process to address those situations where the informal resolution process fails to resolve their complaint.

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change CFCO providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the plan of care. Good cause shall be determined by OAAS or its designee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13111. Standards for Participation

A. In order to provide CFCO services in the Medicaid Program, a provider agency:

1. must comply with:
 - a. state licensing regulations;
 - b. Medicaid provider enrollment requirements;
 - c. any federal or state laws, rules, regulations, policies and procedures contained in the Medicaid provider manual for CFCO, or other document issued by the department. Failure to do may result in sanctions;
2. must possess a current, valid home and community based services license to provide personal care attendant services issued by the Department of Health and Hospitals, Health Standards Section.

B. In addition, a Medicaid enrolled agency must:

1. maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department or its designee; and
2. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and U.S. Department of Labor regulations.

C. A CFCO provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and have failed and there is no option but to refuse services.

1. OAAS or its designee must be immediately notified of the circumstances surrounding a refusal by a provider to render services.

2. This requirement can only be waived by OAAS or its designee.

D. OAAS or its designee is charged with the responsibility of setting the standards, monitoring the outcomes and applying administrative sanctions for failures by service providers to meet the minimum standards for participation.

1. Failure to meet the minimum standards shall result in a range of required corrective actions including, but not limited to:

- a. removal from the Freedom of Choice listing;
- b. a citation of deficient practice;
- c. a request for corrective action plan; and/or
- d. administrative sanctions.

2. Continued failure to meet the minimum standards shall result in the loss of referral of new CFCO recipients and/or continued enrollment as a CFCO provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13113. Staffing Requirements

A. All staff providing direct care to the recipient employed by a CFCO agency must meet the qualifications for furnishing personal care services per the licensing regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

- a. the recipient's spouse;
- b. the recipient's curator;
- c. the recipient's tutor;
- d. the recipient's legal guardian;
- e. the recipient's designated responsible representative; or
- f. the person to whom the recipient has given representative and mandate authority (also known as power of attorney).

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13117. Service Delivery

A. CFCO services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as

the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive CFCO services while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant. However, this prohibition may be waived by OAAS or its designee.

D. It is permissible for a CFCO recipient to use his/her approved CFCO allotment flexibly provided that it is done so in accordance with the recipient's preferences and personal schedule and is properly documented in accordance with OAAS policy.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13119. Service Limitations

A. The CFCO services budget shall be limited to an amount established by OAAS. Authorization of the annual service budget shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

B. There shall be no duplication of services.

1. CFCO services shall not be provided while the recipient is admitted to or attending a program which provides assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to the recipient.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

§13121. Reimbursement Methodology

A. Reimbursement for CFCO services shall be a prospective flat rate for each approved unit of service that is provided to the recipient. One quarter hour is the standard unit of service for CFCO services. Reimbursement shall not be paid for the provision of less than one quarter hour of service. Additional reimbursement shall not be available for transportation furnished during the course of providing CFCO services.

B. Shared CFCO services shall be reimbursed:

1. when furnished to two participants, at 80 percent of the full rate on file for each participant; and

2. when furnished to three participants, at 70 percent of the full rate on file for each participant.

C. For self-directed services, reimbursement is based on the existing reimbursement methodology for agency-provided services, with some modifications added. The reimbursement amount will be based on the number of hours (in one-quarter hour increments) approved by the prior authorization contractor multiplied by the state developed fee schedule rate. The authorized hours will be the same for agency-directed or participant-directed personal care

services. The same fee schedule rate will be applied to both the agency-directed and the participant-directed services. This product of approved hours times fee schedule rate will be an overall budget amount. This overall budget will be discounted by a percentage amount to reflect some of the administrative costs for the fiscal/employer agency and the support functions. This result will produce a budget amount for the individual participant. The individual participant will allocate these funds to cover personal support 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing the attendant service and supports options available to eligible recipients.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Community First Choice Option Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic costs of \$24,450,724 for FY 12-13 and \$50,368,492 for FY 13-14; however, the costs for Community First Choice Options (CFCO) services will be directly offset by a savings in state general fund match of approximately \$5,143,942 realized from the termination of the Long-Term Personal Care Services (LT-PCS) Program since the CFCO services receive a 6 percent increase in the FMAP rate. It is anticipated that \$1,804 (\$902 SGF and \$902 FED) will be expended in FY 11-12 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$83,642,663 for FY 12-13 and \$172,303,885 for FY 13-14. It is anticipated that \$902 will be collected in FY 11-12 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to terminate and replace the current LT-PCS Program by adopting provisions to establish Community First Choice Option services as a covered service under the Medicaid State Plan. CFCO services have a higher FMAP rate which will enable the Medicaid Program to provide more cost-effective personal assistance and support services to eligible Medicaid recipients than LT-PCS (estimate 15,682 recipients in FY 13). It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program by approximately \$108,093,387 for FY 12-13 and \$222,672,377 for FY 13-14.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1206#064

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment
Substance Abuse Services
(LAC 50:XV.Chapter 93)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapter 93 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. 49:953(B)(1) et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminated coverage and reimbursement of substance abuse clinic services under the Medicaid Program as a result of a budgetary shortfall (*Louisiana Register*, Volume 27, Number 1). However, in compliance with federal regulations governing coverage of discretionary services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program, substance abuse services continued to be available to Medicaid recipients up to the age of 21 through the substance abuse clinics operated or funded by the Office for Addictive Disorders (OAD), now the Office of Behavioral Health (OBH).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted the provisions governing the coverage and reimbursement of substance abuse services rendered to EPSDT recipients (*Louisiana Register*, Volume 37, Number

5). The department amended the provisions of the April 22, 2011 Emergency Rule to clarify the provisions governing EPSDT substance abuse services (*Louisiana Register*, Volume 38, Number 6). This proposed Rule is being promulgated to continue the provisions of the June 20, 2012 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 93. Substance Abuse Services

§9301. General Provisions

A. The Medicaid Program shall provide coverage of substance abuse services rendered to Medicaid eligible recipients, under the age of 21.

B. Medicaid reimbursement for medically necessary substance abuse services shall only be provided to the Office of Behavioral Health for recipients under the age of 21 who receive outpatient treatment only. The Medicaid Program shall not provide reimbursement for inpatient services under these provisions.

C. Substance abuse services covered under the EPSDT Program shall include medically necessary clinic services and other medically necessary substance abuse services rendered to EPSDT recipients.

D. Medicaid recipients shall be the sole recipients of Medicaid covered substance abuse services and these services shall only be billed for the Medicaid recipient despite the presence of others who may be group or family participants.

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, Bureau of Health Services Financing, LR 38:

§9303. Covered Services

A. The medical necessity for these rehabilitative services must be determined by, and services recommended by, a licensed mental health practitioner, or as ordered by a staff physician.

B. Outpatient Treatment Program

1. Professionally directed assessment, diagnosis, treatment, and recovery services are provided in an organized non-residential treatment setting by licensed mental health practitioners (LMHPs) and non-licensed professionals under the supervision of a LMHP.

2. Outpatient treatment program hours range from one hour to nine hours/week. The maximum level of hours may be exceeded based on medical necessity.

3. Outpatient treatment program services include, but are not limited to:

- a. individual, group, and family counseling;
- b. medication compliance;
- c. relapse prevention; and
- d. disease concept.

4. Outpatient treatment program services offer comprehensive, coordinated, and defined services that may vary in level of intensity.

C. Intensive Outpatient Treatment Program

1. Professionally directed assessment, diagnosis, treatment, and recovery services are provided in an organized non-residential treatment setting by LMHPs and non-licensed professionals under the supervision of a LMHP.

2. Adolescents in intensive outpatient treatment programs receive a minimum of six hours/week with no specified frequency/week. The maximum is up to 20 hours/week. The maximum level of hours may be exceeded based on medical necessity.

3. Intensive outpatient treatment program services include, but are not limited to:

- a. individual, group, and family counseling; and
- b. education on recovery.

4. Intensive outpatient treatment program services offer comprehensive, coordinated, and defined services that may vary in level of intensity.

5. These services consist of a scheduled series of face-to-face sessions appropriate to the individual's plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§9305. Provider Qualifications

A. Outpatient clinical services shall be provided by Louisiana licensed mental health practitioners within the scope of the State Practice Act and licensing requirements.

B. A mental health practitioner may include a:

1. licensed professional counselor (LPC);
2. licensed clinical social worker (LCSW);
3. licensed addiction counselor (LAC); and
4. licensed marriage and family therapist (LMFT).

C. The following practitioners are also approved service providers:

1. licensed medical doctor;
2. licensed psychologist;
3. licensed nurse practitioner (NP);
4. advanced practice registered nurse (APRN); and
5. registered nurse (RN) with documented evidence of receiving a minimum of five continuing education units (CEUs) annually that are specifically related to behavioral health and medication management issues.

D. Registered addiction counselors (RACs) and certified addiction counselors (CACs) may also provide clinical services with a licensed mental health practitioner on-site.

E. RACs shall meet the following qualifications:

1. is at least 21 years of age;
2. is a legal resident of the United States;
3. is not in violation of any ethical standards subscribed to by the Addictive Disorders Regulatory Authority (ADRA);

4. has not been convicted of a felony;

a. The ADRA in its discretion may waive this requirement upon review of the individual's circumstances;

5. has successfully completed 270 clock hours of education approved by the ADRA. One semester hour equals 15 clock hours. One CEU equals 10 clock hours. One hundred eighty of these hours must be specific to addiction treatment. The remaining 90 hours may be related, but are subject to approval by the ADRA. Six of the 90 hours must be in professional ethics;

6. has successfully completed 6,000 hours (three years) of supervised work experience in the treatment of people with addictive disorders. Of these hours, he/she must complete a 300 hour practicum in the core functions and global criteria, with at least twenty 20 hours in each core function. This experience must be supervised by a certified

clinical supervisor (CCS) or other qualified professional who has received the proper waiver from the ADRA;

7. has completed and received approval for an application prescribed by the ADRA; and

8. demonstrates competency in addiction counseling by submitting and gaining approval for a typical case study and passing a written examination prescribed by the ADRA.

F. CACs shall meet the following qualifications:

1. is at least 21 years of age and holds a bachelor's degree from an approved and accredited institution of higher education in a human services field;

2. is a legal resident of the United States;

3. is not in violation of any ethical standards subscribed to by the ADRA;

4. has not been convicted of a felony;

a. the ADRA in its discretion may waive this requirement upon review of the individual's circumstances;

5. has successfully completed two hundred seventy clock hours of education approved by the ADRA. One semester hour equals fifteen clock hours. One CEU equals ten clock hours. One hundred eighty of these hours must be specific to addiction treatment. The remaining ninety hours may be related, but are subject to approval by the ADRA. Six of the ninety hours must be in professional ethics;

6. has successfully completed 4,000 hours (two years) of supervised work experience in the treatment of people with addictive disorders. Of these hours, he/she must complete a 300 hour practicum in the core functions and global criteria, with at least 20 hours in each core function. This experience must be supervised by a CCS or other qualified professional who has received the proper waiver from the ADRA;

7. has completed and received approval for an application prescribed by the ADRA; and

8. demonstrates competency in addiction counseling by submitting and gaining approval for a typical case study and passing a written examination prescribed by the ADRA.

G. A registered addiction counselor or a certified addiction counselor may not practice independently and may not render a diagnostic impression, but can practice under the supervision of an LMHP on-site within an agency that is licensed or accredited.

H. Unlicensed practitioners shall only practice under the supervision of a licensed professional, within the scope of the licensed professional's State Practice Act and licensing requirements.

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, Bureau of Health Services Financing, LR 38:

§9307. Reimbursement Methodology

A. The Medicaid Program shall provide reimbursement to the Office of Behavioral Health for substance abuse services rendered to EPSDT recipients. Under the provisions of this Rule, payments to OBH for these services shall sunset as of February 29, 2012.

B. Reimbursement for these services shall be based on the most recent actual cost to OBH. Cost data shall be derived from the department's ISIS reporting of costs for the period. The cost period shall be consistent with the state fiscal year. Costs are determined by selecting the expenditures paid from state and local funds for the state fiscal year.

C. OBH encounter data from their database shall be used to identify allowable services. Encounter data for recipients under the age of 21 shall be extracted and used in calculations to determine actual cost to OBH.

D. Costs shall be calculated by using the cost-weighted amount and include Medicaid eligibles under 21 database costs divided by total database costs times OBH's expenditures for the program which were derived from the state's ISIS data.

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, Bureau of Health Services Financing, LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Substance Abuse Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic costs of \$146,597 for FY 11-12 only. However, state match requirements for these substance abuse services have already been satisfied by the Department's Office of Behavioral Health (OBH) [and the former Office for Addictive Disorders (OAD)]. This rule seeks only to establish the necessary policy to acquire the federal match for the services which were rendered to Medicaid eligible children during a specified past period of time [April 22, 2011 thru February 29, 2012]. It is anticipated that \$902 (\$451 SGF and \$451 FED) will be expended in FY 11-12 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY

12 is the federal rate for disaster-recovery FMAP adjustment states.

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 \$330,971 for FY 11-12 only. It is anticipated that \$451 will be expended in FY 11-12 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the June 20, 2012 emergency rule, adopts provisions governing the coverage and reimbursement of substance abuse services rendered to recipients in the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Program prior to March 2012. OBH (formerly OAD) provided substance abuse services to Medicaid eligible children in the EPSDT Program and did not receive reimbursement from the Medicaid Program. This rule seeks to establish the necessary reimbursement methodology in order for the Medicaid Program to acquire the federal match for the substance abuse services rendered prior to March 2012, and to reimburse OBH accordingly. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$476,666 for FY 11-12 only; however, the state match requirements to fund the expenditures have already been satisfied by OBH.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Don Gregory
Medicaid Director
1206#065

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Licensing Standards for Adult Day Health Care
(LAC 48:I.4203, 4207, 4227, 4245, and 4267)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.4203, §4207, §4227, §4245, and §4267 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.41-2120.46, 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 amended the standards for payment for adult day health care (ADHC) services to remove those provisions governing licensing from LAC 50:XXI and repromulgated the licensing standards in LAC 48:I (*Louisiana Register*, Volume 34, Number 10). The October 20, 2008 Final Rule was repromulgated due to an error upon submission to the Office

of State Register (*Louisiana Register*; Volume 34, Number 12).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the licensing standards for ADHC centers to revise and clarify the staffing and transportation requirements (*Louisiana Register*, Volume 37, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 1, 2011 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 42. Adult Day Health Care

Subchapter A. General Provisions

§4203. Definitions

* * *

Direct Service Worker—an unlicensed staff person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the participant.

Director—the person designated by the governing body of the ADHC to:

1. manage the center;
2. insure that all services provided are consistent with accepted standards of practice; and
3. ensure that center policies are executed.

* * *

Full Time Equivalent—40 hours of employment per week or the number of hours the center is open per week, whichever is less.

* * *

Key Staff—the designated program manager(s), social worker(s) or social services designee(s), and nurse(s) employed by the ADHC. A key staff person may also serve as the ADHC director.

* * *

Program Manager—a designated staff person, who is responsible for carrying out the center's individualized program for each participant.

* * *

Social Service Designee/Social Worker—an individual responsible for arranging medical and/or social services needed by the participant.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

§4207. Initial License Application Process

A. - A.6. ...

a. line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; and

b. general and professional liability insurance of at least \$300,000.

c. Repealed.

A.7. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2624 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Subchapter B. Administration and Organization

§4227. Policy and Procedures

A. - B.9. ...

C. The director, or his designee:

1. is responsible for the execution of ADHC center policies; and

2. shall be accessible to center staff or to any representative of the Department of Health and Hospitals conducting an audit, survey, monitoring activity, or research and quality assurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Subchapter D. ADHC Center Services

§4245. Transportation Requirements

A. - G. ...

H. Centers are expected to provide transportation to any client within their licensed region, but no client, regardless of their region of origin, may be in transport for more than one hour on any single trip.

1. If the center develops a policy that establishes a limited mileage radius for transporting participants, that policy must be submitted to DHH for review and approval prior to the center being allowed to limit transportation for participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2631 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Subchapter G. Center Responsibilities

§4267. Staffing Requirements

A. Staff at ADHC centers shall meet the following education and experience requirements. All college degrees must be from a nationally accredited institution of higher education as defined in §102(b) of the Higher Education Act of 1965 as amended. The following "key" staff positions are required and subject to the provisions listed below.

1. Social Service Designee/Social Worker. The center shall designate at least one staff person who shall be employed at least 10 hours a week to serve as the social services designee or social worker.

a. The social services designee shall have, at a minimum, a bachelor's degree in a human service-related field such as psychology, sociology, education, or counseling. Two years of experience in a human service-related field may be substituted for each year of college.

b. The social worker shall have a bachelor's or master's degree in social work.

2. Nurse. The center shall employ one or more LPNs or RNs who shall be available to provide medical care and

supervision services as required by all participants. The RN or LPN shall be on the premises daily for at least eight hours, the number of hours the center is open, or during the time participants are present at the center, whichever is least. Nurses shall have a current Louisiana state license.

a. - b. Repealed.

3. Program Manager. The center shall designate at least one staff member who shall be employed at least 10 hours a week to be responsible for carrying out the center's individualized program for each participant. The program manager should have program planning skills, good organization abilities, counseling and activity programming experience.

3.a. - 7.e. Repealed.

B. The following additional staff positions are required, subject to the provisions listed below.

1. Food Service Supervisor. The center shall designate one staff member who shall be employed at least 10 hours a week who shall be responsible for meal preparation and/or serving. The food service supervisor must have ServSafe® certification.

2. Direct Service Worker. An unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well being, and who is involved in face-to-face direct contact with the participant.

3. Volunteers. Volunteers and student interns are considered a supplement to the required staffing component. A center which uses volunteers or student interns on a regular basis shall have a written plan for using these resources. This plan must be given to all volunteers and interns and it shall indicate that all volunteers and interns shall be:

a. directly supervised by a paid staff member;

b. oriented and trained in the philosophy of the center and the needs of participants as well as the methods of meeting those needs;

c. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;

d. aware of and briefed on any special needs or problems of participants; and

e. provided program orientation and ongoing in-service training. The in-service training should be held at least quarterly.

C. The direct service worker to participant ratio shall be a minimum of one full-time direct service worker to every nine participants.

D. Center staffing requirements shall be based on licensed capacity; however, the center shall ensure that the following requirements are met regardless of the licensed capacity of the center.

1. The RN or LPN shall be on the premises daily for at least eight hours, the number of hours the center is open, or during the time participants are present at the center, whichever is less.

2. If the RN or LPN has been on duty at least eight hours and there are still participants present in the ADHC, the RN or LPN may be relieved of duty, however, at least one key staff person shall remain on duty at the center. The

key staff person shall be the social service designee/social worker or the program manager.

3. A staff member who is certified in CPR must be on the premises at all times while clients are present.

E. Centers with a licensed capacity of 15 or fewer clients may designate one full-time staff person or full-time equivalent person to fill up to three "key staff" positions, and must employ at least one full-time person or full-time equivalent to fulfill key staff requirements.

F. Centers with a licensed capacity to serve 16-30 clients must employ at least two full-time persons or full-time equivalents to fulfill key staff requirements, and may designate one full-time staff person or full-time equivalent person to fill up to, but no more than, two "key staff" positions.

G. Centers with a licensed capacity to serve more than 30 clients must employ at least three full-time persons or full time equivalents to fill key staff positions. Each key staff position must be filled with a full-time person or full-time equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2634 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensing Standards for Adult Day Health Care

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 11-12. It is anticipated that \$1,148 (SGF) will be expended in FY 11-12 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 revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the April 1, 2011 emergency rule, proposes to amend the provisions governing the licensing standards for adult day health care (ADHC) centers to revise and clarify the staffing and transportation requirements (approx. 138 facilities). It is anticipated that implementation of this proposed rule will not have economic costs or benefits to ADHC centers for FY 11-12, FY 12-13, and FY 13-14 since the required licensing fees have not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1206#066

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish Harvest (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.335, modifying existing reef fish harvest regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3. Said Rule is attached to and made part of this Notice of Intent.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and 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.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish—Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
1. Red Snapper	3 fish per person per day
[See Prior Text in 2-8]	

B. - F. ...

G. Seasons

1. ...

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
[See Prior Text in a-b]	
c. Red Snapper	October 1 through the Friday before Palm Sunday of the following year. The open season shall be for weekends only. A weekend is defined as Friday, Saturday and Sunday, with the exception of Memorial Day and Labor Day, when Monday would be classified as a weekend as well.
d. Greater Amberjack	June 1 through July 31 of each year.

3. ...

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters except for the season for the recreational harvest of red snapper, which is for Louisiana's territorial waters only.

5. The secretary of the Department of Wildlife and Fisheries is hereby authorized, upon notification to the chairman of the Wildlife and Fisheries Commission, to close, open, re-open or re-close any reef fish season as needed when informed of such by the National Marine Fisheries Service in order to maintain consistency with modifications in the adjacent federal waters, should the federal seasons be modified. The secretary may also modify those portions of this rule pertaining to red snapper recreational daily harvest limits and red snapper recreational seasons if NOAA-NMFS institutes sub-regional management for the species or if he deems it necessary, following notification of the chairperson of the Wildlife and Fisheries Commission.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, August 20, 2012.

Ann L. Taylor
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reef Fish Harvest**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Recreational anglers who harvest red snapper may be directly affected by the proposed rule change. From 2004 to 2008, an annual average of 59,224 recreational trips were taken in Louisiana territorial waters or federal waters off the coast of Louisiana on which red snapper was targeted. The proposed rule change is anticipated to cause an unquantifiable increase in the number of fishing trips that recreational anglers take because the alteration of the red snapper season in Louisiana territorial waters is anticipated to increase the opportunities for recreational anglers to harvest red snapper. Upon promulgation of the proposed rule change, the open season for red snapper in Louisiana territorial waters would be weekends beginning the Saturday before Palm Sunday to September 30 with weekends defined as Friday, Saturday, and Sunday, with the exception of Memorial Day and Labor Day, when Monday would be classified as a weekend as well. Further, the proposed rule change increases the recreational daily bag limit for red snapper in Louisiana territorial waters from two to three, which would likely cause an increase in the number of red snapper taken by recreational anglers. From 2005 to 2009 an average of 124,927 red snapper were recreationally harvested annually in Louisiana.

The proposed rule change also establishes that the Secretary of the Department of Wildlife and Fisheries shall be authorized, upon notification to the Chairman of the Wildlife and Fisheries Commission, to close, open, re-open, or re-close any reef fish season as needed when informed of such by the National Marine Fisheries Service in order to maintain consistency with modifications in the adjacent federal waters, should the federal seasons be modified. Additionally, the proposed rule change establishes that the Secretary may also modify those portions of LAC 76:VII.335 pertaining to red snapper recreational daily harvest limits and red snapper recreational seasons if National Oceanic and Atmospheric Administration: National Marine Fisheries Service institutes sub-regional management for the species or if he deems it necessary, following notification of the Chairperson of the Wildlife and Fisheries Commission.

Entities that sell equipment and supplies used on recreational fishing trips may experience an increase in income from increases in commerce resulting from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to cause a small, unquantifiable increase in private sector employment in Louisiana and have no impact on competition in the private sector. Any increase in private sector employment would be due to an increase in commercial activities related to the sale of equipment and supplies used on recreational fishing trips

Lois Azzarello
Undersecretary
1206#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish—Repromulgation (LAC 76:VII.335)

Editor's Note: This Notice of Intent is being repromulgated because of an error upon submission. The original Notice of Intent can be viewed in the April 20, 2012 edition of the *Louisiana Register* on pages 1132-1134.

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.335, modifying existing reef fish harvest regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3. Said Rule is attached to and made part of this Notice of Intent.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and 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.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §335. Reef Fish—Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
1. Red snapper	2 fish per person per day
2. Queen, mutton, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, schoolmaster and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate)
4. Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	4 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 4 red grouper per person and not more than 2 gag grouper per person included in the bag limit

Species	Recreational Bag Limits
5. Greater amberjack	1 fish per person per day
6. Banded rudderfish and lesser amberjack	5 fish per person per day (in aggregate)
7. Hogfish	5 fish per person per day
8. No person shall possess goliath grouper or Nassau grouper whether taken from within or without Louisiana territorial waters per LAC 76:VII.337.	

B. - D.7. ...

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red grouper	20 inches total length (Recreational) 18 inches total length (Commercial)
7. Yellowfin grouper	20 inches total length
8. Gag grouper	22 inches total length
9. Black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
10. Scamp	16 inches total length
11. Greater amberjack	30 inches fork length (Recreational) 36 inches fork length (Commercial)
12. Black seabass	8 inches total length
13. Hogfish	12 inches fork length
14. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size) 22 inches fork length (maximum size)
15. Gray triggerfish	14 inches fork length

F. Definitions. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

Charter Vessel—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than four persons aboard, including operator and crew.

Headboat—a vessel that holds a valid certificate of inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than four persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit

the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. Greater Amberjack	March 1 through May 31

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag	November 1 through June 30 of the following year.
b. Black, red, yellowfin, and yellowmouth groupers, rock hind red hind and scamp.	February 1 through March 31 of each year.
c. Red snapper	October 1 through May 31 of the following year.
d. Greater amberjack	June 1 through July 31 of each year.

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

5. The secretary of the Department of Wildlife and Fisheries is hereby authorized, upon notification to the chairman of the Wildlife and Fisheries Commission, to close, open, re-open or re-close any reef fish season as needed when informed of such by the National Marine Fisheries Service in order to maintain consistency with modifications in the adjacent federal waters, should the federal seasons be modified.

H. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper, groupers and tilefish species on purchases and sales on their records.

I.1. Devices

a. *Circle Hook*—a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval, shape.

b. *Dehooking Device*—a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

c. *Venting Tool*—a device intended to deflate the abdominal cavity of a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-stainless Steel Circle Hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking Device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

c. Venting Tool. At least one venting tool is required and must be used to deflate the abdominal cavities of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, Box 98000,

Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, July 12, 2012.

Ann L. Taylor
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reef Fish

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change modifies LAC 76:VII.313, which establishes regulations for the harvest of reef fish species. Modifications include: changes the aggregate number from five to four that can be recreationally harvested daily of listed species; increases from one to four the number of red grouper that can be recreationally harvested daily; specifies that not more than two gag grouper can be recreationally harvested daily; decreases the minimum size limit for commercially harvested gag grouper from 24 inches to 22 inches; adjusts dates of closed season for recreational harvest of listed species; implements a closed season for the recreational harvest of listed species; establishes that the secretary of the Department of Wildlife and Fisheries shall have the authority to create or adjust reef fishing seasons in order to maintain consistency with seasons for federal waters that are adjacent to Louisiana territorial waters; changes definitions of charter vessels and headboats to maintain consistency with 50 CFR 622.2; and replaces the words swim bladder with abdominal cavity and the word device with tool for consistency and clarification purposes.

The proposed rule change may have an unquantifiable positive economic affect on individuals who commercially harvest gag grouper because the proposed rule amendments will reduce the minimum size limit for commercially harvested gag grouper. This minimum size reduction may decrease the effort necessary to meet their individual fishing quota for gag grouper. From 2007 to 2011, an average of 19.8 individuals landed gag grouper in Louisiana each year.

From FY 07 to FY 11, an average of 487,391 individuals were licensed to recreationally fish in saltwater in Louisiana each year (resident and non-resident). A small portion of these anglers targeted reef fish. Recreational anglers who target reef fish may be positively and negatively impacted by the proposed rule change because the proposed rule change: will reduce the aggregate daily bag limit for many hinds and groupers, and scamps; will increase the daily bag limit for red grouper; will adjust and create new closed seasons for recreational harvest of reef fish; and may increase the abundance of the certain reef fish species.

Individuals who operate vessels that have both a Gulf of Mexico Charter Headboat for Reef Fish permit and a Gulf of Mexico Reef Fish permit (commercial) may be affected by the proposed rule change because it will establish that, for these

individuals, any trip on which reef fish are landed commercially the crew size may not exceed four persons, including the captain. As of March 22, 2012, four vessels have both a valid and current Gulf of Mexico Charter Headboat for Reef Fish permit and a valid and current Gulf of Mexico Reef Fish permit, and a mailing address in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule change is anticipated to have no effect on competition and employment in the public and private sectors.

Lois Azzarello
Undersecretary
1204#073

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Concurrent Resolutions

CONCURRENT RESOLUTION

Senate Concurrent Resolution No. 107

By Senator Erdey

A Concurrent Resolution

To authorize and direct public agencies to provide in-service education and training on sexual harassment for its public servants.

WHEREAS, there is an ongoing need to provide education and training to officials and employees of public agencies on sexual harassment in the workplace; and

WHEREAS, it is incumbent upon the state and its agencies, local governmental subdivisions, political subdivisions, and other public agencies to provide education and training to inform and protect its officials and employees from such harassment; and

WHEREAS, public agencies are responsible for taking action to prevent sexual harassment by any public agency official or employee.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct each public agency to provide in-service education and training on sexual harassment to its public employees and officials as follows:

A. Except as otherwise specifically provided in this Resolution, or unless the context clearly indicates otherwise, the terms in this Resolution shall have the meaning provided in R.S. 42:1102 of the Code of Governmental Ethics.

B. Commencing January 1, 2013, each agency shall provide, or cause to be provided, to each public servant of that agency a minimum of one hour of education and training on sexual harassment during each year of his public employment or term of office, as the case may be.

C. The education and training required pursuant to this Section may be provided and received either in person or via the Internet.

D.(1) Each agency head of a state agency shall designate at least one person who shall provide all public servants of that agency information and instruction on sexual harassment. On and after July 1, 2013, no agency head shall designate a person to provide information and instruction on sexual harassment pursuant to this Resolution unless the person has received a minimum of two hours of education and training on sexual harassment. In addition, on and after July 1, 2014, each designee shall have at least two hours of education and training on sexual harassment annually.

(2) Each agency head of a state agency shall ensure that each public servant in the agency is notified of the current name and contact information of each designee and that the current name and contact information of each designee is posted and maintained in a convenient and conspicuous manner which makes the information easily accessible to each public servant in the agency.

E. Each state agency shall keep records of compliance with the requirements of this Resolution by each public servant of the agency.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted to the office of state register in the division of administration and published in the State Register.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be included on the website of Louisiana government and on the website of each department, division, office, section, board, commission, and other agency of state government which maintains a web site.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the governor, the commissioner of administration, and the chief justice of the supreme court.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Louisiana Municipal Association, the Police Jury Association of Louisiana, the Louisiana School Boards Association, the Louisiana District Attorney Association, the Louisiana Assessors' Association, the Louisiana Sheriffs' Association, and the Louisiana Clerks of Court Association, the Louisiana State Coroner's Association, the Justice of the Peace Association, and the Louisiana City Marshals and City Constables Association, and that each such association disseminate the Resolution to its membership.

John A. Alario, Jr.
President of the Senate

Charles E. "Chuck" Kleckley
Speaker of the House of Representatives

1206#074

CONCURRENT RESOLUTION

House Concurrent Resolution No. 6

By Representative Stuart Bishop

A Concurrent Resolution

To amend the Department of Wildlife and Fisheries rule (LAC 76:V.115(E)(1)), which provides exemptions from the department's rules governing private possession of potentially dangerous quadrupeds, exotic cats, and nonhuman primates, to include in those exemptions the Zoo of Acadiana so long as it meets the American Zoo and Aquarium Association standards for enclosures and to direct the Office of the State Register to print the amendments in the Louisiana Administrative Code.

WHEREAS, Act Number 715 of the 2006 Regular Session of the Legislature enacted R.S. 56:6(31) which requires the Wildlife and Fisheries Commission to "... promulgate rules

and regulations to control the importation and private possession of big exotic cats ..."; and

WHEREAS, R.S. 56:6(31) also provides for "... exceptions for big cats traditionally kept by colleges and universities as school mascots, animal sanctuaries, zoos, wildlife research centers, and scientific organizations." ; and

WHEREAS, the rules adopted by the Wildlife and Fisheries Commission provide exemptions for those "... zoos accredited or certified by the American Zoo and Aquarium Association."; and

WHEREAS, accreditation and exacting standards are important to ensure the well being and safety of the animals held in captivity and the safety of the people who are caring for and viewing the animals.

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 76:V.115(E)(1) is hereby amended to read as follows:

§115. Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates

* * *

E. Exempted Entities. The following organizations and entities shall be exempt from this regulation, including permitting:

1. zoos accredited or certified by the American Zoo and Aquarium Association (AZA) and the Zoo of Acadiana so long as it meets the American Zoo and Aquarium Association standards for enclosures;

* * *

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Office of the State Register and the secretary of the Department of Wildlife and Fisheries.

BE IT FURTHER RESOLVED that the Office of the State Register is hereby directed to have the amendments to LAC 76:V.115(E)(1) printed and incorporated into the *Louisiana Administrative Code*.

John A. Alario, Jr.
President of the Senate

Charles E. "Chuck" Kleckley
Speaker of the House of Representatives

1206#076

CONCURRENT RESOLUTION
House Concurrent Resolution No. 16

By Representative Foil

A Concurrent Resolution

To approve rules promulgated by the Amite River Basin Drainage and Water Conservation District, hereinafter, "ARBC", relative to the acquisition of property for the Comite Diversion Canal Project.

WHEREAS, R.S. 38:3306(F) provides that the board of the ARBC may expropriate property subject to and in accordance with R.S. 48:411 through 460, expropriation procedures for the Department of Transportation and Development; and

WHEREAS, the board has specifically made acquisition of mitigation property for the purpose of the Comite River Diversion Canal Project under the proposed rules subject to and in accordance with Act No. 734 of the 2010 Regular Session of the Legislature; and

WHEREAS, pursuant to R.S. 38:3306(A), the board adopted rules and regulations to establish policies and procedures for the acquisition of property for the Comite Diversion Canal Project; and

WHEREAS, R.S. 38:3306(A) provides that such rules and regulations shall be submitted to the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works for oversight; and

WHEREAS, the ARBC complied with the law and submitted the proposed rules to both committees, however neither committee held a hearing on the proposed rules; and

WHEREAS, the subject matter and intent of the proposed rules are of vital importance to the people of Ascension, East Baton Rouge, and Livingston parishes; and

WHEREAS, it is also of vital importance that the proposed rules be reviewed for their content and affect; and

WHEREAS, what better process than to have the proposed rules reviewed and approved by the Legislature of Louisiana.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby declare that it has reviewed and approved the proposed rules of the Amite River Basin Drainage and Water Conservation District, relative to the establishment of policies and procedures for the acquisition of property for the Comite Diversion Canal Project.

BE IT FURTHER RESOLVED that the Office of the State Register is hereby directed to print the adopted rules that were submitted in the Notice of Intent published in the state register on September 20, 2011.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Office of the State Register, the Amite River Basin Drainage and Water Conservation District, and the parish governing authorities of Ascension, East Baton Rouge, and Livingston parishes.

John A. Alario, Jr.
President of the Senate

Charles E. "Chuck" Kleckley
Speaker of the House of Representatives

1206#075

CONCURRENT RESOLUTION
House Concurrent Resolution No. 69

By Representative Ligi

A Concurrent Resolution

To amend the Department of Health and Hospitals, Board of Medical Examiners, rule (LAC 46:XLV.3149), which provides for limitations on examinations of an applicant for certification as an athletic trainer, and to direct the

Office of the State Register to print the amendments in the Louisiana Administrative Code.

WHEREAS, the Department of Health and Human Resources, predecessor of the Department of Health and Hospitals, promulgated a rule in 1986 providing for limitations on examinations of an applicant for certification as an athletic trainer; and

WHEREAS, this rule is presently in effect and provides that an applicant having failed to attain a passing score upon taking the certification examination four times shall not thereafter be considered for certification as an athletic trainer and shall not be eligible to take the examination again; and

WHEREAS, among the forty-eight states which regulate the profession of athletic training, Louisiana is the only state which limits the number of times an applicant may take an athletic trainer certification examination; and

WHEREAS, at least one state (Illinois) explicitly provides in its regulations relative to the profession of athletic training that unsuccessful candidates may retake the certification examination as many times as they wish; and

WHEREAS, among Louisiana's statutes and rules providing for professions and occupations, limitations on the number of times an applicant may take an examination to qualify for professional certification or licensure are highly uncommon; and

WHEREAS, R.S. 49:969 provides that the legislature, by Concurrent Resolution, may suspend, amend, or repeal any rule adopted by a state department, agency, board, or commission; and

CODING: Words in struck through type are deletions from existing law; words underscored are additions.

WHEREAS, the purpose of this Resolution is to remove unnecessary obstacles to qualified persons attaining employment in a health profession and to meeting demand for health care in this state.

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 46:XLV.3149 is hereby amended to read as follows:

**§3149. Restriction, Limitations on Examinations
Reexamination**

A. An applicant having failed to attain a passing score upon taking the certification examination four times shall not thereafter be considered for certification and shall not be eligible to take the examination again may take a subsequent examination upon payment of the applicable fee as prescribed by Chapter 1 of these rules.

BE IT FURTHER RESOLVED that the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Office of the State Register and the Department of Health and Hospitals, Board of Medical Examiners.

BE IT FURTHER RESOLVED that the Office of the State Register is hereby directed to have the amendment to LAC 46:XLV.3149 printed and incorporated into the Louisiana Administrative Code and to transmit a copy of the revised rule to the Department of Health and Hospitals, Board of Medical Examiners.

John A. Alario, Jr.
President of the Senate

Charles E. "Chuck" Kleckley
Speaker of the House of Representatives

1206#077

Potpourri

POTPOURRI

Department of Environmental Quality Office of Environmental Services Air Permits Division

Standard Performance Testing Requirements—Sources Not Subjected to Promulgated Federal or State Performance Testing Regulations

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Department of Environmental Quality, Office of Environmental Services, Air Permits Division, will alter the standard performance testing requirements that apply to sources not subject to any promulgated federal or state performance testing regulations.

Permits issued by the Air Permits Division of the Office of Environmental Services may contain a permit requirement to conduct performance testing at 80 percent or greater of the maximum permitted capacity. It has come to the attention of the Air Permits Division (APD) that testing under this condition may not be possible for some sources.

In the future the requirement will be modified so that sources will be required to test within 10 percent of 100 percent maximum permitted (or the highest achievable) load. If the source's emissions are within the permitted limits, then the source may operate within 10 percent of the load at which the source was tested without a requirement to retest the source. Once the source exceeds the load at which the unit is tested by more than 10 percent, based on a 30-day rolling average, the source will be required to notify the APD within 60 days. This percentage will be calculated based on the maximum permitted load. The notification will include the data used to calculate the operating rate during the 30-day rolling average and a description of the circumstances that caused the source to operate more than 10 percent higher than the rate at which the most recent performance test was conducted. APD will review the notification submitted and determine whether an additional performance test is required on a case-by-case basis. If a performance test is required, notification and protocol submittals will be required in accordance with current permitting requirements. [Example: Testing was conducted for a 1000 horsepower (hp) engine. During the performance test, the engine is capable of achieving a maximum operating rate of 500 hp, which is 50 percent of the maximum permitted load. Under the new performance testing conditions, this engine may operate as high as 600 hp (500 hp + 10 percent * 1000 hp) without a requirement to retest. If the engine should operate at an average rate greater than 600 hp based on a 30-day rolling average, the permittee will be required to notify APD within 60 days.]

Any permittee whose permit(s) currently require a source to be tested at greater than 80 percent of maximum permitted

load must continue to conduct performance tests according to the schedule required by the active permit and must conduct these tests at the required load. If the permittee is required to test the source at greater than 80 percent of maximum permitted load and determines that it will not be possible to conduct the test at the required load, the permittee may submit a variance request to test within 10 percent of the source's 100 percent maximum achievable load. The variance request should be submitted well in advance of the scheduled test date so that it can be issued prior to the test date. Allow 30 days from the date of submittal for a final decision on the variance request to be made. Use the Application for Approval of Miscellaneous Permitting Actions form to request a variance. The application for a variance and the directions for completing the request can be found at <http://www.deq.louisiana.gov/portal/DIVISIONS/AirPermitsEngineeringandPlanning/AirPermitApplications.aspx>.

In order to avoid the need for future variances to be issued for the situation described above, the permittee shall initiate a permit modification to address this issue. Use the Application for Approval of Emissions from Minor Sources form to request a modification to a minor source permit. Use the Application for Approval of Emission from Part 70 Sources form to request a modification to a Part 70 source. The application for a permit modification and directions for completing the request can be found at <http://www.deq.louisiana.gov/portal/DIVISIONS/AirPermitsEngineeringandPlanning/AirPermitApplications.aspx>.

If there are any questions concerning this matter, please contact Dustin Duhon at (225) 219-3397 or dustin.duhon@la.gov or Vivian Aucoin at (225) 219-3389 or vivian.aucoin@la.gov.

Herman D. Robinson
General Counsel

1206#019

POTPOURRI

Department of Health and Hospitals Emergency Response Network Board

LERN Destination Protocol: TRAUMA

Editor's Note: This document, originally published in the May 20, 2012, issue of the *Louisiana Register*, is being republished to correct a formatting error.

On April 26, 2012, the Louisiana Emergency Response Network Board (La. R.S. 40:2842(1) and (3)) adopted and promulgated "LERN Destination Protocol: Trauma" replacing the "LERN Destination Protocol: Trauma" adopted and promulgated April 21, 2011, as follows:

- Unmanageable Airway
- Tension Pneumothorax
- Traumatic cardiac arrest
- Burn Patient without patent airway
- Burn patient >40% BSA without IV



Closest ED

- Physiologic**
- GCS <14
 - SBP <90 (adults and > 9 y/o)
<70 + 2 [age (yrs)] (age 1 to 8 y/o)
<70 (age 1 to 12 months)
<60 (term neonate)
 - RR <10 or >29 (adults & ≥ 9 y/o)
<15 or >30 (age 1 to 8 y/o)
<25 or >50 (<12 m/o)



Level I, II or III*

- Anatomic**
- Open or depressed skull fractures
 - Open head injury with or without CSF leak
 - Lateralizing signs or paralysis (i.e., one-sided weakness, motor, or sensory deficit)
 - All penetrating injuries to head, neck, torso, & extremities proximal to elbow & knee
 - Flail Chest
 - 2 or more proximal long-bone fractures
 - Crush, degloved or mangled extremity
 - Amputation proximal to wrist & ankle
 - Pelvic Fractures
 - Hip Fractures (hip tenderness, deformity, lateral deviation of foot) excluding isolated hip fractures from same level falls
 - Major joint dislocations (hip, knee, ankle, elbow)
 - Open Fractures
 - Fractures with neurovascular compromise (decreased peripheral pulses or prolonged capillary refill, motor or sensory deficits distal to fracture)



Level I, II or III*

- Mechanism**
- Falls >20 ft. adults
>10 ft. (child) or 2 to 3 times height
 - High-risk auto crash
 - Intrusion > 12 in. occupant site
> 18 in. any site
 - Ejection, partial or complete from automobile
 - Death in same passenger compartment
 - Auto vs. pedestrian/bicyclist thrown, run over or significant (>20 MPH) impact
 - Motorcycle crash >20 MPH



Level I, II, or III*

- Other**
- Pregnancy >20 weeks
 - Burns (follow ABA guidelines)
 - Age ≥55 y/o or <8 y/o
 - Anticoagulation & bleeding disorders –patients w/ head injuries are at high risk for rapid deterioration



Level II or III*

MULTI / MASS CASUALTY INCIDENT (MCI)



Level I, II or III *

*Refers to ACS Verified Level Trauma Center – Where Trauma Center not available, patient will be routed to facility with appropriate resource which may not need be the highest level facility.

Norman E. McSwain, Jr.
Chair

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Maternal and Child Health Section**

Public Notice of MCH Block Grant

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2012-2013 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The block grant application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2010, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH - Office of Public Health
Maternal and Child Health Section
1450 Poydras Street, Room 2032
New Orleans, LA 70112

Or view a summary of the application at:
<http://www.dhh.louisiana.gov/offices/publications.asp?ID=267&Detail=1065>.

Additional information may be gathered by contacting Karen Webb at (504) 568-3504.

J.T. Lane
Assistant Secretary

1206#048

POTPOURRI

**Department of Insurance
Office of Health**

Annual HIPAA Assessment Rate

Pursuant to Louisiana Revised Statute 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00025 percent.

James J. Donelon
Commissioner

1206#015

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Reported Underwater Obstructions
Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 8 claims in the amount of \$40,000.00 were received for payment during the period May 1, 2012-May 31, 2012.

There were 8 paid and 0 denied.

Latitude/longitude coordinates, in degree decimal minutes, of reported underwater obstructions are:

2915.170	8945.056	Plaquemines
2920.155	8957.634	Jefferson
2945.256	9310.277	Cameron
2945.590	9324.262	Cameron
2950.189	8941.323	Saint Bernard
2950.775	8938.752	Saint Bernard
2953.596	9320.427	Cameron

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Scott A. Angelle
Secretary

1206#071

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
F.A. Callery, Inc.	Laurel Ridge	L	Canal Assets Inc	001	53553(30)
F.A. Callery, Inc.	Laurel Ridge	L	Hibernia Bk and Tr Co Liquidation	001	55780(30)
F.A. Callery, Inc.	Laurel Ridge	L	Canal Assets Inc Unit 3	002	60672(30)
F.A. Callery, Inc.	Laurel Ridge	L	Hibernia Bank and Trust	003	61766(30)
F.A. Callery, Inc.	Laurel Ridge	L	Hibernia Bk and Tr Co Unit 5	002	60269(30)
The Hardey Co.	Longwood	S	Lillian Waskom A	003	31849

Operator	Field	District	Well Name	Well Number	Serial Number
The Hardey Co.	Caddo Pine Island	S	Warren	001	35128
The Hardey Co.	Caddo Pine Island	S	L G Mathieu	001	38742
The Hardey Co.	Greenwood-Waskom	S	Gray - Bryson	003	43065
The Hardey Co.	Bethany Longstreet	S	Gloyd Suq; Max Hart	001	45520
The Hardey Co.	Greenwood-Waskom	S	Gray - Bryson	002	45603
The Hardey Co.	Greenwood-Waskom	S	Gray - Bryson	001	46661
The Hardey Co.	Greenwood-Waskom	S	Roy Terry	001	46867
The Hardey Co.	Greenwood-Waskom	S	Cobb et al.	001	55737
The Hardey Co.	Greenwood-Waskom	S	Cobb et al.	002	57049
The Hardey Co.	Longwood	S	Lillian Waskom A	001	57948
The Hardey Co.	Bethany Longstreet	S	Crane Su17; Keatchie Inv Corp A	001	58421
The Hardey Co.	Greenwood-Waskom	S	Gray-Hickey A	004	58796
The Hardey Co.	Longwood	S	Lillian Waskom A	002	58928
The Hardey Co.	Greenwood-Waskom	S	Grey Hickey Swd	001	60076
The Hardey Co.	Greenwood-Waskom	S	Wappler et al.	003	60841
The Hardey Co.	Longwood	S	Lillian Waskom A	004	62152
The Hardey Co.	Longwood	S	Cyril Freed-Lillian Waskom	001	65205
The Hardey Co.	Longwood	S	Lillian Waskom A	005	66366
The Hardey Co.	Longwood	S	Cyril Freed Lillian Waskom	002	67691
The Hardey Co.	Greenwood-Waskom	S	Wappler et al.	001	70265
The Hardey Co.	Longwood	S	Lillian Waskom	A-2	70268
The Hardey Co.	Greenwood-Waskom	S	Wappler et al.	002	71360
The Hardey Co.	Longwood	S	Lillian Waskom	A-3	75618
The Hardey Co.	Logansport	S	Pet Su53; J D Hilburn	001	77592
The Hardey Co.	Greenwood-Waskom	S	Agurs A	001	78631
The Hardey Co.	Greenwood-Waskom	S	Gray-Hickey A	003	97725
The Hardey Co.	Greenwood-Waskom	S	Gray-Hickey A	001	97782
The Hardey Co.	Greenwood-Waskom	S	Cobb et al.	B-1	97981
The Hardey Co.	Greenwood-Waskom	S	Grey-Hickey	002	102532
The Hardey Co.	Greenwood-Waskom	S	J W Baker et al.	001	116369
The Hardey Co.	Greenwood-Waskom	S	Agurs A	002	137244
The Hardey Co.	Arkana	S	Hay Ra Sut; Bolinger	001	168122
The Hardey Co.	Missionary Lake, North	S	Cv Ra Su43; Hutson	001	183094
The Hardey Co.	Caddo Pine Island	S	Mpt Ra Sui; North Central Oil	001	184569
The Hardey Co.	Greenwood-Waskom	S	W C Rasberry	001	198171
The Hardey Co.	Missionary Lake, North	S	Dominick	001	202595
The Hardey Co.	Longwood	S	Vua; Balzrette	001	210471
The Hardey Co.	Longwood	S	Vub; Wark	001	210506
The Hardey Co.	Longwood	S	Vub; Wark	002	210664
The Hardey Co.	Longwood	S	James	001	210793
The Hardey Co.	Longwood	S	Vuc; Smith Heirs	001	210795
The Hardey Co.	Longwood	S	Vuc; Smith Heirs	003	210814
The Hardey Co.	Walnut Bayou	S	Hoss B Ra Sue; Noel	001	213368
The Hardey Co.	Greenwood-Waskom	S	Pxy Vuc; Woodard Bell	001	218011

Operator	Field	District	Well Name	Well Number	Serial Number
The Hardey Co.	Greenwood-Waskom	S	Tp Suaa; Mcalphin Heirs	001	219223
The Hardey Co.	Longwood	S	Smith Heirs	004	219273
Leon Breland	Esperance Point	M	Junkin	001	161917
Bengal Oil and Gas, Inc.	Hickory Valley	S	Blake Etal	002	234526
Peco Resources Ltd	Bayou St Vincent	L	P Labarre	004	149364(28)
Mclain J. Forman	Laurel Ridge	L	Jumonville	002	135976(30)
C.F. Braun and Company	Pierre Pass	L	Jeanerette Lumber and Shingle Co	003	154748
Latex Petroleum Corp.	Bayou Choctaw	L	Bcht Wilberts Rb Vu; Wmg	022	32884(30)
Power Reserves, Inc.	Big Lake	L	Walter Lebleu	001	53988(30)
Delta Operating Company	Lamar	L	Baker Heirs	002	190706
Petrol Industries, Inc.	Greenwood-Waskom	S	Soniat	001	110727
Petrol Industries, Inc.	Greenwood-Waskom	S	Soniat A	001	113219
Petrol Industries, Inc.	Greenwood-Waskom	S	Soniat A	002	113220
Petrol Industries, Inc.	Greenwood-Waskom	S	Soniat A	003	113221
Petrol Industries, Inc.	Greenwood-Waskom	S	Soniat A	004	113222
Petrol Industries, Inc.	Greenwood-Waskom	S	Soniat Swd	001	971638
Petrol Industries, Inc.	Caddo Pine Island	S	E A Sartor	001	36003
Petrol Industries, Inc.	Caddo Pine Island	S	Gulf Fee	001	48658
Petrol Industries, Inc.	Caddo Pine Island	S	Gulf Fee	002	49410
Petrol Industries, Inc.	Caddo Pine Island	S	Gulf Fee	003	50271
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	001	54402
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	002	56558
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	004	57168
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	005	57169
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	006	57290
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	001	73120
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	002	73121
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	003	73764
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	004	74380
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	005	74381
Petrol Industries, Inc.	Caddo Pine Island	S	Queen City Realty Corp	001	75418
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	006	75420
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	007	75698
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	009	76033
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig-Stoer	008	76034
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	001	89994
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	001a	90803
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	002	90978
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	002a	91605
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	005	93684

Operator	Field	District	Well Name	Well Number	Serial Number
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	006	93746
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	007	95382
Petrol Industries, Inc.	Caddo Pine Island	S	Mccain	008	95383
Petrol Industries, Inc.	Caddo Pine Island	S	Caddo Levee Board C	002	108350
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	007	127280
Petrol Industries, Inc.	Caddo Pine Island	S	Hope	008	127281
Petrol Industries, Inc.	Caddo Pine Island	S	Mc Cain	009	150854
Petrol Industries, Inc.	Caddo Pine Island	S	Mc Cain	010	150855
Petrol Industries, Inc.	Caddo Pine Island	S	Hope G	001	166471
Petrol Industries, Inc.	Caddo Pine Island	S	Hope G	002	166472

Operator	Field	District	Well Name	Well Number	Serial Number
Petrol Industries, Inc.	Caddo Pine Island	S	Hope G	003	166473
Petrol Industries, Inc.	Caddo Pine Island	S	Cecil Barlow	001	187532
Petrol Industries, Inc.	Caddo Pine Island	S	Gerhig Stoer	010	210928
Petrol Industries, Inc.	Caddo Pine Island	S	Ramsey-Leflett	001	240307
Petrol Industries, Inc.	Caddo Pine Island	S	Ramsey-Bostwick	001	240308
Lgs Exploration, Inc.	Bastian Bay	L	Vua;SI 8665	003	185149(30)
Lgs Exploration, Inc.	Bastian Bay	L	Campbellton	004	193633(30)
Lgs Exploration, Inc.	Bastian Bay	L	SI 8665	001	202280(30)

James H. Welsh
Commissioner

1206#070

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