

I. EXECUTIVE ORDER
 BJ 11-11 Executive Branch—Bright Start 2045
 BJ 11-09 Executive Department—Limited Hiring Freeze..... 2046

II. POLICY AND PROCEDURE MEMORANDA
Governor
 Division of Administration, Office of State Travel—General Travel—PPM 49 (LAC 4:V.Chapter 15)..... 2048

III. EMERGENCY RULES
Agriculture and Forestry
 Office of Agricultural and Environmental Sciences—Bulk Pesticide Facilities (LAC 7:XXIII.103, 157 and 158)... 2060

Education
 Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant Programs—LTC Early Start Payments (LAC 28:IV.1401)..... 2062

Health and Hospitals
 Bureau of Health Services Financing—CommunityCARE Program—Program Redesign (LAC 50:I.2901-2907, 2911-2913, 2917 and 2919)..... 2063
 Direct Service Worker Registry (LAC 48:I.Chapter 92)..... 2067
 Inpatient Hospital Services—Small Rural Hospitals—Upper Payment Limit (LAC 50:V.1125 and 1127) 2069
 Intermediate Care Facilities for Persons with Developmental Disabilities—Non-State Facilities Reimbursement Methodology (LAC 50:VII.32903) 2070
 Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate Reduction (LAC 50:VII.32903)..... 2071
 Laboratory and Radiology Services—Reimbursement Rate Reduction (LAC 50:XIX.4329 and 4333-4337).. 2071
 Medical Transportation Program—Emergency Ambulance Services Supplemental Payments (LAC 50:XXVII.327)..... 2073
 Medical Transportation Program—Non-Emergency Medical Transportation Reimbursement Rate Reduction (LAC 50:XXVII.573)..... 2074
 Mental Health Rehabilitation Program—Termination of Parent/Family Intervention (Intensive) Services and Continued Treatment Clarifications (LAC 50:XV.335, 501-505 and 901)..... 2075
 Minimum Licensing Standards for Adult Day Health Care (LAC 48:I.4203, 4207, 4227, 4245, and 4267)..... 2076
 Multi-Systemic Therapy—Reimbursement Rate Reduction (LAC 50:XV.25701)..... 2078
 Outpatient Hospital Services—Non-Rural, Non-State Hospitals and Children’s Specialty Hospitals Reimbursement Rate Reduction (LAC:V.5109, 5313, 5317, 5513, 5517, 5713, 5719, 6115 and 6119)..... 2079
 Outpatient Hospital Services—Small Rural Hospitals—Upper Payment Limit (LAC 50:V.5311, 5511, 5711, 5911, and 6113)..... 2081
 Personal Care Services—Long-Term Policy Clarifications and Service Limit Reduction (LAC 50:XV.12901-12909 and 12911-12915)..... 2082
 Personal Care Services—Long-Term Reimbursement Rate Reduction (LAC 50:XV.12917) 2086
 Personal Care Services—Long-Term Reimbursement Rate Reduction (LAC 50:XV.12917) 2087
 Pregnant Women Extended Services—Dental Services—Reimbursement Rate Reduction (LAC 50:XV.16107)..... 2087
 Pregnant Women Extended Services—Substance Abuse Screening and Intervention Services (LAC 50:XV.Chapter 163) 2088
 Licensed Professional of Counselors Board of Examiners—Practice of Mental Health Counseling for Serious Mental Illnesses (LAC 46:LX.505)..... 2089

Public Safety and Corrections
 State Uniform Construction Code Council—State Uniform Construction Code (LAC 55:VI.301) 2090

Treasurer
 Office of the Treasurer—Permissible Investments (LAC 71:I.501)..... 2091

This public document was published at a total cost of \$2,875. Five hundred copies of this public document were published in this monthly printing at a cost of \$2,875. The total cost of all printings of this document including reprints is \$2,875. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 49:981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Wildlife and Fisheries

Wildlife and Fisheries Commission—2011-2012 Recreational Gag Grouper..... 2091
Additional Spring Inshore Shrimp Season Closures..... 2092
Revisions to Deer Hunting Seasons..... 2092
Partial Zone 2 Spring Inshore Shrimp Season Closure 2093

IV. RULES

Education

Board of Elementary and Secondary Education—Bulletin 103—Louisiana Health Education Content
Standards (LAC 28:LIX.Chapters 1, 3, and 5)..... 2094
Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.302, 409, 515, 703, 3501, 4301, 4302, 4311, 4313, 4503, and 4509)..... 2118
Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.1101, 1102, 1103, and 1601)..... 2120
Bulletin 119—Louisiana School Transportation Specifications and Procedures
(LAC 28:CXIII.Chapters 3-9, 13-15, and 19-31)..... 2122
Bulletin 131—Alternative Education Schools/Programs Standards (LAC 28:CXLIX.Chapters 1-19)..... 2126
Bulletin 741—Louisiana Handbook for School Administrators—Approval for Alternative Schools/Programs
(LAC 28:CXV.2903)..... 2128
Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit for Middle School Students
(LAC 28:CXV.2321)..... 2128
Bulletin 741—Louisiana Handbook for School Administrators—College-Career Diploma; Career Diploma
(LAC 28:CXV.2318 and 2319)..... 2129
Bulletin 741—Louisiana Handbook for School Administrators—Connections Process (LAC 28:CXV.2907)... 2131
Bulletin 741—Louisiana Handbook for School Administrators—Compulsory Attendance
(LAC 28:CXV.1103)..... 2132
Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28:CXV.2318, 2333, 2337, 2354, 2355, and 2369)..... 2132
Bulletin 741—Louisiana Handbook for School Administrators—Immunizations (LAC 28:CXV.1121) 2134
Bulletin 741—Louisiana Handbook for School Administrators—Written Policies and Procedures
(LAC 28:CXV.337)..... 2134
Bulletin 741—Louisiana Handbook for School Administrators—Religious Studies (LAC 28:CXV.2367)..... 2134
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Elementary Mathematics
Specialist (LAC 28:CXXXI.666)..... 2135
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Overview
(LAC 28:CXXXI.421) 2135
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Supervisor of Student
Teaching (LAC 28:CXXXI.787)..... 2136
Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools—Driver
Education; Required (LAC 28:XXXI.507)..... 2136
Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.741,
1503, 1509, 1511, and 1517) 2137
Organization, Operations (LAC 28:I.Chapters 5 and 7)..... 2139
Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators (LAC 28:LXXIX.2109,
2305, 2309, 2324, 2325, and 2337)..... 2142
Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators
(LAC 28:LXXIX. 2109, 2331, and 2335)..... 2144
Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—School Approval
(LAC 28:LXXIX.107)..... 2145

Environmental Quality

Office of the Secretary—PM_{2.5} NSR Implementation (LAC 33:III.509)(AQ318) 2145

Governor

Auctioneers Licensing Board—Licensing; Examination Procedure; Fees; Qualifications as Apprentice;
Bonds; Funds; Advertising Violations; Continuing Education (LAC 46:III.1103, 1105, 1109, 1111, 1113,
1117, 1203, 1503, 1706, and 2701-2711)..... 2147
Office of Financial Institutions—Broker-Dealer and Investment Adviser Recordkeeping Requirements
(LAC 10:XIII.Chapter 17) 2148
Supervision of Salesmen and Investment Adviser Representatives (LAC 10:XIII.1901)..... 2149

Health and Hospital

Board of Dentistry—Advertising; License Renewal Fees; Anesthesia/Analgesia Administration; Continuing
Education; and Dental Hygienists Examination (LAC 46:XXXIII.301, 415, 419, 1509, 1611,
1709, and 1711) 2150
Board of Examiners in Dietetics and Nutrition—Registered Dietitians (LAC 46:LXIX.Chapters 1-13)..... 2152

| | |
|---|------|
| Bureau of Health Services Financing—Family Planning Waiver—Reimbursement Rate Reduction (LAC 50:XXII.2701) | 2156 |
| Home and Community-Based Services Waivers—Adult Day Health Care—Reimbursement Rate Reduction (LAC 50:XXI.2915) | 2157 |
| Home and Community-Based Services Waivers—Children’s Choice, Service Cap and Reimbursement Rate Reduction (LAC 50:XXI.11301 and 12101) | 2157 |
| Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301) | 2158 |
| Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101) | 2158 |
| Home Health Program—Durable Medical Equipment—Provider Accreditation (LAC 50:XIII.8501)..... | 2159 |
| Home Health Program—Extended Nursing Services—Reimbursement Rate Reduction (LAC 50:XIII.701)... | 2159 |
| Inpatient Hospital Services—Reimbursement Methodology (LAC 50:V.Chapters 7 and 9)..... | 2159 |
| Licensed Professional Counselors Board of Examiners—License of Title for Marriage and Family Therapy (LAC 46:LX. 3303, 3305, 3309 and 3311)..... | 2162 |
| Office of Aging and Adult Services—Home and Community-Based Services Waivers—Adult Day Health Care—Reimbursement Rate Reduction (LAC 50:XXI.2915) | 2157 |
| Office for Citizens with Development Disabilities—Home and Community-Based Services Waivers Children’s Choice, Service Cap and Reimbursement Rate Reduction (LAC 50:XXI.11301 and 12101) | 2157 |
| Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301) | 2158 |
| Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101) | 2158 |
| Office of Public Health—Public Buildings, Schools and Other Institutions (LAC 51:XVII.Chapters 1 and 3) | 2165 |
| Insurance | |
| Office of the Commissioner—Rule Number 9—Prelicensing Education (LAC 37:XI.Chapter 5)..... | 2168 |
| Rule Number 10—Continuing Education (LAC 37:XI.Chapter 7) | 2172 |
| Public Safety and Corrections | |
| Corrections Services—Offender Visitation (LAC 22:I.316) | 2177 |
| Special Agents (LAC 22:I.323) | 2184 |
| Office of the State Fire Marshal—Commercial Building Energy Conservation Code (LAC 55:V.Chapter 26) | 2185 |
| Office of the State Fire Marshal, State Uniform Construction Code Council—State Uniform Construction Code (LAC 55:VI.301) | 2187 |
| Office of State Police—Applicability of Regulations (LAC 33:V.10305) | 2187 |
| Wildlife and Fisheries | |
| Wildlife and Fisheries Commission—Deer Management Assistance Program (LAC 76:V.111 and 119) | 2187 |
| General and Wildlife Management Area Hunting Rules and Regulations (LAC 76:XIX.111)..... | 2189 |
| Resident Game Hunting Season (LAC 76:XIX.101 and 103)..... | 2206 |
| Workforce Commission | |
| Apprenticeship Law (LAC 40:IX.Chapters 1-5)..... | 2209 |
| V. NOTICES OF INTENT | |
| Agriculture and Forestry | |
| Office of Agriculture and Environmental Sciences, Seed Commission—Seed Labeling; Seed Certifications; Fees (LAC 7:XIII.121, 125, 131, 143, 171, 183 and 193)..... | 2226 |
| Office of Forestry, Forestry Commission—Timber Harvesting Records (LAC 7:XXXIX.1501 and 1503)..... | 2233 |
| Tree Seedling Prices (LAC 7:XXXIX.301)..... | 2234 |
| Environmental Quality | |
| Office of the Secretary—2010 Annual Incorporation by Reference of Certain Federal Air Quality Regulations (LAC 33:III.506, 507, 2160, 3003, 5116, 5122, 5311, and 5901)(AQ319ft)..... | 2235 |
| Governor | |
| Real Estate Commission—Real Estate (LAC 46:LXVII.Chapters 1-57) | 2238 |
| Health and Hospitals | |
| Board of Dentistry—Administration of Botox and Dermal Fillers (LAC 46:XXXIII.132)..... | 2264 |
| Bureau of Health Services Financing—Family Planning Waiver—Recipient Qualifications (LAC 50:XXII.2301) | 2265 |
| Hospital Licensing Standards—Outpatient Off-Site Campuses (LAC 48:I.9303)..... | 2266 |
| Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate Reduction (LAC 50:VII.32903) | 2267 |
| Laboratory and Radiology Services—Reimbursement Rate Reduction (LAC 50:XIX.4329 and 4334-4337) .. | 2268 |
| Medical Transportation Program—Emergency Ambulance Services—Reimbursement Rate Reduction (LAC 50:XXVII.325 and 353)..... | 2270 |
| Medical Transportation Program—Non-Emergency Ambulance Services—Reimbursement Rate Reduction (LAC 50:XXVII.571)..... | 2271 |

| | |
|---|------|
| Medical Transportation Program—Non-Emergency Medical Transportation—Reimbursement Rate Reduction (LAC 50:XXVII.573)..... | 2273 |
| Nursing Facility Minimum Licensing Standards—Nurse Aide Training and Competency Evaluation Program (LAC 48:I.Chapter 100)..... | 2274 |
| Outpatient Hospital Services—Hospital Provider-Based Outpatient Clinics (LAC 50:V.5111) | 2284 |
| Board of Medical Examiners—Physician Assistants—Practice (LAC 46:XLV.4507)..... | 2285 |
| Radiologic Technology Board of Examiners—Fusion Technology (LAC 46:LXVI.901, 1127, and 1129)..... | 2287 |
| Louisiana Lottery Corporation | |
| On-Line Lottery Games (LAC 42:VX.141)..... | 2289 |
| Natural Resources | |
| Office of Conservation—Hydraulic Fracture Stimulation Operations (LAC 43:XIX.118) | 2290 |
| Public Safety and Corrections | |
| Board of Private Security Examiners—Security Officer—Definition; Registration; Insignia (LAC 46:LIX.101, 301, and 701)..... | 2291 |
| State Uniform Construction Code Council—Wood Structural Panel Standards (LAC 55:VI.Chapter 3)..... | 2293 |
| Wildlife and Fisheries | |
| Wildlife and Fisheries Commission—Calcasieu Lake Oyster Harvester Permit (LAC 76:VII.533) | 2294 |
| General and WMA Turkey Hunting Regulations (LAC 76:XIX.113) | 2295 |
| Turkey Seasons (LAC 76:XIX.115)..... | 2299 |
| VI. ADMINISTRATIVE CODE UPDATE | |
| Cumulative—January 2011 through June 2011 | 2302 |
| VII. POTPOURRI | |
| Health and Hospitals | |
| Board of Veterinary Medicine—Fall/Winter Examination Dates | 2304 |
| Office of Public Health—Public Hearing-Preventive Health and Health Services Block Grant..... | 2304 |
| Physical Therapy Board—Public Hearing—Substantive Changes to Proposed Rules Physical Therapy Comprehensive Rule Revision (LAC 46:LIV.Chapters 1-5)..... | 2304 |
| Natural Resources | |
| Office of Conservation—Advanced Notice of Proposed Rulemaking and Solicitation of Comments on Emergency Action Plans (LAC 43:XIX.Chapter 1)..... | 2309 |
| Orphaned Oilfield Sites | 2310 |
| Office of Conservation, Environmental Division—Legal Notice—Docket No. ENV 2011-09 | 2311 |
| Public Hearing—Docket No. ENV 2011-10..... | 2312 |
| Office of the Secretary, Fishermen’s Gear Compensation Fund—Loran Coordinates | 2312 |
| VIII. INDEX | 2313 |

Executive Orders

EXECUTIVE ORDER BJ 11-11

Executive Branch—Bright Start

WHEREAS, the Early Childhood Advisory Council (ECAC) is a cross-departmental project of the Department of Children and Family Services, the Department of Health and Hospitals and the Department of Education to organize a coordinated network of broad services to ensure school readiness, health, and safety of Louisiana's children;

WHEREAS, the ECAC was established to build, maintain, and strengthen a comprehensive and integrated early childhood system in Louisiana that ensures families and communities provide young children (0-5 years) with opportunities for optimal emotional, social, physical, and cognitive development;

WHEREAS, it is the best interests of the citizens of the State of Louisiana to implement this centralized and coordinated effort through the ECAC and its Executive Committee; and

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

SECTION 1: BrightStart (formerly Louisiana's Early Childhood Comprehensive System's Grant Initiative) is hereby designated as Louisiana's Early Childhood Advisory Council (ECAC).

SECTION 2: An Executive Committee of the Council shall be established and consist of (5) members as follows:

- A. The secretary of the Department of Children and Family Services, or the secretary's designee;
- B. The superintendent of the Department of Education, or the superintendent's designee;
- C. The secretary of the Department of Health and Hospitals, or the secretary's designee;
- D. The Executive Director of the Children's Cabinet;
- E. One (1) family representative.

SECTION 3: The BrightStart Early Childhood Advisory Council (hereafter "Council") membership shall be established by the Executive Committee of the Council, in accordance with all relevant laws, rules, and regulations.

SECTION 4: The Executive Committee shall set policy for the governance of the Council. The duties of the Committee shall include, but are not limited to, the following:

- A. Establishing policy and monitoring adherence;
- B. Setting standards;
- C. Monitoring the quality, cost and adherence to these standards;
- D. Defining target populations; and
- E. Providing multi-departmental oversight.

SECTION 5: In addition to any other responsibilities designated by the Governor or approved by the Executive Committee, the Council shall:

A. Identify opportunities for collaboration and coordination among Louisiana community based activities, child development programs, nonprofit organizations, businesses, and other stakeholders responsible for child development, child care, and early childhood education programs and services.

B. Make recommendations for improvements in state early learning standards and a strategic plan to meet those learning standards.

C. Coordinate and develop recommendations, in collaboration with our state child-serving agencies, to ensure Louisiana is taking advantage of all available opportunities to support and sustain our early childhood efforts.

SECTION 6: The Director of the BrightStart Early Childhood Council shall be selected by the Governor. The Chair of the Council shall be selected by and from the membership. All other officers of the Council, if any, shall be selected by and from the membership. Members of the Council shall serve at the pleasure of their appointing authority.

SECTION 7: The Chair of the Executive Committee shall be an agency head, or agency designee, and selected by and from the membership. All other officers of the committee, if any, shall be selected by and from the membership.

A. Members of the committee shall serve at the pleasure of their appointing authority.

B. The Committee shall meet at regularly scheduled intervals (at a minimum of six times annually), and at the call of the chair.

SECTION 8: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any other political subdivision thereof, are authorized and directed to cooperate with the Council and Executive Committee in implementing and maintaining the provisions of this Order, including the execution of memorandums of understanding and the redirection of the designated funding of the agencies involved to finance the Early Childhood Advisory Council. This process will be fiscally managed by the Department of Children and Family Services.

SECTION 9: Reports on the status and progress of the Council shall be provided to the Children's Cabinet by January 31 and July 31 of each year beginning July 31, 2011.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of July, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1107#077

EXECUTIVE ORDER BJ 11-12

Executive Department—Limited Hiring Freeze

WHEREAS, pursuant to R.S. 42:375, the Governor may issue executive orders which prohibit or regulate the filling of any new or existing vacancies in positions of employment in the executive branch of state government (hereafter "hiring freeze");

WHEREAS, R.S. 39:84 provides authority to the Governor to regulate and control personnel transactions;

WHEREAS, to limit or control the growth in government positions and to prepare for the budget challenges in the ensuing years, prudent fiscal management practices dictate that the best interests of the citizens of the State of Louisiana will be served by the implementation of a hiring freeze in the executive branch of state government to achieve at least a state general fund dollar savings of \$17 million;

WHEREAS, higher education plays a vital role for the citizens of our state; and, in addition, higher education in Louisiana has a unique management structure. Recognizing this, the Commissioner of Higher Education shall have the authority to manage the positions within higher education, including the hospitals, within the confines of this Executive Order and any subsequent memorandum issued by the Commissioner of Administration as authorized by this Order limiting the number of Table of Organization (T.O.) and Non-T.O. Full-Time Equivalent (FTEs); and

WHEREAS, due to the critical nature of direct patient care and direct public safety positions, special consideration is given to provide more flexibility to the departments in hiring these positions;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: No vacancy in an existing or new position of employment within the executive branch of state government that exists on or occurs after the effective date of this order shall be filled which would in any manner, decrease, or in the case of Non-T.O. FTEs increase, the number of such frozen positions within the department, budget unit, agency, and/or office, within the executive branch of state government below the number frozen determined as provided in Paragraph B of this section. This includes Appropriated Table of Organization Full-Time Equivalent positions (T.O. FTEs), Other Compensation positions (Non-T.O. FTEs), Other Charges positions (Non-

T.O. FTEs), job appointments (Non-T.O. FTEs), and restricted appointments (Non-T.O. FTEs).

A. The following departments, agencies, and/or budget units of the executive branch of the State of Louisiana (hereafter "Unit and/or "Units"), as described in and/or funded by appropriations through Acts 12 and 42 of the 2011 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall be subject to the hiring freeze as provided in this Executive Order:

| Executive Branch | |
|------------------|--|
| Schedule 01 | Executive Department |
| Schedule 03 | Veterans Affairs |
| Schedule 05 | Economic Development |
| Schedule 06 | Culture, Recreation and Tourism |
| Schedule 07 | Transportation and Development |
| Schedule 08 | Corrections Services |
| Schedule 08 | Public Safety Services |
| Schedule 08 | Youth Services |
| Schedule 09 | Health and Hospitals |
| Schedule 10 | Department of Children and Family Services |
| Schedule 11 | Natural Resources |
| Schedule 12 | Revenue |
| Schedule 13 | Environmental Quality |
| Schedule 14 | Louisiana Workforce Commission |
| Schedule 16 | Wildlife and Fisheries |
| Schedule 17 | Civil Service |
| 17-560 | State Civil Service |
| 17-561 | Municipal Fire and Police Civil Service |
| 17-562 | Ethics Administration |
| 17-563 | State Police Commission |
| 17-564 | Division of Administrative Law |
| Schedule 19 | Higher Education |
| Schedule 19 | Special Schools and Commissions |
| 19B-653 | Louisiana Schools for the Deaf and Visually Impaired |
| 19B-655 | Louisiana Special Education Center |
| 19B-657 | Louisiana School for Math, Science and the Arts |
| 19B-662 | Louisiana Educational TV Authority |
| 19B-666 | Board of Elementary & Secondary Education |
| 19B-673 | New Orleans Center for the Creative Arts |
| Schedule 19 | Department of Education |
| Schedule 19 | LSU Health Sciences Center Health Care Services Division |
| Schedule 21 | Ancillary |
| 21-790 | Donald J. Thibodaux Training Academy |
| 21-796 | Central Regional Laundry |
| 21-800 | Office of Group Benefits |
| 21-804 | Office of Risk Management |
| 21-805 | Administrative Services |
| 21-806 | Louisiana Property Assistance |
| 21-807 | Federal Property Assistance |
| 21-808 | Office of Telecommunications Management |
| 21-810 | Public Safety Services Cafeteria |
| 21-811 | Prison Enterprises |
| 21-829 | Office of Aircraft Services |

B. The Commissioner of Administration is hereby authorized to and shall establish, on a continuing basis, the number of FTEs, hereafter referred to as "positions", to be frozen for each such department, agency, and/or budget unit specified in Paragraph A of this Section together with the expenditure of funds appropriated for such positions.

C. After the effective date of this Order, employee transfers, promotions, reallocations, and the creation of any new positions of employment within the executive branch of state government shall not, in any manner, decrease, or in the case of Non-T.O. FTEs increase, the number of such frozen positions within the department, budget unit, agency, and/or office, within the executive branch of state government below the number frozen determined as provided in this Section unless otherwise adjusted by the Commissioner of Administration.

SECTION 2: To implement the freeze provided in Section 1, the Commissioner of Administration shall set a date upon which the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner of Administration a mid-year budget adjustment plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the position freeze ordered in Section 1 of this Order, and a rationale or explanation of the mid-year budget adjustment plan.

A. The allocation of the position freeze shall be implemented by the Unit only upon the Commissioner's prior written approval of the Unit's mid-year budget adjustment plan.

B. Once approved, a mid-year budget adjustment plan may not be changed without the Commissioner's prior written approval.

SECTION 3: The Commissioner of Administration may develop guidelines pertaining to requests for adjustments from all or part of the prohibition set for in

Section 1 of this Order, and if necessary, develop definitions for the terms and/or the descriptions used in this Order.

SECTION 4: All departments, budget units, agencies, offices, entities, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: The Governor, in accordance with R.S. 42:375(D) may order the Commissioner of Administration to withhold allotments in the appropriate category of expenditures from which the salary or compensation of any employee employed in violation of this executive order is paid in an amount equal to such compensation.

SECTION 6: The Order is effective July 1, 2011 and shall remain in effect through June 30, 2012 or until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of July, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1107#078

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Travel

General Travel—PPM 49
(LAC 4:V.Chapter 15)

The following shows the amended text in PPM 49. This supersedes all prior issues of PPM 49 published in the Louisiana Register. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as LAC 4:V.Chapter 15.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the commissioner of administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2011. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Please note that when political subdivisions are required to follow PPM49 for any pass through money issued by the State of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the commissioner of administration.

B. Legal Basis (R.S. 39:231.B)—"The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR

33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 37:2048 (July 2011).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided;

c. the department head or his designee is allowed to deem persons as an authorized traveler for official state business only.

NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. A centralized file must be kept containing all of these approvals.

Conference/Convention—is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

Contract Airfare—these airfares are only for use by authorized travelers on official state business with competitive bid airfares that are fully refundable, non-penalty tickets. Contract price is firm for last seat availability.

Controlled Billed Account (CBA)—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare and registration only. Each department head determines the extent of the account's use.

Corporate Travel Card—credit cards issued in an employee's name to be used for official business travel expenses. Corporate Travel Cards are individual liability cards, which must be paid in full each month by the cardholder. Charges to these accounts are never the liability of the state.

Emergency Travel—Each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the

commissioner of administration with appropriate documentation, under extraordinary circumstances when PPM49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

Higher Education Entities—entities listed under Schedule 19 Higher Education of the General Appropriations Bill.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands, American Samoa, Guam.

Lowest Logical Airfare—airfares available to the public. In general, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. a traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. the official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

d. the department head or his/her designee may authorize approval for an employee to be reimbursed for lodging expenses within an employee's domicile with proper justification as to why this is necessary and in the best interest of the state.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands, American Samoa, Guam.

Passport—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

Per Diem—a flat rate paid in lieu of travel reimbursement for people on extended stays.

Receipts / Document Requirements—supporting documentation must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

Routine Travel—travel required in the course of performing his/her job duties. This does not include non-routine meetings, conferences and out-of-state travel.

State Employee—employees below the level of state officer

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct traveled route must be used by official state travelers.

Travel Scholarships—if any type of scholarship for travel is offered/received by a state employee, it is the agency/employee's responsibility to receive/comply with all ethic laws/requirements. See R.S. 42:1123

Traveler—a state officer, state employee, or authorized person when performing authorized travel.

Visa—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 37:2048 (July 2011).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the commissioner of administration. Three copies of such regulations shall be submitted for prior review and approval by the commissioner of administration. One of the copies shall highlight any exceptions /deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can be used by all travelers for booking

airfare, hotel and car reservations. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

5. Authorization to Travel

a. All non-routine travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the commissioner of administration. A file shall be maintained on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest. A travel authorization is still required for non-routine meetings, conferences and out-of-state travel.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate travel card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

2. Exemptions: At the agency's discretion, cash advances may be allowed for:

a. employees whose salary is less than \$30,000/year;

b. employees who accompany and/or are responsible for students on group or client travel;

c. new employees who are infrequent travelers or have not had time to apply for and receive the state's corporate travel card;

d. employees traveling for extended periods, defined as 31 or more consecutive days;

e. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

f. advanced ticket / lodging purchase;

g. registration for seminars, conferences, and conventions;

h. incidental costs not covered by the corporate travel card, i.e., registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public

purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. CBA (controlled billed account) issued in an agency's name is to be used for airfare and registration only. Other credit cards issued in the name of the state agency are not to be used without prior written approval from the commissioner of administration.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the commissioner of administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Except where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger receipt is required.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee. A centralized file must be kept containing all of these approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:1184 (June 2005), LR 33:966 (June 2007), republished LR 33:1315 (July 2007), amended LR 34:1300 (July 2008), republished LR 35:1193 (July 2009), amended LR 36:1648 (July 2010), LR 37:2049 (July 2011).

§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Air

1. Private Owned or Charter Planes.

a. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that:

i. at least two hours of working time will be saved by such travel; and

ii. no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

b. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

c. Reimbursement for use of a chartered or un-chartered privately owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of \$1.29 cents per mile; or

ii. at the lesser of coach economy airfare or state contract rate. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the commissioner of administration.

d. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines. (receipts required) All state travelers are to purchase commercial airline tickets through the state contracted travel agency (see front cover for contract travel agency contact numbers). This requirement is mandatory unless approval is granted from the State Travel Office. (In the event travelers seek approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.) While the use of the contract travel agency is mandatory, the state traveler has options for the type of airfare ticket purchased. This office strongly encourages use of lowest logical airfares, not state contract fares. The traveler should ask the contracted travel agency to check for the lowest logical rates based on his/her personal needs. The

state always supports purchasing the "best value" ticket. Therefore once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around \$150) would still be the best value. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

a. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be at least 14 days in advance of travel dates to ensure the lowest fares are available.

b. State contract airfare tickets are not available for personal, companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract airfare and full coach fares.

c. Commercial air travel will not be reimbursed in excess of lowest logical or state contract air rate when it has been determined to be the best value (receipts required). The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without the approval of the commissioner of administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is that the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel voucher.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

h. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

i. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

j. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

C. Motor Vehicle. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law. Any persons who are not official state employees must sign a Hold Harmless Agreement Form, located at Office of State Travel's website, <http://www.doa.louisiana.gov/osp/travel/forms.htm> prior to riding in or driving a state-owned vehicle or rental vehicle on behalf of the State. Each agency is responsible in ensuring that this along with any other necessary documents are completed and made part of the travel file prior to travel dates. No person may be authorized to operate or travel in a state owned or rental vehicle unless that person is classified or unclassified employee of the State of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval from the department head or his designee to operate or travel in a fleet vehicle on official state business. A centralized file must be kept containing all of these approvals. Students shall not be authorized to drive state-owned or rental vehicles for use on official state business if not employed by the state. Persons operating a state owned, rental or personal vehicle on official state business will be completely responsible for all traffic, driving, and parking violations received. This does not include state-owned or rental vehicle violations, i.e. inspections sticker, as the state and/or rental company would be liable for any cost associated with these types of violations.

1. State-Owned Vehicles

a. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt for regular unleaded

gasoline, or diesel when applicable. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is typically not necessary. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as location of vendors.

b. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

c. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the department head if he determines that it is official state business and the best interest of the state will be served and if the passenger (or passenger's guardian) signs a hold harmless agreement form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

d. If a state vehicle is needed/requested to be brought to the home of a state employee overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

2. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage may be reimbursable on the basis of no more than \$0.51 per mile in accordance with the following:

i. For official in-state business travel:

(a). employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the Enterprise Rent-A-Car's State Motor Pool Rental Contract, if state vehicle is not available and travel exceeds 100 miles; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile.

Please note that mileage is applicable for round trip (multiple days) and/or round trip (one day).

Example No. 1: If someone leaves Baton Rouge, travels to New Orleans and returns that same day, they are entitled to 99 miles maximum for that day trip if they choose to drive their personal vehicle.

Example No. 2: If someone leaves Baton Rouge, travels to New Orleans, and returns two days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

Example No. 3: If someone leaves Baton Rouge, travels to New Orleans then on to Lafayette, Shreveport, Monroe and returns to the office four days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc.. Employee is to print the page indicating mileage and attach it with his/her travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile. See Subsection C.2.b.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance to infrequent or irregular meetings, etc., within the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile. See Subsection C.2.b.

f. Reimbursements will be allowed on the basis of \$0.51 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See Subsection C.2.b.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the travelers convenience, the traveler will be reimbursed for in-route expenses on the basis of \$0.51 per mile only. The total cost of the mileage may not exceed the cost of travel by using the lesser of 1) lowest logical airfare or 2) state contract airfare obtained at least 14 days prior to the trip departure date. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request authorization from the commissioner of administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be

accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year.

i. The traveler shall be required to pay all operating expenses for his/her personal vehicle including fuel, repairs, and insurance.

3. Rented Motor Vehicles (Receipts Required). Any rental vehicles not covered in the state motor pool and state of Louisiana out-of-state contracts should be bid in accordance with proper purchasing rules and regulations.

a. In-State Vehicle Rental. The state has contracted rentals based out of Louisiana through Enterprise Rent-A-Car's state motor pool rental contract for business travel which applies to all State of Louisiana employees and/or authorized travelers traveling on official state business.

i. A department head/higher education entity head, or his designee, may give an approval to bypass the contract, on a case-by-case basis and/or program, group or internal division provided he/she documents the reason and maintain this justification in the file. A request for total agency/college/university exemption may be granted by the commissioner of administration. Requests for exemption must be accompanied by a detailed explanation as to why the contract is not feasible. If an exemption from the program is granted by the department head or commissioner of administration as stated above, then the employee, contractor, board or commission member will not be required to rent a vehicle and may receive actual mileage reimbursement up to \$0.51 cents per mile.

ii. Members of boards and commissions are not required to utilize the state motor pool rental contract. They are, however, strongly urged to do so when a cost benefit analysis indicates potential savings to the state. Board and commission members may receive actual mileage reimbursement up to \$0.51 cents per mile.

iii. State contractors required to follow PPM-49 by the terms of their contracts may, but are not required to, use the state motor pool rental contract. State contractors may receive actual mileage reimbursement up to \$0.51 cents per mile.

iv. Although exemptions may be granted to the state motor pool rental contract, all must adhere to the current mileage reimbursement rate of no more than \$0.51 cents per mile.

v. State owned vehicle or rental from Enterprise Rent-A-Car State Motor Pool Rental Contract, when state vehicle is not available, should be used by any employee and/or authorized traveler who is eligible to receive the mileage allowance who plans to travel 100 miles or more in a trip.

vi. For trips of less than 100 miles employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile or may rent a vehicle from Enterprise Rent-A Car's State Motor Pool Rental Contract.

vii. Reservations should not be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rentals.

b. Payments for rentals made through the state motor pool rental contract may be made using the “LaCarte” purchasing card, an employee’s corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise. An account may be established by contacting Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@erac.com

c. Out-of-State Vehicle Rental. The State has contracted rental vehicles for domestic, out-of-state travel, excluding Louisiana and international travel, utilizing the state of Louisiana’s out-of-state contracts. The state of Louisiana out-of-state participating vendors includes Enterprise Rent-A-Car, National Car Rental and Hertz Car Rental Corporation. It is the traveler’s discretion which rental company is utilized. All state of Louisiana employees and/or authorized travelers are encouraged to use these contracts due to exceptional pricing which includes CDW/million dollar liability insurance.

i. Members of boards and commissions are not required to utilize the State of Louisiana Out-of-State contracts. They are, however, strongly urged to do so when a cost benefit analysis indicates potential savings to the state. Board and commission members may receive actual mileage reimbursement up to 51 cents per mile.

ii. State contractors required to follow PPM-49 by the terms of their contracts may, but are not required to, use the State of Louisiana Out-of-State Contract. State contractors may receive actual mileage reimbursement up to 51 cents per mile.

iii. Payments for rentals made through the State of Louisiana Out-of-State Contracts may be made using the “LaCarte” purchasing card, an employee’s corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen for Enterprise and National, you may contact Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@erac.com. If direct bill is chosen for Hertz, you may contact Tami Vetter at 225-303-5973, tvetter@hertz.com.

d. Approvals. Written approval of the department head or his designee prior to departure is required for the rental of vehicles, however, if your agency chooses, approval may be handled on an annual basis if duties require frequent rentals. Additional/Special approval is required, from the department head or his/her designee, for rental of any vehicle above the “full size” category.

e. Vehicle Rental Size

i. Only the cost of a compact or intermediate model is reimbursable, unless:

- (a). non-availability is documented; or
- (b). the vehicle will be used to transport more than two persons.

ii. When a larger vehicle is an option as stated above, the upgraded vehicle shall be the next smallest size and lowest price necessary to accommodate the number of persons traveling.

iii. A department head or his/her designee may, on a case-by-case basis, authorize a larger size vehicle provided

detailed justification is made in the employee’s file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor’s recommendation.

f. Personal Rental. Personal use of a rental vehicle during a rental for official state business is not allowed.

g. Gasoline (Receipts Required). Reimbursements require a receipt for regular unleaded gasoline, or diesel when applicable. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is typically not necessary. An employee should purchase gasoline with the state’s fuel card or other approved credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid fuel options are only to be allowed with prior approval from the department head, when the traveler can document that the pre-purchased amount was necessary and that the amount charged by the rental company is reasonable in relation to local gasoline cost.

h. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than Enterprise’s Rent-A-Car’s State Motor Pool Rental Contract and State of Louisiana Out-of-State Contract, is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should be reported to the Office of Risk Management and rental company. Any damage involving a third party must be reported to appropriate law enforcement entity to have a police report generated.

i. CDW/Damage Waiver Insurance and \$1 Million Liability Protection Coverage is included in the State Motor Pool Rental Contract and State of Louisiana Out-of-State Contract price through companies.

NOTE: Lost keys for rental vehicles are not covered under the damage waiver policy and are very costly. The agency should establish an internal procedure regarding liability of these costs.

j. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see §1504.C.3.i There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not recommended for daily routine travel). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

i. Insurance for Vehicles Rentals outside the 50 United States. (receipts required) The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head required insurance costs may be reimbursed for travel outside the 50 United States only.

4. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. collision damage waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and a reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management;

b. loss damage waiver (LDW);

c. auto tow protection (ATP)—*approval of department head;

d. supplementary liability insurance (SLI)—*if required by the rental company;

e. theft and/or super theft protection (coverage of contents lost during a theft or fire)—*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire, *if required by the car rental company

5. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident insurance (PAC);

b. emergency sickness protection (ESP).

6. Navigation equipment (GPS System), rented not purchased, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation

1. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. Airport shuttle/limousines and taxi reimbursements, including tip, requires a receipt to account for total daily amount claimed. A driver's tip for shuttles/limousines and taxis may be given and must not exceed 15 percent of total charge. Amount of tip must be included on receipt received from driver/company. All other forms of public ground transportation are limited to \$15 per day without a receipt, claims in excess of \$15 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for all public transportation request less than \$15 per day.

2. To assist agencies with verification of taxi fares, you may contact the taxi company for an estimate or visit sites such as taxifarefinder.com. An employee should always get approval, prior to a trip, if multiple taxis will be used; as it may be in the agency's best interest to rent a vehicle versus reimbursement of multiple taxi expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004), LR 31:1185 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1316 (July 2007), amended LR 34:1301 (July 2008), LR 35:1195 (July 2009), LR 36:1650 (July 2010), LR 37:2051 (July 2011).

§1505. State Issued Travel Credit Cards/CBA Accounts

A. Use. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. An employee's corporate travel card or agency CBA (controlled billed accounts) must be used to purchase state contract airfare. This is a mandatory requirement by the

airlines in order to continue to receive discounted, non-penalty state contract airline tickets.

2. An employee's corporate travel card may also be used to purchase lowest logical airfare tickets and other travel related expenses such as food and lodging, but it is not mandatory.

3. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card may result in disciplinary action.

B. Liability

1. The corporate travel card is the liability of the employee and not the state. Each monthly statement balance is due in full to the card-issuing bank. Travel card accounts that become delinquent are subject to being suspended or revoked. Once an account is revoked, it will not be reinstated. The state will have no tolerance to assist those employees who abuse their travel card privileges. Employees with delinquent payment may have their travel privileges revoked and/or subject to other disciplinary action.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring state service.

3. The department/agency's travel program administrator is responsible for completing a maintenance form to transfer an employee from one state agency to another. The employee may keep the same account number, but the change of the new agency's name must be reported to the bank.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004), LR 31:1188 (June 2005), republished LR 33:1319 (July 2007), amended LR 34:1304 (July 2008), republished LR 35:1198 (July 2009), amended LR 36:1653 (July 2010), LR 37:2055 (July 2011).

§1506. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 30 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 30 day period has been previously secured from the commissioner of administration.

2. Extended Stays. For travel assignments approved by the commissioner of administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the

responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an overnight stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must adhere the following allowances. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i The maximum allowance for meal reimbursement for single day travel will be \$33.

(a). Breakfast and Lunch: (\$20) The 12 hours travel duration must begin at or before 6 a.m.

(b). Lunch: (\$12) Requires 12 hours duration in travel status.

(c). Lunch and Dinner: (\$33) The 12 hour travel duration must end at or after 8 p.m.

4. Travel with Over Night Stay. (minimum of 12 hours in travel status) Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast—When travel begins at/or before 6 a.m. on the first day of travel or extends at/or beyond 9 a.m. on the last day of travel, and for any intervening days.

b. Lunch—When travel begins at/or before 10 a.m. on the first day of travel or extends at/or beyond 2 p.m. on the last day of travel, and for any intervening days.

c. Dinner—When travel begins at/or before 4 p.m. on the first day of travel or extends at/or beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol—reimbursement for alcohol is prohibited.

B. Exceptions

1. Routine Lodging Overage Allowances (Receipts required). Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. Justification must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for State Officers (Itemized receipts or other supporting documents are required for each

item claimed). State officers and others so authorized by statute (see definition under *state officer*) or individual exception will be reimbursed on an actual expense basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relation to the purpose of travel. State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Meals and Lodging Allowances

1. Meal Allowance—includes Tax and Tips. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals. If meals of state officials receiving actual expenses exceed these allowances, itemized receipts are required. See §1506.B.2

2. Meals with relatives or friends may not be reimbursed unless the host can substantiate costs for providing for the traveler. The reimbursement amount will not automatically be the meal cost for that area, but rather the actual cost of the meal. i.e. The host would have to show proof of the cost of extra food, etc. Cost shall never exceed the allowed meal rate listed for that area.

3. Routine Lodging Allowance. Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) For lodging rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. Employees should always attempt to use the tax exempt form located on the State Travel website <http://www.doa.louisiana.gov/osp/travel/forms/hoteltaxexemption.pdf> when traveling in-state on official state business. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees. Department head approval must be provided to allow lodging expenses to be direct billed to an agency.

4. Lodging with relatives or friends may not be reimbursed unless the host can substantiate costs for accommodating the traveler. The amount will not automatically be the lodging cost for that area, but rather the actual cost of accommodations. i.e. The host would have to show proof of the cost of extra water, electricity, etc. Cost shall never exceed the allowed routine lodging rate listed for that area.

5. Department Head or his/her designee's approval must be provided to allow lodging expenses to be direct billed to an agency.

6. Conference Lodging Allowance. Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) Department head or his/her designee has the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference

hotels, the lower cost designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances.

7. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

| TIER I | |
|------------------------------------|------|
| Breakfast | \$8 |
| Lunch | \$12 |
| Dinner | \$21 |
| Total | \$41 |
| Lodging Area | |
| In-State Cities (except as listed) | \$77 |
| Baton Rouge-EBR | \$96 |
| Covington/Slidell-St.Tammany | \$88 |
| Lake Charles-Calcasieu | \$79 |
| Lafayette | \$87 |

| TIER II | |
|--|-------|
| Breakfast | \$10 |
| Lunch | \$14 |
| Dinner | \$28 |
| Total | \$52 |
| Lodging Area | |
| New Orleans -Orleans, St. Bernard, Jefferson and Plaquemines Parishes (July 1-Sept.30) | \$98 |
| New Orleans - Orleans, St. Bernard, Jefferson and Plaquemines Parishes (Oct 1- June30) | \$131 |
| Out-Of-State (Except Cities Listed in Tier III & IV) | \$85 |

| TIER III | |
|---|-------|
| Breakfast | \$12 |
| Lunch | \$17 |
| Dinner | \$28 |
| Total | \$57 |
| Lodging Area | |
| Austin,TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Detroit, MI; Ft. Lauderdale, FL; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas, NV; Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Sacramento, CA; San Antonio, TX; San Diego, CA; St. Louis, MO; Tampa, FL; Wilmington, DE; all of Alaska or Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam | \$135 |

| TIER IV | |
|-----------|------|
| Breakfast | \$13 |
| Lunch | \$19 |
| Dinner | \$33 |
| Total | \$65 |

| TIER IV | |
|--|-----------------|
| Lodging Area | Routine Lodging |
| Baltimore, MD; San Francisco, CA; Seattle, WA | \$175 |
| Alexandria, VA; Arlington,VA; New York City, NY; Washington DC | \$225 |
| Chicago, IL; Boston, MA; and International Cities | \$200 |

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004) LR 31:1189 (June 2005), LR 32:939 (June 2006), LR 33:967 (June 2007), republished LR 33:1320 (July 2007), amended LR 34:1305 (July 2008), LR 35:1198 (July 2009), LR 36:1654 (July 2010), LR 37:2055 (July 2011).

§1507. Parking and Related Parking Expenses

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$3.50 per day (no receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the airport. Documentation required to receive the contract price is either a state ID or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$5 per day with a receipt.

B. Parking at the New Orleans Airport. The state's current contract rate is \$6 per day and \$36 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo I.D., a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$8 per day with a receipt.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking, including airport parking except as listed in Subsections A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$2 per day.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:808 (June 2001), republished LR 27:1496 (September 2001), republished LR 27:1496 September 2001, LR 28:1130 (June 2002), LR 30:1117 (June 2004), LR 31:1190 (June 2005), LR 33:968 (June 2007), republished LR 33:1321 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1655 (July 2010), LR 37:2057 (July 2011).

§1508. Reimbursement for Other Expenses

(These charges are while in travel status only.)

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For official state business—all business communication costs may be reimbursed (receipts required).

b. For domestic overnight travel—up to \$3 in personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days.

c. For international travel—up to \$10 in personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment (Receipts required)

C. Baggage Tips

1. Hotel Allowances—not to exceed \$3 tip per hotel check-in and \$3 tip per hotel checkout, if applicable.

2. Airport Allowances—not to exceed \$3 tip for airport outbound departure trip and \$3 tip for inbound departure trip.

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of five days or less and for a second checked bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

NOTE: Traveler should always consider shipping materials to final destination or splitting materials into additional pieces of luggage to avoid the excess baggage charges in order to save their agency costs.

E. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

F. Laundry Services. Employees on travel for more than 7 days may be reimbursed with department head or his/her designee's approval, up to actual, but reasonable, costs incurred. Receipts are required for reimbursement.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June

2004), LR 31:1190 (June 2005), LR 32:941 (June 2006), republished LR 33:1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 37:2058 (July 2011).

§1509. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source. Requests should be within reason and may include tax and tips. Itemized receipts are required.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or 6-hours on a weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the commissioner of administration or, for Higher Education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under Meals—Tier 1, to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the commissioner of administration all special meal reimbursements made during the previous six months. For Higher Education, these reports should be sent to the respective Institution of Higher Education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the commissioner of administration to exceed this reimbursement limitation;

a. all of the following must be reviewed and approved by the department head or their designee prior to reimbursement:

i. detailed breakdown of all expenses incurred, with appropriate receipts(s);

- ii. subtraction of cost of any alcoholic beverages;
- iii. copy of prior written approval from the commissioner of administration or, for Higher Education, the entity head or his/her designee.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), republished LR 1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 37:2058 (July 2011).

§1510. Agency Hosted Conferences

A. State Sponsored Conferences. An agency must solicit three competitive quotes in accordance with the governor's Executive Order for small purchase.

B. Conference Lunch Allowance. Lunch direct billed to an agency in conjunction with an in-state sponsored conference is to be within the following rates plus mandated gratuity.

| | |
|--------------------------------------|------|
| Lunch In-State excluding New Orleans | \$20 |
| Lunch—New Orleans | \$25 |

1. Any other meals such as breakfast and dinner require special approval in accordance with PPM49 §1509. “Special Meal” and must have prior approval from the commissioner of administration or for Higher Education, the entity head or his/her designee.

C. Conference Refreshment Allowance. Cost for break allowances for meeting, conference or convention are to be within the following rates.

1. Refreshments shall not exceed \$4.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

D. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 37:2059 (July 2011).

§1511. International Travel

A. International travel must be approved by the commissioner of administration or, for Higher Education, the entity head or his designee prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the commissioner of administration or, for Higher Education, the entity head or his designee, prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

C. It is the agency’s decision, if justification is given, to allow state employees to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not considered best practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with detailed justification as to why this reimbursement is being requested/approved.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 37:2059 (July 2011).

§1512. Waivers

A. The commissioner of administration may waive in writing any provision in these regulations when the best interest of the state will be served.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), republished LR 35:1202 (July 2009), amended LR 36:1657 (July 2010), LR 37:2059 (July 2011).

Denise Lea
Assistant Commissioner

1107#030

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Bulk Pesticide Facilities (LAC 7:XXIII.103, 157 and 158)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing bulk facilities, pesticide containers, filling and refilling of pesticide containers and containment structures and pads.

The U.S. Environmental Protection Agency (EPA) promulgated rules dealing with Containment and Containers. EPA put the new rules in place to regulate pesticide containers and the filling and refilling of those containers. The Louisiana Department of Agriculture and Forestry (LDAF) Advisory Commission on Pesticides had Rules and Regulations governing bulk handling of pesticides. In an effort to bring the LDAF rules in compliance with the EPA rules, the LDAF is proposing to amend its Rules and Regulations.

The EPA has imposed a deadline for adoption for July 1, 2011. Therefore, the Commissioner of Agriculture and Forestry has determined that adoption and implementation of these rules by Emergency Rule is necessary to allow the agricultural bulk facilities to continue to provide agricultural pesticides in bulk containers to Louisiana producers of food and fiber. Failure to implement this Emergency Rule will prevent the use of agricultural pesticides in bulk in this state thereby creating an imminent peril to the health, safety, and welfare of the citizens of this state. This Rule becomes effective upon signature and will remain in effect for 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

§103. Definitions

Agricultural Pesticide—any pesticide product labeled for use in or on a farm, forest, nursery, or greenhouse.

* * *

Bulk Facilities—any person, except registrants, who engage in the activity of repackaging any agricultural pesticide product, except manufacturing use products and plant-incorporated protectants into refillable and non-refillable containers. This includes certified commercial applicators and licensed owner-operators dispensing agricultural pesticides from a stationary container.

Commission—the Advisory Commission on Pesticides

Containment Pad—a containment structure that meets the design, construction materials and capacity requirements of

750 gallons or 100 percent of the capacity of the largest container/equipment used on the pad (whichever is less), for new and existing containment structures and accommodates pesticide spills or leaks in dispensing areas at bulk facilities.

Containment Structure or Structure—new and existing structures, at bulk facilities, that meets the design, construction materials and capacity requirements to contain spills or leaks from stationary pesticide containers or pesticide dispensing activities.

1. An existing containment structure is a structure for which installation began on or before July 1, 2011.

2. A new containment structure is a structure for which installation began after July 1, 2011 if certain conditions regarding permits, construction and contracts are met.

* * *

Rinsate—the liquid produced from the rinsing of the interior of any equipment or container that has come in direct contact with any pesticide.

Secondary Containment Structure (for the purposes of Subpart J)—a structure, including rigid diking, that is designed and constructed to intercept and contain agricultural pesticide spills and leaks and to prevent runoff and leaching from stationary agricultural pesticide containers. These are described as new or existing with the required capacities in the following:

1. new containment structures, un-protected from precipitation, 110 percent of the largest stationary container plus the displaced volume of other tanks and appurtenances within the containment area; or

2. existing structures, un-protected from precipitation, 100 percent of the largest stationary container plus the displaced volume of other tanks and appurtenances within the containment area; or

3. new or existing structures, protected from precipitation, 100 percent of the largest stationary container plus the displaced volume of other tanks and appurtenances within a containment area.

Stationary Pesticide Container—a refillable container that is fixed at a single bulk facility or, if not fixed, remains at the bulk facility for at least 30 consecutive days, and that holds pesticide during the entire time. Stationary pesticide containers are subject to the regulations if they are designed to hold undivided quantities of pesticides equal to or greater than 500 gallons for liquids or 4000 pounds for dry pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:171 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:2085 (December 2001), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 35:626 (April 2009), LR 37:

Subchapter J. Pesticide Containers and Bulk Facilities

§157. Pesticide Containers

A. Storage Areas for Full or Partially Full Pesticide Containers

1. Pesticide containers shall be stored in a secure enclosure.

2. Pesticide containers shall be free of leaks.

3. The storage area shall be maintained in good condition, without unnecessary debris.

B. Pesticide containers shall be cleaned and disposed of according to the product label.

C. Pesticide containers, ready for disposal, shall be stored in a secured area and shall be kept for no more than 90 days after the end of the product spraying season or 180 days if held for recycling.

D. Rinsate from pesticide container cleaning shall be used in the following manner:

1. in subsequent applications of the pesticide; or

2. placed in a rinsate collection system dedicated to that pesticide and used according to the label and labeling by the end of that applicable pesticide's spray season; or

3. disposed in a permitted waste facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:

§158. Bulk Facilities

A. Bulk facilities:

1. shall be registered with LDAF as a bulk facility and EPA as a producing establishment;

2. shall have a written contract/agreement from each pesticide's registrant prior to repackaging a pesticide. The contract/agreement for each registrant's product shall include but not be limited to the following:

a. the label and labeling; and

b. the residue removal procedure; and

c. a description of acceptable containers;

3. shall not change the pesticide formulation without an EPA registration for a new pesticide formulation;

4. shall repackage the pesticide into containers that:

a. are identified as acceptable by the registrant; and

b. meet the specified criteria with respect to continued container integrity, required markings and openings;

5. shall be responsible for:

a. the integrity of pesticides repackaged into containers; and

b. securely attaching the label containing the net contents and EPA establishment number to the container;

6. can repackage any quantity of pesticide into containers, up to the rated capacity of the container. There are no limits on the size of the containers;

7. shall clean a refillable container, according to the residue removal procedure, if one or more of the following occur:

a. each tamper-evident device is not intact; or

b. one-way valve (if equipped) is not intact; or

c. the container previously held a pesticide product other than the pesticide product being refilled;

8. shall not refill a refillable container with an agricultural pesticide if it fails an inspection or is compromised in at least one of the following ways:

a. the container shows signs of rupture or other damage which reduces its structural integrity; or

b. the container has visible pitting, significant reduction in material thickness, metal fatigue, damaged threads or closures, or other significant defects; or

c. the container has cracks, warpage, corrosion or any other damage which might render it unsafe for transportation; or

d. there is damage to the fittings, valves, tamper-evident devices or other appurtenances; or

e. the integrity of the container cannot be repaired, reconditioned or remanufactured; or

f. the container does not bear a legible and durably marked serial number or other identifying code; or

g. the container does not have an intact and functioning one-way valve, if required or tamper-evident device on each opening other than a vent;

9. shall keep and maintain for three years the following records:

a. the registrant-bulk facility written contract/agreement; and

b. the residue removal procedure; and

c. the description of acceptable containers; and

d. for each time a refillable container is refilled with an agricultural pesticide:

i. the EPA registration number of the pesticide product; and

ii. the date of repackaging; and

iii. the serial number or other identifying code of the container;

e. for containment structures:

i. inspection date; and

ii. name of person conducting inspection or maintenance; and

iii. conditions noted and specific maintenance performed; and

f. records of how long non-stationary tanks (with the specified capacities) remain at the facility; and

g. construction date of the structure (for as long as the structure is in use and for 3 years afterwards);

10. shall have secondary containment structures for stationary pesticide containers except for the following:

a. empty containers; or

b. containers holding only rinsate or wash water and so labeled; or

c. containers holding pesticides which are gaseous at atmospheric temperature and pressure; or

d. containers dedicated to non-pesticide use and so labeled;

11. shall have containment pads for dispensing areas if:

a. Refillable containers of agricultural pesticide are emptied, cleaned or rinsed; or

b. Agricultural pesticides are dispensed from any stationary container; or

c. Agricultural pesticides are dispensed from a transport vehicle into a refillable container; or

d. Agricultural pesticides are dispensed from any other container for the purpose of refilling a refillable

container or filling a non-refillable container for sale or distribution;

12. containment structures shall:

a. be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full hydrostatic head and load of any substances, equipment and appurtenances placed on the structure; and

b. be compatible with the pesticides stored; and

c. be liquid-tight with cracks, seams and joints sealed; and

d. not be constructed of Natural earthen material, unfired clay and asphalt;

13. shall protect appurtenances and containers against damage from personnel and moving equipment;

14. shall seal appurtenances, discharge outlets or drains through the base or wall of existing containment structures, except direct connections between containment structures;

15. shall not configure appurtenances, discharge outlets or drains through the base or wall of new containment structures, except direct connections between containment structures;

16. shall control stormwater in all containment structures by constructing with sufficient freeboard to contain precipitation and prevent water and other liquids from seeping into or flowing onto them from adjacent land or structures;

17. shall have the following for new and existing secondary containment:

a. liquid pesticide stationary containers shall be anchored or elevated to prevent flotation;

b. dry pesticide stationary containers shall:

i. be protected from wind and precipitation; and

ii. be on pallets or raised concrete; and have a floor that extends completely beneath the pallets or raised concrete platforms; and

iii. be enclosed by a curb a minimum of 6 inches high that extends at least 2 feet beyond the perimeter of the container;

18. shall have the following for containment pads:

a. for existing pads:

i. intercept leaks and spills; and

ii. have enough surface area to extend under containers on it; and

iii. accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide; and

iv. allow for removal/recovery of spilled, leaked or discharged material and rainfall; and

v. have no automatic pumps without overflow cutoffs;

b. for new pads be designed and constructed to:

i. intercept leaks and spills; and

ii. have enough surface area to extend under containers on it; and

iii. accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide; and

iv. allow for removal/recovery of spilled, leaked or discharged material and rainfall; and

v. have no automatic pumps without overflow cutoffs; and

vi. have their surface sloped toward an area where liquids can be collected for removal;

19. shall:

a. prevent pesticides from escaping the structure;

b. manage spilled and leaked materials no later than the end of the day of occurrence except in circumstances where a reasonable delay would significantly reduce the likelihood or severity of adverse effects to human health or the environment and according to the label and all regulations;

c. ensure that transfers of pesticides are attended;

d. lock valves on stationary pesticide containers or lock the facility, whenever the facility is unattended;

e. initiate repair to any areas showing damage and seal cracks and gaps no later than the end of the day on which damage is noticed and complete repairs within a reasonable time frame, taking into account factors such as the weather, and the availability of cleanup materials, trained staff and equipment. Additional pesticides cannot be stored until repairs have been made; and equip stationary containers with suitable sample points for official samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:

Mike Strain, DVM
Commissioner

1107#039

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—LTC Early Start Payments
(LAC 28:IV.1401)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

This rulemaking will amend Section 1405 of LASFAC's Scholarship/Grants rules for the Early Start Program to provide the same award amount for students enrolled at Louisiana Technical College campuses as other institutions beginning with the fall semester of 2011.

The emergency rules are necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective June 21, 2011, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG11133E)

Title 28

EDUCATION

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

Chapter 14. Early Start Program

§1401. General Provisions

A - D. ...

E. Award Amount

1. The Early Start Program will pay postsecondary institutions, except for campuses of the Louisiana Technical College during the spring semester of 2011, \$100 per college credit hour, not to exceed \$300 per course, for each course in which a student enrolled in a Louisiana public high school is eligible to enroll.

2. For the spring semester of 2011, the Early Start Program will pay \$50 per credit hour, not to exceed \$150 per course, for students enrolled at campuses of the Louisiana Technical College.

3. The award amount shall not be paid on behalf of students enrolled in nonpublic high schools or in home school; however, beginning with the 2008-2009 Academic Year (College), the program allows participating eligible Louisiana postsecondary institutions to enroll eligible 11th and 12th grade Louisiana nonpublic high school and home school students at the same rate as the award amount that funding is provided for public high school students at these institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007), amended LR 34:240 (February 2008), LR 35:231 (February 2009), LR 37:

George Badge Eldredge
General Counsel

1107#044

DECLARATION OF EMERGENCY

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

CommunityCARE Program
Program Redesign
(LAC 50:I.2901-2907, 2911-2913, 2917 and 2919)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2901-2907, 2911-2913 and adopts 2917 and 2919 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 primary care provider referrals and authorization in order to exempt

urgent care facilities and retail convenience clinics from that requirement (*Louisiana Register*, Volume 36, Number 7). The final Rule was published January 20, 2011 (*Louisiana Register*, Volume 37, Number 1). The department promulgated an Emergency Rule in order to redesign the CommunityCARE Program by amending the provisions governing recipient participation, provider selection, provider qualifications, referrals and authorizations and primary care provider reimbursement (*Louisiana Register*, Volume 37, Number 1). In addition, the department implemented a pay-for-performance incentive payment methodology and a quality committee. The department promulgated an Emergency Rule which amended the provisions of the January 1, 2011 Emergency Rule in order to clarify these provisions, and revised the formatting of LAC 50:I.2911 as a result of the promulgation of the January 20, 2011 final Rule governing the CommunityCARE Program (*Louisiana Register*, Volume 37, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2011 Emergency Rule in order to avoid a budget deficit in the medical assistance programs and to improve recipient access to quality care by requiring greater provider accountability.

Effective August 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the CommunityCARE Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 29. CommunityCARE 2.0

§2901. Introduction

A. - B. ...

C. Effective January 1, 2011, the CommunityCARE Program shall hereafter be referred to as CommunityCARE 2.0 to illustrate the program redesign being implemented by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:908 (June 2003), amended LR 32:404 (March 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§2903. Recipient Participation

A. The following groups of Medicaid recipients are mandatory enrollees in the CommunityCARE 2.0 Program:

1. TANF and TANF-related recipients;
2. SSI and SSI-related, non-Medicare, recipients who are age 19 up to age 65; and
3. CHIP recipients.

B. Effective January 1, 2011, or as soon as federal statutes allow enrollment, the following groups of Medicaid recipients may voluntarily enroll to participate in the CommunityCARE 2.0 Program:

1. recipients who are under age 19 and are in foster care, other out-of-home placement or receiving adoption assistance;
2. recipients who are under age 19 and are eligible for SSI under Title XVI or an SSI-related group;
3. recipients who are under age 19 and are eligible through a Home and Community-Based Services Waiver; and

4. recipients receiving services through a family-centered, community-based, coordinated care system that receives grant funds under Section 501(a)(1)(D) of Title V, and is defined by the state in terms of either program participation or special health care needs.

5. - 14.c. Repealed.

C. The following groups of recipients are excluded from participation in the CommunityCARE 2.0 Program. Individuals who:

1. are residents of:
 - a. nursing facilities;
 - b. intermediate care facilities for persons with developmental disabilities; and
 - c. psychiatric facilities;
2. are age 65 or older;
3. are dual eligibles (Medicare Part A or Part B coverage or both);
4. are refugees;
5. have other primary health insurance that covers physician benefits, including health management organizations (HMOs);
6. are receiving Hospice;
7. have eligibility less than three months or retroactive only eligibility;
8. are eligible through pregnant woman eligibility categories;
9. are eligible through CHIP Phase IV unborn option;
10. are participants in the All Inclusive Care for the Elderly (PACE) Program;
11. are under age 19 and eligible through the CHIP Affordable Plan;
12. are eligible through the TAKE CHARGE Family Planning Waiver;
13. are in the Medicaid physician/pharmacy lock-in program (pharmacy only lock-in recipients are not exempt from participation); or
14. are Native Americans who are members of federally recognized tribes.

D. Requests for medical exemptions shall be reviewed for approval on a case-by-case basis for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist.

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), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§2905. Provider Selection

A. Recipients have the opportunity to select a participating physician, physician group, nurse practitioner, federally qualified health center (FQHC), or rural health clinic (RHC) located in their parish of residence or in a contiguous parish to be their primary care provider.

1. Exceptions to the PCP location requirement may be considered on a case-by-case basis based on medical need (e.g. special needs populations).

2. Recipients who do not select a PCP are automatically assigned to a participating provider.

3. The PCP shall provide basic primary care, referral and after-hours coverage services for each linked recipient.

The fact that each recipient has a PCP allows continuity of care focused on the PCP as a care manager.

B. Mandatory CommunityCARE 2.0 enrollees that fail to select a PCP and voluntary enrollees that do not exercise their option not to participate in the CommunityCARE 2.0 Program within the timeframes specified by the department, shall be automatically assigned to a PCP in accordance with the department's algorithm/formula.

1. - 4.c. Repealed.

C. CommunityCARE 2.0 recipients may request to change primary care providers for cause at any time. Circumstances that are considered cause for changing PCPs at any time include, but are not limited to the following:

1. the recipient moves out of the PCP's service area;
2. because of moral or religious objections, the PCP does not cover the service that the recipient seeks; or
3. lack of access to services or providers with experience in dealing with the recipient's health care needs.

D. Recipients may change primary care providers without cause at any time during the first 90 days of enrollment with a primary care provider and at least every 12 months thereafter.

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), repromulgated LR 29:909 (June 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§2907. Provider Qualifications

A. In order to participate in the program and qualify for the monthly PMPM base reimbursement, a primary care provider must:

1. meet all of the general Medicaid enrollment conditions;
2. be an enrolled Medicaid provider in good standing;
3. meet the CommunityCARE 2.0 participation standards; and
4. sign an attestation which documents agreement to comply with program requirements.

a. CommunityCARE PCPs must submit the required attestation within the timeframe specified by the department in order to transition to participation in the CommunityCARE 2.0 Program.

b. Transitioning PCPs that fail to submit the attestation will be terminated from the CommunityCARE 2.0 Program and enrollees shall be given the choice of other participating providers as soon as systematically possible.

5. - 7. Repealed.

B. In addition, the following requirements must be met for participation.

1. A full-time equivalent (FTE) PCP must provide direct medical care a minimum of 20 hours per week at a single location.

a. During the program transition to CommunityCARE 2.0 and to afford an opportunity and time for the PCP to meet the requirement for providing a minimum of 20 hours per week of direct medical care, the PCP must attest their intent to implement this requirement by January 31, 2011 and these hours must be in place by March 31, 2011 in order for the monthly payment to be

made. The base management fee will only be paid after this period if these hours have been verified.

b. If the PCP does not provide the required 20 hours of direct medical care per week as of March 31, 2011, the PCP shall be deemed in non-compliance with the participation requirements and shall be disenrolled from CommunityCARE 2.0 and all linkages will be terminated.

2. PCPs with less than 100 linkages may participate in the program, but will receive base management fee only and are not eligible to participate in the pay-for performance (P4P) pool.

a. new PCPs who have not previously participated in CommunityCARE shall be exempt from this requirement for the first 12 months of their entry into the CommunityCARE 2.0 Program;

3. PCPs or practices with linkages of 5,000 or more must have extended office hours of at least six hours per week for scheduling routine, non-urgent and urgent appointments. Extended office hours shall include those services rendered between the hours of 5 p.m. and 8 a.m. Monday through Friday, on weekends and state legal holidays. The extended hours requirement may be met on weekdays, weekends or through a combination of both. Documentation relative to the services provided during extended hours must include the time that the services were rendered.

4. The PCP must provide an e-mail address and maintain Internet access in order to conduct administrative transactions electronically with the department.

5. The PCP must participate in the Louisiana Immunization Network for Kids Statewide (LINKS). During the program transition to CommunityCARE 2.0 and to afford an opportunity and time for the PCP to participate in the LINKS, the PCP must attest their intent to comply with this requirement by January 31, 2011. Installation and participation must be in place by March 31, 2011 in order for the monthly payment to be made.

a. LINKS participation is required for all CommunityCARE 2.0 PCPs regardless of provider specialty or age group of enrollees linked to the practice.

C. The following individual practitioners and clinics may participate as PCPs:

1. general practitioners;
2. family practitioners;
3. pediatricians;
4. gynecologists;
5. internists;
6. obstetricians;
7. federally qualified health centers;
8. rural health clinics; and
9. nurse practitioners.

D. Other physician specialists who meet the program standards for participation may be approved by the department to be PCPs under certain circumstances.

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); amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§2911. PCP Referral/Authorization

A. - A.20. ...

21. dentures for adults;

22. services provided by urgent care facilities and retail convenience clinics;

a. These providers furnish walk-in, non-routine care as an alternative to emergency department care when access to primary care services is not readily available to meet the health needs of the recipient.

b. Urgent care facilities and retail convenience clinics must provide medical record notes of the visit to the recipient's PCP within 48 hours of the visit; and

23. effective for dates of service on or after January 1, 2011, services provided by federally qualified health centers (FQHCs).

a. These providers furnish walk-in, non-routine care as an alternative to emergency department care when access to primary care services is not readily available to meet the health needs of the recipient.

b. FQHCs must provide medical record notes of the visit to the recipient's PCP within 48 hours of the visit.

c. Failure to provide the medical records to the PCP within the specified timeframe will result in assessment of a penalty of \$200 per occurrence to the FQHC.

B. - B.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 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), amended LR 37:

§2913. Primary Care Provider Reimbursement

A. The management fee paid to primary care providers in the CommunityCARE Program is \$3 per enrolled recipient per month.

B. Effective for dates of service on or after August 1, 2010, primary care providers enrolled in the CommunityCARE Program shall be reimbursed at the established fees on file for professional services covered in the Professional Services Program.

C. Effective January 1, 2011, the base care management fee paid to CommunityCARE 2.0 primary care providers shall be reduced to \$1.50 per member per month to the following recipient groups:

1. TANF and TANF-related recipients; and
2. SSI and SSI-related, non-Medicare, recipients who are age 19 up to age 65; and
3. CHIP recipients.

D. Effective January 1, 2011, or as soon as federal statutes allow enrollment, a base management fee of \$1.50 per month will be paid to CommunityCARE 2.0 primary care providers per linkage to Native American recipients who are members of a federally recognized tribe.

E. Effective January 1, 2011, or as soon as federal statutes allow enrollment, the base management fee of \$3 per month will be paid to CommunityCARE 2.0 primary care providers per linkage to the following recipients:

1. recipients who are in foster care, other out-of-home placement, or receiving adoption assistance;

2. SSI and SSI-related recipients under age 19; and
3. recipients who are receiving services through a family-centered, community-based, coordinated care system that receives grant funds under section 501(a)(1)(D) of Title V, and is defined by the state in terms of either program participation or special health care needs.

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, 29:910 (June 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§2917. Pay-for-Performance Incentives

A. Effective January 1, 2011, or as soon as federal statutes allow enrollment, a pay-for-performance payment shall be reimbursed to PCPs for linkages to recipients in the following eligibility groups as an incentive to enhance quality of care and promote provider accountability:

1. TANF and TANF related recipients;
2. SSI and SSI-related, non-Medicare, recipients who are age 19 up to age 65;
3. CHIP recipients;
4. recipients who are under the age of 19 and are:
 - a. in foster care, other out-of-home placement, or receiving adoption assistance; or
 - b. eligible through SSI or SSI-related eligibility categories;
5. recipients receiving services through a family-centered, community-based, coordinated care system that receives grant funds under section 501(a)(1)(D) of Title V, and is defined by the state in terms of either program participation or special health care needs; and
6. recipients who are eligible through Home and Community-Based Services Waivers.

B. Pay-for-Performance Measures and Reimbursement

1. P4P payments will be based on a pre-determined PMPM in accordance with PCP compliance with the following performance measures and shall be reimbursed on a quarterly basis. The PCP must attest to meeting certain performance standards and the department will monitor the PCPs for program compliance.

a. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Screenings. A payment of \$0.25 PMPM for recipients under the age of 21 will be made if all screenings are performed in the PCP's office.

b. National Committee for Quality Assurance (NCQA) Patient-Centered Medical Home Level 1 Recognition or Joint Commission on Accreditation of Healthcare Organizations (JCAHO) Primary Care Home Accreditation. A payment of \$0.50 PMPM will be made if the PCP provides verification of NCQA patient centered medical home Level 1 or higher status recognition, or JCAHO primary care home accreditation.

i. During the program transition to CommunityCARE 2.0 and to afford an opportunity and time for PCPs to attain NCQA recognition or JCAHO accreditation, this payment will be made for the first three quarters based on attestation and documentation that the PCP is pursuing NCQA recognition or JCAHO accreditation.

ii. Effective for the quarter beginning October 1, 2011, payment will be contingent on the PCP providing

verification of NCQA recognition or JCAHO accreditation no later than the last month of the quarter.

c. Extended Office Hours. A quarterly payment of \$0.75 PMPM will be made if the PCP meets the extended office hours requirement and provides scheduling for routine, non-urgent and urgent appointments during these hours.

i. The extended office hours must be at a minimum:

(a). six hours per week if the PCP has over 5,000 linkages;

(b). four hours per week if the PCP has from 2,000 to 5,000 linkages; and

(c). two hours per week if the PCP has less than 2,000 linkages.

ii. PCPs must attest to their intent to implement extended office hours by January 31, 2011.

iii. Extended office hours must be in place by March 31, 2011 in order for the first quarterly payment to be made. Payment for the second quarter will only be paid if extended office hours are verified.

d. Emergency Room Utilization. A quarterly payment will be implemented as an incentive to decrease inappropriate utilization and the need for emergency room (ER) services by CommunityCARE 2.0 recipients. Compliance will be measured through claims data.

i. A payment of \$0.75 PMPM will be made if ER utilization by linked recipients is in the lowest quartile (at or below the twenty-fifth percentile) for utilization of ER levels 1 and 2 for the reporting quarter.

ii. A payment of \$0.50 PMPM will be made if ER utilization by linked recipients is in the second lowest quartile (at or below the twenty-sixth to fiftieth percentile) for utilization of ER levels 1 and 2 for the reporting quarter.

iii. A payment of \$0.25 PMPM will be made if ER utilization by linked recipients is in the third lowest quartile (at or below the fifty-first to seventy-fifth percentile) for utilization of ER levels 1 and 2 for the reporting quarter. For the first six months of the program, a PCP ranking in the third lowest quartile will be eligible for payment. After six months in the third lowest quartile, the PCP will not qualify for a payment.

C. Pay-for Performance Incentive Pool

1. Funds shall be set aside for disbursement of P4P payments to participating PCPs who meet the participation requirements and performance measures set forth in this Chapter.

2. The P4P payments will be on a per member per month (PMPM) basis and will be reimbursed to qualified PCPs on a quarterly basis (the month following the end of the performance measurement quarter).

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 37:

§2919. CommunityCARE 2.0 Quality Committee

A. A quality committee will be established by the department to advise the secretary concerning health care quality, on-going quality improvement opportunities and recommendations for changes in the distribution of the pay-for-performance pool.

B. The committee shall consist of 15 members appointed by the secretary and will include representatives of stakeholders and providers as well as departmental staff. The committee shall be chaired by the Medicaid medical director and staffed by the department.

C. The CommunityCARE 2.0 Quality Committee shall meet, at a minimum, the first month of each quarter and as deemed necessary by the secretary.

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 37:

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

1107#082

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Direct Service Worker Registry
(LAC 48:I.Chapter 92)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 92 as authorized by R.S. 40:2179-2179.1. 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.

In compliance with the directives of Act 306 of the 2005 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the establishment and maintenance of the Direct Service Worker (DSW) Registry and defined the qualifications and requirements for direct service workers (*Louisiana Register*, Volume 32, Number 11). The November 20, 2006 Rule was amended to further clarify the provisions governing the DSW registry (*Louisiana Register*, Volume 33, Number 1). The department amended the provisions governing the training curriculum for direct service workers to require that licensed providers and other state approved training entities that wish to conduct training for direct service workers, and do not have an approved training curriculum, must use the department-approved training curriculum (*Louisiana Register*, Volume 35, Volume 11).

House Concurrent Resolution (HCR) 94 of the 2010 Regular Session of the Louisiana Legislature suspended LAC.48.I.9201-9203 and directed the department to adopt new provisions governing the DSW Registry which will eliminate duplicative regulations and streamline the DSW process. In compliance with the directives of HCR 94, the department promulgated an Emergency Rule which amended the provisions governing the DSW Registry in order to create a more manageable and efficient DSW process (*Louisiana Register*, Volume 37, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2010 Emergency Rule.

This action is being taken to protect the health and well-being of Louisiana citizens who receive care from direct service workers, and to eliminate the risks associated with services rendered by direct service workers who have committed substantiated acts of abuse, neglect, or exploitation.

Effective August 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Direct Service Workers Registry.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Health Standards

Chapter 92. Direct Service Worker

Registry Subchapter A. General Provisions

§9201. Definitions

* * *

Employer—an individual or entity that pays an individual wages or a salary for performing a job.

* * *

Finding—allegations of abuse, neglect, exploitation or extortion that are placed on the registry by the department following a decision by an administrative law judge or a court of law after all appeal delays afforded by law or allegations of abuse, neglect, exploitation or extortion that are placed on the registry by the department as a result of failure to timely request an appeal in accordance with this rule.

* * *

Provider—an entity that furnishes care and services to consumers and has been licensed by the Department of Health and Hospitals to operate in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9202. Introduction

A. The Department of Health and Hospitals (DHH) shall maintain a registry of individuals for whom specific findings of abuse, neglect, exploitation or extortion have been substantiated by the department, an administrative law judge or a court of law.

B. The Direct Service Worker Registry will contain the following items on each individual for whom a finding has been placed:

1. name;
 - a. - i.v. Repealed.

2. address;
3. Social Security number;
4. telephone number;
5. state registration number;
6. an accurate summary of finding(s); and
7. information relative to registry status which will be available through procedures established by the Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section (HSS).

C. Employers must use the registry to determine if there is a finding that a prospective hire has abused or neglected an individual being supported, or misappropriated the individual's property or funds. If there is such a finding on the registry, the prospective employee shall not be hired.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter B. Training and Competency Requirements

§9211. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:96 (January 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9213. Trainee Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:96 (January 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9215. Training Curriculum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:96 (January 2007), LR 35:2437 (November 2009), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9217. Training Coordinators

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9219. Competency Evaluation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9221. Compliance with Training and Competency Evaluation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:97 (January 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter C. Provider Participation

§9231. Provider Responsibilities

A. Prior to hiring any direct service worker or trainee, a licensed provider shall:

1. assure that the individual is at least 18 years of age, and that they have the ability to read, write and carry out directions competently as assigned; and

2. access the registry to determine if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds. If there is such a finding on the registry, the prospective employee shall not be hired.

B. The provider shall check the registry every six months to determine if any currently employed direct service worker or trainee has been placed on the registry with a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

1. The provider shall maintain printed confirmation from the registry web site as verification of compliance with this procedure.

C. - E.2 Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter E. Violations

§9271. Disqualification of Training Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9273. Allegations of Direct Service Worker Wrong-Doing

A. The Department, through the Division of Administrative Law, or its successor, has provided for a process of the review and investigation of all allegations of wrong-doing by direct service workers. Direct service workers and trainees must not:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR

33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter F. Administrative Hearings

§9285. General Provisions

A. ...

1. The request for an administrative hearing must be made in writing to the Division of Administrative Law, or its successor.

2. ...

3. Unless a timely and proper request is received by the Division of Administrative Law or its successor, the findings of the department shall be considered a final and binding administrative determination.

a. ...

B. When an administrative hearing is scheduled, the Division of Administrative Law, or its successor, shall notify the direct service worker, his/her representative and the agency representative in writing.

1. - 1.c....

C. The administrative hearing shall be conducted by an administrative law judge from the Division of Administrative Law, or its successor, as authorized by R.S. 46:107 and according to the following procedures.

1. - 8. ...

9. When the allegation(s) supporting placement of a finding is substantiated, the direct service worker may not rest on the mere denial in his/her testimony and/or pleading(s) but must set forth specific facts and produce evidence to disprove or contest the allegation(s).

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9287. Preliminary Conferences

A. - A.6. ...

B. When the Division of Administrative Law, or its successor, schedules a preliminary conference, all parties shall be notified in writing. The notice shall direct any parties and their attorneys to appear on a specific date and at a specific time and place.

C. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:99 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§9293. Failure to Appear at Administrative Hearings

A. If a direct service worker fails to appear at an administrative hearing, a notice/letter of abandonment may be issued by the Division of Administrative Law, or its successor, dismissing the appeal. A copy of the notice shall be mailed to each party.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:100 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

1107#083

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Small Rural Hospitals
Upper Payment Limit (LAC 50:V.1125 and 1127)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1125 and 1127 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*Louisiana Register*, Volume 35, Number 5).

Act 883 of the 2010 Regular Session of the Louisiana Legislature directed the department to implement a payment methodology to optimize Medicaid payments to rural hospitals for inpatient and outpatient services. In compliance with the directives of Act 883, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for small rural hospitals to reimburse inpatient hospital services up to the Medicare inpatient upper payment limits (*Louisiana Register*, Volume 36, Number 8). This action is being taken to continue the provisions of the August 1, 2010 Emergency Rule. This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective July 30, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by small rural hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 11. Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§1125. Small Rural Hospitals

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement for inpatient acute care services rendered by small rural hospitals shall be up to the Medicare upper payment limits for inpatient hospital services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:955 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§1127. Inpatient Psychiatric Hospital Services

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement paid for psychiatric services rendered by distinct part psychiatric units in small rural hospitals shall be up to the Medicare inpatient upper payment limits.

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 35:955 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

1107#084

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with
Developmental Disabilities
Non-State Facilities—Reimbursement Methodology
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 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.

As a result of the allocation of additional funds by the legislature during the 2009 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) to increase the per diem rates (*Louisiana Register*, Volume 36, Number 7). As a result of a budgetary shortfall in state fiscal year 2011, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for non-state ICFs/DD to reduce the per diem rates (*Louisiana Register*, Volume 36, Number 8).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-state ICFs/DD to restore the per diem rates paid to private providers who have downsized large facilities to less than 35 beds and incurred unusually high capital costs as a result of the downsizing (*Louisiana Register*, Volume 36, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule. This action is being taken to protect the health and welfare of Medicaid recipients and to insure continued provider participation in the Medicaid Program.

Effective July 30, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with
Developmental Disabilities
Chapter 329. Reimbursement Methodology
Subchapter A. Non-State Facilities
§32903. Rate Determination

A. - J. ...

K. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities shall be reduced by 2 percent of the per diem rates on file as of July 31, 2010.

L. Effective for dates of service on or after August 1, 2010, the per diem rates for ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be restored to the rates in effect on January 1, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), amended LR 37:

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

1107#085

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Developmental Disabilities
Reimbursement Rate Reduction
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 the allocation of additional funds by the legislature during the 2009 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICFs/DD) to increase the per diem rates (*Louisiana Register*, Volume 36, Number 7).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/DD to reduce the per diem rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule governing the reimbursement methodology for non-state ICFs/DD in order to exclude certain facilities from the rate reduction (*Louisiana Register*, Volume 36, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state)

intermediate care facility services for persons with developmental disabilities under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective August 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - J. ...

K. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) shall be reduced by 2 percent of the per diem rates on file as of July 31, 2010.

1. Effective for dates of service on or after December 20, 2010, non-state ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be excluded from the August 1, 2010 rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), amended LR 37:

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

1107#086

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Rate Reduction
(LAC 50:XIX.4329 and 4333-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIX.4329 and §§4334-4337 and repeals LAC 50:XIX.4333 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to

ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). In addition, the provisions contained in this Chapter governing the reimbursement for outpatient hospital laboratory services were repealed as these provisions have been amended and repromulgated in LAC 50:V.Chapter 57. The department promulgated an Emergency rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §4334-4337 as a result of the promulgation of the November 20, 2010 final Rule governing laboratory and radiology services (*Louisiana Register*, Volume 36, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effect July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the reimbursement rates for laboratory services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

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 28:1025 (May 2002), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 37:

§4333. Outpatient Hospital Laboratory Services Reimbursement

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 Service Financing (for inclusion in the LAC) LR 28:1026 (May 2002), amended LR 29:1096 (July 2003), repealed LR 37:

§4334. Radiology Services

A. - G. ...

H. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

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 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 37:

§4335. Portable Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for portable radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

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 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 37:

§4337. Radiation Therapy Centers

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

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 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 37:

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

1107#087

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)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.327 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. This Emergency Rule is being promulgated to amend 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. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency ambulance services.

Effective July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the July 1, 2011 Emergency Rule which adopted provisions to establish 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 July 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter.

B. Qualifying Criteria. In order to qualify for this supplemental payment, the ambulance provider must be affiliated with a statewide ambulance service district through a Low Income and Needy Care Transportation Agreement.

1. For purposes of these provisions, an ambulance provider is defined as a provider of emergency medical transportation.

2. For purposes of these provisions, a Low Income and Needy Care Transportation Agreement is a written agreement between an ambulance provider and a statewide ambulance service district to facilitate enhanced emergency transportation services to low income and needy patients.

C. Payment Methodology. Each qualifying ambulance provider may receive quarterly supplemental payments for emergency transportation services rendered to Medicaid recipients and the uninsured during the quarter. Quarterly payment distribution to a qualifying ambulance provider shall be based on a formula which may recognize and adjust payment amounts for differences such as governmental or non-governmental ownership, rural or urban primary service area, payer mix of patients served, amount of uninsured patients served, and other factors. Payments to each individual provider shall be limited to the difference between Medicaid payments for emergency transportation services provided by the provider and the amount of the provider's usual charges plus the difference between payments made by uninsured patients and the amount of the provider's usual charges. Billed charges and payments shall be based on a 12 consecutive month period for claims data selected by the department.

D. Calculation of Provider's Usual Charges. For purposes of this payment, usual charges, for the state fiscal year (SFY) beginning July 1, 2011 shall be calculated as follows:

1. An average of the following amounts shall be made:

- a. the amounts billed to cash paying patients;
- b. the amounts billed to patients covered by indemnity insurers with which the provider has no contractual arrangement; and
- c. fee-for-service rates it contractually agrees to accept from any payor, including any discounted fee-for-service rates negotiated with managed care plans.

2. Amounts not included in the average are:

- a. free of charge services provided to uninsured patients;
- b. charges to uninsured patients at a substantially reduced rate;
- c. capitated payments;
- d. rates offered under hybrid fee-for-service arrangements whereby more than 10 percent of the individual's or entity's maximum potential compensation could be paid in the form of a bonus or withheld payment; and
- e. fees set by Medicare, state health care programs, and other federal health care programs.

3. In the SFY beginning July 1, 2011, usual charges shall be determined by a study conducted by the department of ambulance providers' charges. For each SFY thereafter, each provider's usual charges shall be based, at the option of the department, on a recalculation of the provider's usual charges or on the previous year's usual charges increased by the Medicare Ambulance Inflation Factor.

4. The payment to each individual provider shall not exceed the amount under Subparagraph 4.f below, which is calculated as follows.

a. The department shall identify qualifying ambulance providers that received reimbursement from Medicaid for emergency transportation services during the quarter.

b. For each qualifying ambulance provider described in Subparagraph 4.a, the department shall identify the emergency medical transportation services:

i. for which the qualifying ambulance provider was reimbursed by Medicaid; and

ii. for which the qualifying ambulance provider was not reimbursed because the patient was uninsured.

c. For each qualifying ambulance provider described in Subparagraph 4.a, the department shall calculate:

i. the reimbursement paid to the qualifying ambulance provider by Medicaid for the emergency medical transportation services identified under Clause 4.b.i above; and

ii. the reimbursement paid to the qualifying ambulance provider by uninsured patients for the emergency medical transportation services identified under Clause 4.b.ii above.

d. For each qualifying ambulance provider described in Subparagraph 4.a, the department shall calculate the qualifying ambulance provider's usual charges for each of the provider's services identified under 4.b.

e. For each qualifying ambulance provider described in Subparagraph 4.a, the department shall:

i. subtract an amount equal to the total reimbursement calculated for each of the Medicaid emergency medical transportation services under Clause 4.c.i from an amount equal to the sum of charges calculated under 4.d for the services identified in Clause 4.b.i; and

ii. subtract an amount equal to the total reimbursement calculated for each of the emergency medical transportation services under Clause 4.c.ii from an amount equal to the sum of charges calculated under Subparagraph 4.d for the services identified in Clause 4.b.ii.

f. For each Medicaid provider described in 4.a, the department shall calculate the sum of each of the amounts calculated for each emergency medical transportation service under Subparagraph 4.e.

E. Calculation of maximum state payments. Notwithstanding the maximum amount which can be paid to any provider in 4.f, the maximum amount which may be paid by the state during any year to all qualified providers shall not exceed the total of the amounts calculated in Clause 4.e.i.

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 37:

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

1107#080

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program Non-Emergency Medical Transportation Reimbursement Rate Reduction (LAC 50:XXVII.573)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XXVII.573 as a result of the promulgation of the November 20, 2010 final Rule governing non-emergency medical transportation services (*Louisiana Register*, Volume 36, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 5. Non-Emergency Medical Transportation
Subchapter D. Reimbursement
§573. Non-Emergency, Non-Ambulance Transportation

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 4.5 percent of the rates in effect on July 31, 2010.

1. Friends and family providers are excluded from the rate reduction.

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 34:879 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

1107#088

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Bureau of Health Services Financing

Mental Health Rehabilitation Program
Termination of Parent/Family Intervention (Intensive)
Services and Continued Treatment Clarifications
(LAC 50:XV.335, 501-505 and 901)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:XV.335 and amends LAC 50:XV.501-505 and §901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for the Mental Health Rehabilitation (MHR) Program to reduce the reimbursement rates paid for mental health rehabilitation services (*Louisiana Register*, Volume 36, Number 11).

As a result of a budgetary shortfall in state fiscal year 2011, department promulgated an Emergency Rule which terminated the coverage of Parent/Family Intervention (Intensive) (PFII) services in the MHR Program and amended the provisions governing medical necessity for MHR services in order to establish continued treatment criteria (*Louisiana Register*, Volume 36, Number 8). Recipients who currently receive PFII services shall be transitioned to comparable services available in the MHR Program. The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.901 as a result of the promulgation of the November 20, 2010 final Rule governing mental health rehabilitation services (*Louisiana Register*, Volume 36 Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for mental health rehabilitation services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Mental Health Rehabilitation
Subchapter C. Optional Services
§335. Parent/Family Intervention (Intensive)

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 31:1085 (May 2005), amended LR 32:2067 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2758 (December 2009), repealed LR 37:

Chapter 5. Medical Necessity Criteria
§501. General Provisions

A. - C. ...

D. Initially all recipients must meet the medical necessity criteria for diagnosis, disability, duration and level of care. MHR providers shall rate recipients on the CALOCUS/LOCUS at 90 day intervals, or at an interval otherwise specified by the bureau, and these scores and supporting documentation must be submitted to the bureau or its designee upon request. Ongoing services require authorization which may occur every 90 days or at any interval requested by the bureau or its designee, based on progress towards goals, individual needs, and level of care requirements which are consistent with the medical necessity criteria.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1086 (May 2005) amended LR 32:2067 (November 2006), LR 34:1914 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§503. Adult Criteria for Services

A. - A.3.d.Note. ...

B. Criteria for Continued Treatment. Continuation of MHR treatment is medically necessary for individuals who meet all of the following criteria:

1. clinical evidence indicates a persistence of the problems that necessitated the provision of MHR services;

2. clinical evidence indicates that a less intensive level of care would result in exacerbation of the symptoms of the individual's mental disorder and clinical deterioration;

3. the ISRP has been developed, implemented and updated based on the individual recipient's clinical condition and response to treatment, as well as the strengths and availability of natural supports, with realistic goals and objectives clearly stated;

4. the recipient is actively engaged in treatment as evidenced by regular participation in services as scheduled;

5. progress is evident that the individual's disorder can be expected to improve significantly through medically necessary, appropriate therapy and that the individual is able to benefit from the therapy provided; and

6. there is clinical evidence of symptom improvement. If there has been no improvement, the ISRP may be reviewed and the frequency, amount or duration of services may be adjusted to a clinically appropriate level as determined by the bureau.

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, amended LR 32:2068 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§505. Child/Adolescent Criteria for Services

A. - A.3.d. ...

B. Criteria for Continued Treatment. Continuation of MHR treatment is medically necessary for children/youth who meet all of the following criteria:

1. clinical evidence indicates a persistence of the problems that necessitated the provision of MHR services;

2. clinical evidence indicates that a less intensive level of care would result in exacerbation of the symptoms of the child's mental or behavioral disorder and clinical deterioration;

3. the ISRP has been developed, implemented and updated based on the individual child's clinical condition and response to treatment, as well as the strengths and availability of natural supports, with realistic goals and objectives clearly stated;

4. the recipient and family are actively engaged in treatment as evidenced by regular participation in services as scheduled;

5. progress is evident that the child's mental or behavioral disorder can be expected to improve significantly

through medically necessary, appropriate therapy and that the child is able to benefit from the therapy provided; and

6. there is clinical evidence of symptom improvement.

If there has been no improvement, the ISRP may be reviewed and the frequency, amount or duration of services may be adjusted to a clinically appropriate level as determined by the bureau.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2068 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. - F. ...

G. Effective for dates of service on or after August, 1, 2010, Medicaid reimbursement shall be terminated for parent/family intervention (intensive) services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:1249 (June 2010), LR 36:2565 (November 2010), LR 37:

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

1107#089

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Minimum 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 amends 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 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 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 Rules were 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 minimum licensing standards for ADHC centers to revise and clarify the staffing and transportation requirements (*Louisiana Register*, Volume 37, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Louisiana citizens by assuring continued access to ADHC services through the development of a more efficient licensing infrastructure in order to stimulate growth in the ADHC provider community. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2010-2011.

Effective April 1, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the minimum licensing standards for adult day health care centers.

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 37:

§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 37:

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 37:

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 37:

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 8 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 8 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 8 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 37:

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

1104#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Multi-Systemic Therapy—Reimbursement Rate Reduction
(LAC 50:XV.25701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the

Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing multi-systemic therapy (MST) to reduce the reimbursement rates and to establish prior authorization requirements (*Louisiana Register*, Volume 36, Number 11).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for multi-systemic therapy services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.25701 as a result of the promulgation of the November 20, 2010 final Rule governing MST services (*Louisiana Register*, Volume 36, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for multi-systemic therapy services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 2.63 percent of the rates on file as of July 31, 2010.

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 35:247 (February 2009), amended LR 36:1250 (June 2010), LR 36:2566 (November 2010), LR 37:

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

1107#090

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural, Non-State
Hospitals and Children’s Specialty Hospitals
Reimbursement Rate Reduction
(LAC:V.5109, 5313, 5317, 5513,
5517, 5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.5109 and amends §§5313, 5317, 5513, 5517, 5713, 5719, 6115 and 6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” 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 revised the reimbursement methodology for outpatient services rendered by children’s specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). As a result of a budgetary shortfall in state fiscal year 2010, the department amended the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children’s specialty hospitals (*Louisiana Register*, Volume 36, Number 9). This Rule also incorporated the provisions of the September 1, 2009 Emergency Rule, with the exception of §5109, and the January 1, 2010 Emergency Rule.

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state

hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to incorporate the provisions in §5109 of the September 1, 2009 Emergency Rule and to revise the formatting as a result of the promulgation of the September 20, 2010 final Rule governing outpatient hospital services. (*Louisiana Register*, Volume 36, number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance program.

Taking the proposed reductions into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing outpatient hospital services rendered by non-rural, non-state hospitals and children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 51. General Provisions

§5109. Children's Specialty Hospitals

A. In order to receive Medicaid reimbursement for outpatient services as a children's specialty hospital, the acute care hospital must meet the following criteria:

1. be recognized by Medicare as a prospective payment system (PPS) exempt children's specialty hospital;
2. does not qualify for Medicare disproportionate share hospital payments; and
3. have a Medicaid inpatient days utilization rate greater than the mean plus two standard deviations of the Medicaid utilization rates for all hospitals in the state receiving Medicaid payments.

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 37:

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - D. ...

D.1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010),

amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:

§5317. Children's Specialty Hospitals

A. - B.1. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Final reimbursement shall be 87.91 percent of the allowable cost as calculated through the cost report settlement process.

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 36:2042 (September 2010), amended LR 37:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:

§5517. Children's Specialty Hospitals

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

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 36:2042 (September 2010), amended LR 37:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010),

amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:

§5719. Children's Specialty Hospitals

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

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 36:2043 (September 2010), amended LR 37:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 4.6 percent of the rates effective as of July 31, 2010. Final reimbursement shall be at 71.13 percent of allowable cost through the cost settlement process.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:

§6119. Children's Specialty Hospitals

A. - B.1. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 4.6 percent of the rates effective as of July 31, 2010.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

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 36:2044 (September 2010), amended LR 37:

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

1107#091

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services

Small Rural Hospitals—Upper Payment Limit (LAC 50:V.5311, 5511, 5711, 5911, and 6113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5311, 5511, 5711, 5911, and 6113 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for outpatient hospital services (*Louisiana Register*, Volume 35, Number 5).

Act 883 of the 2010 Regular Session of the Louisiana Legislature directed the department to implement a payment methodology to optimize Medicaid payments to rural hospitals for inpatient and outpatient services. In compliance with the directives of Act 883, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for small rural hospitals to reimburse outpatient hospital services up to the Medicare outpatient upper payment limits (*Louisiana Register*, Volume 36, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule. This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective July 30, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by small rural hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5311. Small Rural Hospitals

A. - A.2.a. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for outpatient hospital surgery services up to the Medicare outpatient upper payment limits.

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 35:956 (May 2009), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5511. Small Rural Hospitals

A. - A.2.a. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for outpatient hospital clinic services up to the Medicare outpatient upper payment limits.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5711. Small Rural Hospitals

A. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for outpatient clinical diagnostic laboratory services up to the Medicare outpatient upper payment limits.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5911. Small Rural Hospitals

A. - A.2.a. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for rehabilitation services up to the Medicare outpatient upper payment limits.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6113. Small Rural Hospitals

A. - A.2. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees up to the Medicare outpatient upper payment limits.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

1107#092

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Policy Clarifications and Service Limit Reduction
(LAC 50:XV.12901-12909 and 12911-12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901-12909 and §§12911-12915 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.

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).

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services to: 1) establish provisions that address requests for services; 2) revise the eligibility criteria for LT-PCS; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) reduce the maximum allowed service hours (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the

September 5, 2010 Emergency Rule to clarify the provisions of the Rule (*Louisiana Register*, Volume 36, Number 12). The department promulgated an Emergency Rule which amended the provisions of the December 20, 2010 Emergency Rule to further clarify the provisions of the Rule (*Louisiana Register*, Volume 37, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2011 Emergency Rule.

Effective August 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions of governing long-term personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services 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 or receiving long-term personal care services (LT-PCS) 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 LT-PCS 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.

2. - 7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours 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 additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS 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 personal care 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.

F.3 - F.4. 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 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 37:

§12902. Participant Direction Option

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's Roles and Responsibility agreement.

5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12903. Covered Services

A. Personal care 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:

A.1. - A.5. ...

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; and
8. reminding the recipient to take his/her medication as prescribed by the physician.

C. 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 personal care services. However, providers

may choose to furnish transportation for recipients during the course of providing personal care services. 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. La POP 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.

D. - F. ...

G. Personal care services may be provided by one worker for up to three long-term personal care service 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, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12905. Eligibility Criteria

A. ...

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care 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;

B.2. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12907. Recipient Rights and Responsibilities

A. - A.2. ...

3. training the individual personal care 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 personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

5. - 9. ...

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 PCS 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.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

1. ...
2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;
- 2.a. - 8. ...
9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;
10. - 13. ...

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 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12909. Standards for Participation

A. - A.1.c. ...
d. any federal or state laws, Rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

A.2. - B.12.c. ...
C. An LT-PCS 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 supports have failed and there is no option but to refuse services.

C.1. - D.2. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 37:

§12911. Staffing Requirements

A. - B.3. ...
C. 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).

2. Repealed.

D. - E.1.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12912. Training

A. - C.6. ...

D. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training. This CPR and first aid certification must be maintained and kept current as long as the direct service worker is employed with the PCS agency.

E. - E.7. ...

8. maintenance of a clean environment; and

9. - G.3.c. ...

4. New La POP direct service workers must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training. This CPR and first aid certification must be maintained and kept current throughout the worker's employment period as a La POP personal care service worker.

G.5. - 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, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12913. Service Delivery

A. Personal care 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.

A.1. - A.4. Repealed.

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 LT-PCS 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.

C.1. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 37:

§12915. Service Limitations

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours 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. Personal care services may not be provided while the recipient is admitted to or attending a program which provides in-home 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, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 37:

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

1107#093

DECLARATION OF EMERGENCY

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

**Personal Care Services—Long-Term
Reimbursement Rate Reduction
(LAC 50:XV.12917)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening,

diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the reimbursement methodology for long-term personal care services (LT-PCS) to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 6).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for long-term personal care services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 21, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective July 30, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rate for long-term personal care services shall be reduced by 4.6 percent of the rate on file as of July 31, 2010.

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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:

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

1107#094

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Reimbursement Rate Reduction
(LAC 50:XV.12917)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 6). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for long-term personal care services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). The department promulgated and Emergency Rule which amended the January 1, 2011 Emergency Rule in order to revise the reimbursement rates paid for shared long-term personal care services. (*Louisiana Register*, Volume 37, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2011 Emergency Rule. This action is being taken to ensure that these provisions are promulgated in a clear and concise manner.

Effective August 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for long-term personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rate for long-term personal care services shall be reduced by 4.6 percent of the rate on file as of July 31, 2010.

G. Effective for dates of service on or after January 1, 2011, the reimbursement rate for long-term personal care services shall be reduced by 5.8 percent of the rate on file as of December 31, 2010.

H. Effective for dates of service on or after April 20, 2011, shared long-term personal care services shall be reimbursed:

1. 80 percent of the rate on file as of April 19, 2011 for two participants; and

2. 70 percent of the rate on file as of April 19, 2011 for three 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, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:

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

1107#097

DECLARATION OF EMERGENCY

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

Pregnant Women Extended Services
Dental Services—Reimbursement Rate Reduction
(LAC 50:XV.16107)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as

directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 9).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services to further reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.16107 as a result of the promulgation of the September 20, 2010 final Rule governing the Pregnant Women Extended Services Dental Program. (*Louisiana Register*, Volume 36, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective July 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the August 1, 2010 Emergency Rule governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16107. Reimbursement

A. - D.3.q. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 69 percent for the comprehensive periodontal evaluation exam;
2. 65 percent for the following diagnostic services:
 - a. intraoral-periapical first film;

- b. intraoral-periapical, each additional film; and
 - c. panoramic film and prophylaxis, adult; and
3. 58 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:
 - a. intraoral, occlusal film;
 - b. bitewings, two films;
 - c. amalgam (one, two or three surfaces) primary or permanent;
 - d. amalgam (four or more surfaces);
 - e. resin-based composite (one, two or three surfaces), anterior;
 - f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
 - g. resin-based composite crown, anterior;
 - h. resin-based composite (one, two, three, four or more surfaces), posterior;
 - i. prefabricated stainless steel crown, primary or permanent tooth;
 - j. prefabricated resin crown;
 - k. periodontal scaling and root planning (four or more teeth per quadrant);
 - l. full mouth debridement to enable comprehensive evaluation and diagnosis;
 - m. extraction, coronal remnants-deciduous tooth;
 - n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
 - o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
 - p. removal of impacted tooth, soft tissue; and
 - q. removal of impacted tooth, partially bony.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), amended LR 36:2044 (September 2010), LR 37:

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

1107#095

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services
Substance Abuse Screening and Intervention Services
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 163 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 expanded coverage of certain dental services rendered to Medicaid eligible pregnant women who are in need of periodontal treatment as a means of improving the overall health of mothers and their newborns (*Louisiana Register*, Volume 30, Number 3).

As part of the Department of Health and Hospital's ongoing initiative to improve birth outcomes in the state, the Bureau of Health Services Financing, in collaboration with the Office of Behavioral Health, promulgated and Emergency Rule which adopted provisions to establish Medicaid coverage for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 4). Research has shown that tobacco dependence and substance abuse intervention programs targeted to pregnant women improves the overall health of the mother and reduces the occurrences of low birth-weight babies and perinatal deaths. It is anticipated that these new services will improve birth outcomes and subsequently reduce Medicaid costs associated with the care of pregnant women and their babies. This Emergency Rule is being promulgated to continue the provisions of the April 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and to reduce the Medicaid costs associated with the care of pregnant women and their babies.

Effective July 31, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to provide Medicaid coverage of substance abuse screening and brief interventions rendered to Medicaid eligible pregnant women.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 163. Substance Abuse Screening and Intervention Services

§16301. General Provisions

A. Effective for dates of service on or after April 1, 2011, the department shall provide coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women.

B. Substance abuse screening and intervention services may be performed at the discretion of the medical professional providing care to the pregnant woman.

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 37:

§16303. Scope of Services

A. Screening services shall include the screening of pregnant women for the use of:

1. alcohol;
2. tobacco; and/or

3. drugs.

B. Intervention services shall include a brief 15-30 minute counseling session with a health care professional intended to help motivate the recipient to develop a plan to moderate their use of alcohol, tobacco, or drugs.

C. Service Limits. Substance abuse screening and intervention services shall be limited to one occurrence each per pregnancy, or once every 270 days.

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 37:

§16305. Reimbursement Methodology

A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement for substance abuse screening and intervention services rendered to Medicaid eligible pregnant women.

B. Reimbursement for these services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

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 37:

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

1107#096

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 containing all new material, is effective July 1, 2011, and will remain in effect for a period of 120 days.

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, a Notice of Intent to adopt a permanent

rule will be promulgated 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 Legislative 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 seventeen 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 37:

Mary Alice Olsan
Executive Director

1107#032

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code (LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the LSUCCC finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided in R.S. 49:953(A) as the 2011 hurricane season started on June 1, 2011, and ends on November 30, 2011. The 2009 International Building Code (IBC) allows the use of wood structural panel for opening protection of one and two story buildings classified as Group R-3 and Group R-4 occupancy. This excluded the use of wood structural panel for opening protection on buildings such as hotels, motels, apartments, fraternity and sorority houses, and vacation timeshare properties. The LSUCCC is proposing a permanent rule to correct this issue, but such rule will not take effect until October or November of 2011, which is effectively too late to help protect individuals and property this hurricane season. In order to allow building owners to economically protect persons and property, it is necessary to adopt these emergency rules to have this exception in place until the corresponding permanent rules can be adopted. 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. Effective June 17, 2011, the Louisiana State Uniform Construction Code is amended as follows:

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

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

iii. Amend Chapter 16, section 1609.1.2, Exceptions 1. Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13 716 mm) or less where wind speeds do not exceed 140 mph (63 m/s).

iv. Amend Chapter 23, section 2308.2, Exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in Exposure Category B.

2. ...

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 40:1730.26 and La. R.S. 40:1730.28.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), LR 37:

Jill Boudreaux
Undersecretary

1106#28

DECLARATION OF EMERGENCY

**Department of Treasury
Office of the Treasurer**

Permissible Investments (LAC 71:I.501)

The Department of Treasury, Office of the Treasurer has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to adopt LAC 71:I Section 501, Public Funds, Permissible Investments. The Emergency Rule is effective June 28, 2011 and will remain in effect for a period of 120 days. The extension is necessary until adoption of final rule and to correct a manifest error.

Title 71

TREASURY—PUBLIC FUNDS

Part 1. Public Funds

Chapter 5. Permissible Investments

§501. U.S. Government Agency Obligations

A. Pursuant to R.S. 49:327(B)(1)(a) and (b), obligations of or obligations guaranteed by, any of the following agencies, instrumentalities, or government-sponsored entities of the United States Government, or their successor agencies, universally referred to in the investment

community as "agency securities," shall be eligible for investment by the treasurer:

1. Government National Mortgage Association (GinnieMae, GNMA);
2. Federal Agriculture Mortgage Corporation (FAMC);
3. Farm Credit Financial Assistance Corporation (FCFAC);
4. Farm Credit System Banks (FFCB);
5. Farmers Home Administration (FmHA);
6. Federal Home Loan Banks (FHLB);
7. Federal Home Loan Mortgage (FreddieMac, FHLMC);
8. Financing Corporation (FICO);
9. Federal Land Bank Bonds (FLBB);
10. Federal National Mortgage Corporation (FannieMae, FNMA);
11. Resolution Funding Corporation (REFCO);
12. Small Business Administration (SBA);
13. Federal Deposit Insurance Corporation (FDIC);
14. Tennessee Valley Authority (TVA);
15. U.S. Postal Service (USPS);

B. The named agencies may issue such securities as discount notes, notes, debentures, bonds, participation certificates, mortgage-backed securities, collateralized mortgage obligations, adjustable rate mortgages, floating rate notes, and step-up notes of various maturity, call and put features.. These securities issued by a named agency are illustrative only. Since agencies periodically issue a new form of security with similar guarantees, any such guaranteed security issued by a referenced agency shall be eligible for investment by the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327(B)(1)(a) and (b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), repromulgated LR 29:192 (February 2003), amended LR 37:

John Kennedy
State Treasurer

1107#048

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2011-2012 Recreational Gag Grouper

The recreational season for the harvest of gag grouper in Louisiana state waters has previously been closed at 12:01 a.m. on January 10, 2011. The secretary has been informed that the recreational season for gag grouper in the Federal waters of the Gulf of Mexico off the coast of Louisiana will re-open at 12:01 a.m. on Friday, September 16, 2011 at which time the season will remain open until 11:59 p.m. on Tuesday, November 15, 2011, at which time the season will close and remain closed until further notice.

In accordance with the emergency provisions of R.S. 49:953, which allows the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given

to the Secretary of the Department by the Commission in its resolution of January 6, 2011 to modify opening and closing dates of 2011-2012 recreational gag grouper seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the season dates have been modified in adjacent Federal waters, and that NOAA Fisheries upon recommendation from the Gulf of Mexico Fishery Management Council requests that the season be modified in Louisiana state waters, the Secretary hereby declares:

The recreational fishery for gag grouper in Louisiana waters will re-open at 12:01 a.m. on September 16, 2011, and remain open until 11:59 p.m. on November 15, 2011, at which time the season will remain closed until further notice. No person shall recreationally harvest or possess gag grouper whether within or without Louisiana waters outside of the open dates and times set out herein.

The secretary has been notified by NOAA Fisheries, upon recommendation from the Gulf of Mexico Fishery Management Council that the recreational gag grouper season in Federal waters of the Gulf of Mexico will re-open on Friday, September 16, 2011 and will remain open through Tuesday, November 15, 2011. Having compatible season regulations in State waters is necessary to provide effective rules and efficient enforcement of the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham
Secretary

1106#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Additional Spring Inshore Shrimp Season Closures

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 5, 2011 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2011 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the Secretary hereby declares:

The 2011 spring inshore shrimp season will close on July 11, 2011 at 6:00 a.m. in state inside waters within Shrimp Management Zone 2 from the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, and from the eastern shore of South Pass of the Mississippi River westward to the western shore of Bayou Lafourche except for those inside waters south of 29

degrees 26 minutes 00 seconds north latitude from 89 degrees 50 minutes 30 seconds west longitude westward to the western shore of the Barataria Waterway. Shrimp Management Zones 1 and 3, in addition to those waters in Shrimp Management Zone 2 in which the spring inshore shrimp season has been extended, as well as all state outside waters seaward of the Inside/Outside Shrimp Line will remain open to shrimping until further notice except for those areas closed to recreational and commercial fishing due to the Deepwater Horizon drilling rig accident.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within the areas to be closed has rapidly increased and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

1107#056

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Revisions to Deer Hunting Seasons

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act and R.S. 56:115-116 which allows the Wildlife and Fisheries Commission to use emergency procedures to set deer hunting seasons, and due to the recent historic flooding of the Mississippi River and subsequent opening of the Morganza spillway on May 14, 2011, the Wildlife and Fisheries Commission does hereby alter the previously established deer hunting seasons for 2011-12 hunting season, for the specific areas described below:

Sherburne WMA:

Deer:

Archery, bucks only: October 1-15

Archery, either-sex: October 16 - February 15

Youth and Physically Challenged, either-sex: October 29-30; All Other Seasons Closed. Self-clearing permits.

Youth Lottery, either-sex: October 29-30 and December 23, 26, 28 and 30.

Firearms, either-sex: November 25-26, mandatory deer check.

Firearms, bucks only: December 24 - January 1

Primitive Firearms, either-sex: January 7-8

All lands within the Morganza floodway, from the Morganza control structure, south to I-10, and from I-10 south, within the protection levees of the Atchafalaya basin.

Archery Bucks Only: October 1-15,

Archery Either-sex: October 16 - February 15

Primitive Firearms Bucks Only: January 23-29

Still Hunt Either-sex: November 19-27

Still Hunt Bucks Only: November 28 - December 9

With or Without Dogs Either-Sex: December 10-11

With or Without Dogs Bucks Only: December 10 - January 15

These actions are being taken as a result of significant deer mortality estimated within the flood zone area identified above. The aforementioned 2011-2012 deer hunting seasons will become effective August 1, 2011.

Stephen W. Sagraera
Chairman

1107#057

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Partial Zone 2 Spring Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 5, 2011 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2011 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the Secretary hereby declares:

The 2011 spring inshore shrimp season will close on June 25, 2011 at 6:00 p.m. in that portion of inside waters within Shrimp Management Zone 2 from the western shore of Bayou Lafourche westward to the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line except for the following waters north of the Inside/Outside shrimp line as described in R.S. 56:495(A): Those inside waters south of 29 degrees 13 minutes 00 seconds north latitude from 90 degrees 18 minutes 00 seconds west longitude westward to 90 degrees 34 minutes 00 seconds west longitude, and those inside waters south of 29 degrees 06 minutes 00 seconds north latitude from 90 degrees 34 minutes 00 seconds west longitude westward to 90 degrees 46 minutes 00 seconds west longitude. Shrimp Management Zones 1 and 3 as well as all state outside waters seaward of the Inside/Outside Shrimp Line will remain open until further notice except for those areas closed to recreational and commercial fishing due to the Deepwater Horizon drilling rig accident.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within Zone 2 have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

1106#025

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 103—Louisiana Health Education Content Standards (LAC 28:LIX.Chapters 1, 3, and 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 103—Louisiana Health Education Content Standards*. The revisions incorporate current national health education standards, modified benchmarks, and new grade-level expectations. New laws and policies are also included in the bulletin revisions. Upon final adoption, this document replaces in its entirety any previously advertised version.

Title 28 EDUCATION

Part LIX. Bulletin 103—Louisiana Health Education Content Standards

Chapter 1. General Provisions

§101. Introduction

A. In this era of educational reform, health education standards are critical to improving quality of life through student learning. They provide direction for moving toward excellence in teaching health information. Quality health education provides guidance for maintaining a healthy lifestyle for all individuals, including those with disabilities. Through competency of key concepts and skills outlined in this document, students will become health-literate, effective problem-solvers, self-directed learners, effective communicators, and responsible, productive citizens.

B. Health literacy is the capacity of an individual to obtain, interpret, and comprehend basic health information and services and the competence to use such information and services in ways that are health enhancing for the individual, family, and community. Four characteristics are identified as being essential to health literacy. The health-literate person is:

1. a critical thinker and problem solver;
2. a responsible, productive person;
3. a self-directed learner; and
4. an effective communicator.

C. A fundamental mission of schools is the promotion of healthy behaviors by providing individuals with knowledge, abilities, and skills to become healthy and productive citizens. Optimal health leads to effective living, learning and enjoyment of life for all individuals. It is also an asset for students facing intense competition, peer pressure, stress, and a full program of intellectual and physical activities. The primary purpose of health education is the translation and integration of health concepts into personal behavior.

D. The Louisiana Health Education Content Standards offer a coherent vision of what it means to be health-literate. These standards identify the knowledge and skills essential to the development of health literacy. In addition, the

standards provide a guide for enhancing and continuing education of teachers and as a blueprint for local curriculum developers. The standards are broad enough to allow flexibility according to strengths or challenges identified in each community and to make them culturally relevant.

E. Louisiana Health Education Content Standards establish a framework for interdisciplinary connections across learning areas and the inclusion of school health curriculum. This type of framework will facilitate a new and more informed consensus among Louisiana educators and the public to further refine the answers to the question: "What should all Louisiana students know and be able to do at the end of health education instruction?"

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1939 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2094 (July 2011).

§103. Goal

A. The goal of the standards project is to:

1. develop a framework of essential knowledge and skills for Louisiana students that reflects contemporary knowledge about teaching and learning;
2. prepare students to apply their knowledge in a variety of situations; and
3. prepare students for life-long learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1940 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2094 (July 2011).

§105. Content Standards Foundation Skills [Formerly §107]

A. The Louisiana Content Standards Task Force has developed the following foundation skills that should apply to all disciplines.

1. Communication—a process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. Problem Solving—the identification of an obstacle or challenge and the application of knowledge and thinking processes which include reasoning, decision-making, and

inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. Resource Access and Utilization—the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential in all learning processes. These resource tools include:

- a. pen;
- b. pencil;
- c. paper;
- d. audio/video material;
- e. word processors;
- f. computers;
- g. interactive devices;
- h. telecommunication; and
- i. other emerging technologies.

4. Linking and Generating Knowledge—the effective use of cognitive processes generates and links knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continued improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. Citizenship—the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's civil, constitutional, and statutory rights; and
- c. mentoring others to be productive citizens and lifelong learners.

NOTE: These foundation skills are listed numerically in parentheses at the end of each benchmark.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1941 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2094 (July 2011).

§107. Need and Context for Reform [Formerly §109]

A. Education reform is driven by concerns of government and business leaders for the future of the country in a technological world economy. Parents and community members concur that calling for reform will enable students to become responsible members of their families and communities. It is agreed that essential preparation for success in work and family and community settings includes acquisition of the foundation skills. Future workers and members of society need the ability to apply knowledge from multiple sources and to work cooperatively.

B. Twenty-First Century Skills

1. The elements described in this Section as “twenty-first century student outcomes” are the skills, knowledge and expertise students should master to succeed in work and life in the twenty-first century (*Framework for 21st Century Learning*).

2. Health literacy:

- a. obtaining, interpreting, and understanding basic health information and services and using such information and services in ways that are health enhancing;
- b. understanding preventive physical and mental health measures, including proper diet, exercise, risk avoidance and stress reduction;
- c. using available information to make appropriate health-related decisions;
- d. establishing and monitoring personal and family health goals;
- e. understanding national and international public health and safety issues.

3. Learning and Innovation Skills. Learning and innovation skills are increasingly being recognized as the skills that separate students who are prepared for increasingly complex life and work environments in the twenty-first century, and those who are not. A focus on creativity, critical thinking, communication and collaboration is essential to prepare students for the future:

- a. creativity and innovation;
- b. critical thinking and problem solving;
- c. communication and collaboration;
- d. information, media, and technology skills.

i. People in the twenty-first century live in a technology and media-suffused environment, marked by various characteristics, including:

- (a) access to an abundance of information;
- (b) rapid changes in technology tools; and
- (c) the ability to collaborate and make individual contributions on an unprecedented scale.

ii. To be effective in the twenty-first century, citizens and workers must be able to exhibit a range of functional and critical thinking skills related to information, media and technology.

4. Life and Career Skills. Today's life and work environments require far more than thinking skills and content knowledge. The ability to navigate the complex life and work environments in the globally competitive information age requires students to pay rigorous attention to developing adequate life and career skills:

- a. flexibility and adaptability;
- b. initiative and self-direction;
- c. social and cross-cultural skills;
- d. whenever possible, instructors are encouraged to

integrate twenty-first century skills into classroom instruction. In reviewing these skills, you will see that many of them are aligned with health education standards and the foundations skills.

C. Health—A Key Component

1. Educational excellence in traditional content areas may not be sufficient to secure the future competitiveness of the country. Alcohol, tobacco, and other drug use as well as low levels of physical activity, poor nutrition, injuries, teenage pregnancy, sexually transmitted diseases, and stress contribute to a lower health status and result in loss of work and school time.

2. Health education in schools is essential to enable students to acquire the knowledge and skills needed to practice good health. Implementation of planned, sequential health curricula has been linked to changes in students' attitudes and behaviors. Poor health habits often carry over

into adulthood. Students who follow good health habits are more alert, perform at a higher level, are absent less, and have greater self-esteem. These traits carry over into adulthood. Healthy adults will be prepared to contribute to the nation's economic competitiveness by working more effectively and decreasing employee absenteeism. Due to an increase in disease prevention, fewer medical services should be required, thereby reducing health insurance costs.

3. Decreased business costs will increase productivity as a result of a workforce of healthy individuals. In addition, health knowledge and skills, when applied, ensure a better quality of life.

D. The Recognized Need

1. The major health problems facing the United States today are largely preventable, and attributable to a few types of behaviors. Such behaviors include those that lead to injury through violence or accidents, drug and alcohol abuse, poor nutrition, suicide, pregnancy and insufficient physical activity (*Surgeon General's Report*, 1996). Additionally, recent studies suggest that adolescent depression may approach 8 percent of the population, and approximately 15-20 percent of adolescents will exhibit depression during their teen years (Schlozman, 2001). It is important that we address these behaviors early in a child's education through school programs.

2. More children are developing habits that lead to unhealthy lifestyles. Findings from the *Surgeon General's Report* and the Centers for Disease Control and Prevention (CDC) indicate that as students age, they participate in fewer forms of physical activity. This finding, coupled with additional risk factors (e.g., tobacco and drug use, poor eating habits, and an increase in sedentary activities) leads to an increased incidence of cardiovascular disease, cancer, stroke, obesity, and Type II diabetes. According to the 2008 Behavior Risk Factor Surveillance System (BRFSS), only 27.8 percent of Louisiana residents categorize themselves as being in good health.

3. The cost of cardiovascular diseases and stroke in the United States in 2009 was estimated at \$475.3 billion (Circulation, 2009). This figure includes both direct cost health expenditures (the cost of physicians and other professionals, hospitals and nursing home services, medications, home health, and other medical durables) and indirect cost health expenditures (loss of productivity resulting from morbidity and mortality). In 2005, over 30% of the deaths in Louisiana were due to cardiovascular diseases. Many of these lives could be saved if bystanders promptly phone 911, begin cardiopulmonary resuscitation (CPR), and if trained rescuers provide defibrillation within minutes.

4. Louisiana has alarming rates of obesity. In a recent report from the CDC, Louisiana had the eighth highest rate of adult obesity and the seventh highest rate of overweight and obese youths (ages 10-17). In a similar report, New Orleans was found to be the most obese city in America. In 2008, according to the BRFSS, 34.7 percent of adults in Louisiana reported being overweight and 28.9 percent reported being obese. There is evidence to conclude that obesity-related diseases account for approximately 80 percent of the national health care budget, or about \$100

billion. Health-risk behaviors claim a high proportion of Louisiana's Medicaid dollars (48 percent).

5. In addition, suicide has become a significant cause of death in the United States. Based on facts published by CDC and the Louisiana Adolescent Suicide Prevention Task Force:

a. for people from 15-25 years old, suicide is the third leading cause of death;

b. more teenagers and young adults die from suicide than from cancer, AIDS, heart disease, birth defects, strokes, pneumonia, influenza, and chronic lung disease combined; and

c. in 1996, medical treatment for youth suicide in Louisiana for ages 0 to 20 years was \$364 million.

6. According to the 2008, Louisiana Youth Risk Behavior Survey (YRBS), 14.5 percent of high school students have considered suicide, 6.9 percent have attempted suicide and another 2.0 percent have attempted suicide that resulted in an injury requiring treatment by a doctor or nurse. The Louisiana 2008 YRBS results show that in a class of 30 students, 2.8 students have attempted suicide in the past twelve months.

7. Suicide prevention, along with other health education issues can be easily integrated into the health education curriculum that is based on health education content standards. Today, the goals of health education focus more on the development of the whole person. Greater emphasis is placed on health and wellness of the human being. Promoting personal well-being includes attention to mental health as well as physical health.

8. Additionally, the 2008 Louisiana YRBS reports that 17.6 percent of Louisiana high school students surveyed smoked cigarettes and 45.1 percent drank alcohol during the past 30 days prior to survey administration.

E. Looking Forward

1. Traditionally, the health education curriculum has been organized around health content topic areas. Today, greater emphasis is placed on health and wellness. The Health Education Content Standards are an ideal means for providing guidelines for curriculum addressing high-risk behaviors and healthy lifestyles.

2. The U.S. Centers for Disease Control and Prevention (CDC) has identified six risk behaviors that are incorporated in the organization of the new health content standards. The six risk behaviors include:

- a. tobacco use;
- b. sedentary lifestyle/poor physical activity patterns;
- c. alcohol and drug abuse;
- d. unhealthy dietary behaviors;
- e. behaviors that result in accidents and injuries;

and

f. sexual behaviors that result in sexually transmitted diseases and unintended pregnancy.

3. In collaboration with health and education partners (Association for the Advancement of Health Education of the American Alliance for Health, Physical Education, Recreation, and Dance, American School Health Association, American Public Health Association, and American Cancer Society), the CDC assists in providing states with information and skills needed to avoid such risk

behaviors. The eight components of a coordinated school health program systemically address these risk behaviors and the development of healthy lifestyles. They include:

- a. health education;
- b. physical education;
- c. health services;
- d. nutrition services;
- e. counseling, psychological, and social services;
- f. healthy school environment;
- g. health promotion for staff; and
- h. family and community involvement.

4. Coordinated school health programs offer the opportunity to provide the services and knowledge necessary to enable children to be productive learners and to develop skills to make health decisions for the rest of their lives.

F. Purpose

1. This framework document organizes and integrates the content and process of health education. It serves as a bridge between classroom practice and national standards established by the health education community. The standards define what a health-educated person should know, understand, and be able to do. Although the standards provide a framework for curriculum development, local education agencies may choose topics to meet the needs of children and youth in their communities.

2. The Louisiana Health Education Content Standards framework is designed to guide the process of reforming health education in this state. It provides the following:

- a. a framework for developing a comprehensive K-12 health education curriculum;
- b. a catalyst for insightful discussion of the fundamental nature of health education;
- c. a guide for evaluating progress and achieving health education benchmarks among the students of Louisiana;
- d. a vision of health education for the state; and
- e. a tool to enable local districts, schools, and educators to grasp the nature, purpose, and role of health education.

G. Intended Audiences. This document is intended for use mainly by kindergarten through grade 12 teachers of health education and curriculum developers.

H. Intended Use. Intended uses for this framework include the following:

1. a guide for planning curriculum, instruction and assessment;
2. a means for parents to gain information regarding the effectiveness of their children's health education program;
3. a vision for administrators and school board members for health education and a basis for planning resource allocations, material purchases, local curriculum development and teachers' professional development;
4. a basis for policymakers and state education staffs to develop laws, policies and funding priorities to support local reforms;
5. a basis for staff developers to create professional development materials and strategies designed to increase teachers' knowledge of health education content, teaching methodologies and assessment strategies;
6. a guide for assessment specialists and test developers in the development of an assessment framework

to assess students' health education understanding and ability more effectively;

7. a guide for colleges and university faculties for content and design of teacher preparation programs; and

8. a basis for business and industry leaders and government agencies to develop effective partnerships and local reforms for funding instructional materials and professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1941 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2095 (July 2011).

Chapter 3. Teaching and Learning of Health Education

§301. Centers for Disease Control and Prevention Recommendation

A. The Centers for Disease Control and Prevention (CDC) recommends teaching health education as a self-contained class with infused classes serving as an adjunct to, instead of substituting for, health education classes. Infused classes are defined as courses that include some health education content, but primarily focus on another subject. The CDC recommends teaching health as an academic class where the lessons are taught sequentially, are behaviorally focused, and promote positive messages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1943 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2097 (July 2011).

§303. Curriculum Integration

A. Adoption of standards across curricular areas increases the potential to make connections which come naturally among subjects from early childhood through high school. Curriculum integration can help students make connections between health content and generic skills (e.g., critical thinking, decision-making, etc.). In addition to teaching health education in a self-contained environment, integration of other subjects will support, rather than replace, student learning of health education concepts. However, for integration to be effective, staff development must occur. Teachers need time to meet collaboratively, to identify connections across subject areas, and to plan curricular integration within and across grade levels.

B. In teaching health education, other subject areas can be easily integrated. Health education curricula can be easily integrated with reading comprehension, language arts, science, mathematics, social studies, and physical education. For example, at the elementary level, the health education curriculum is specifically intended to teach the interpersonal and conflict management skills students need to "get along." These skills are grounded in listening and speaking effectively. Health education also affords students many opportunities to write about topics of interest to them such as their personal feelings, growth, and development. In addition, students can apply the mathematical and science processes of measuring, charting, graphing, estimating, predicting, justifying, and classifying in conjunction with health lessons. At the middle and high school levels:

1. language skills are utilized in accessing and evaluating health information;
2. citizenship and communication skills are involved in community advocacy;
3. knowledge of body system functions includes anatomy; and
4. environmental science concepts are reinforced by the understanding of ecological systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1943 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2097 (July 2011).

§305. Technology

A. Technology can enhance learning by improving both the efficiency and effectiveness of instructional time. The National Health Education Standards and Louisiana Health Education Content Standards expect students to demonstrate the ability to access health information. School districts are expected to provide for the utilization of information technologies in the delivery of health instruction.

B. Students will be required to make numerous health care decisions in their lifetimes and must do this in an environment in which they are bombarded with health information that may or may not be accurate. Comprehensive health education prepares students to use and evaluate information for accuracy from a variety of sources. This requires that students use technology to gather current, accurate information prior to making decisions and taking action. The use of technology to access information is an essential lifelong health literacy skill.

C. The careful, guided use of technology to enhance the effectiveness of health education can allow all students to access the most current information. Due to the abundance of information available, educators, administrators, and parents are encouraged to evaluate the quality of available information prior to presenting it to students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1943 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2098 (July 2011).

§307. Assessment

A. Standards involve statements about what students should know and be able to do. Included in this process is the construct of assessment. Health education assessment reflects the process of accumulating evidence about students' levels of competence in the area of health. Inferences can then be made based upon the evidence ascertained. The primary goal of assessment facilitates learning, rather than the documentation of learning. It is critical for health educators to assess individual performance. Such assessment should:

1. reflect health education content that is most important for students to learn, based upon the Louisiana Health Education Content Standards and Benchmarks;

2. enhance learning through a connection with instruction;
3. provide valid and reliable evidence of student performance; and
4. produce valid inferences about student learning specific to health education.

B. Formative assessment by instructors has proven to be the most effective form of assessment for improving student performance. While many educators are highly focused on state tests, it is important to consider that over the course of a year, teachers can build in many opportunities to informally assess how students are learning and then use this information to make beneficial changes in instruction to meet student needs. This diagnostic use of assessment to provide feedback to teachers and students over the course of instruction is called formative assessment. It stands in contrast to summative assessment, which generally takes place after a period of instruction and requires making a judgment about the learning that has occurred (e.g., by grading or scoring a test or paper).

C. At a time in which greater demands are likely to be placed on assessment than any other time in United States education history, there continues to be escalating discomfort with traditional forms of assessment, including multiple-choice, true-false, matching machine-scored tests. With this in mind, assessment practices must support instruction of health education and student learning.

D. Alternative assessment can take many forms, such as portfolios, discussions and debates, event tasks, case studies, student logs, and role-playing. Such assessments can include:

1. tasks that directly examine the behavior the teacher wishes to measure;
2. criterion-referenced scoring;
3. assessment of higher levels of learning;
4. student participation in development of the assessment and ownership of the final product; and
5. assessment criteria that are given to students in advance.

E. *Rubrics* are the scoring criteria by which student performance is judged. They are used most often with alternative assessments such as portfolios, event tasks, and student performance but can actually be used for other types of assessment as well. They should be written by the health educator before instruction begins and shared with students as the unit or project is explained. Because students have the criteria early, they have a standard by which they can judge their own performance, thereby providing feedback during instruction.

F. The Louisiana State Health Education Standards focus on both alternative assessment options and traditional ones in order to forge a more complete picture of student learning. An assessment strategy that is balanced will best assess the objectives of the K-12 health education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1944 (September 2002),

amended by the Board of Elementary and Secondary Education, LR 37:2098 (July 2011).

§309. Requirements

A. The Louisiana Department of Education in *Bulletin 741, Louisiana Handbook for School Administrators*, sets the hours required in health and physical education.

B. For grades 1-6, 150 minutes of instruction per week are required in health, music, arts, and crafts (LAC 28: CXV.2313.F).

C. In grades 7 and 8, 250 minutes of instruction per week are required in health, music, arts and crafts (LAC 28: CXV.2313.F).

D. Grades 9-12: In order to graduate from high school, public school students must earn a 1/2 unit in health education (LAC 28: CXV.2319.C). A minimum of 3863 minutes of health instruction shall be taught (LAC 28: CXV.907.C). Cardiopulmonary resuscitation (CPR) (LAC 28: CXV.2347.B) and instruction in adoption awareness must be taught during health education (LAC 28: CXV.2347.C). Nonpublic schools require two units of combined health and physical education for graduation (LAC 28: CXV.2109.C).

E. The maximum class size for Health and Physical Education in grades K-8 and in Physical Education I and II shall be 40. For Health Education at the high school level, which is taught in a classroom setting, the maximum number of students is 33 (LAC 28: CXV.913.C).

F. Each local education agency must include in the curriculum a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances (LAC 28: CXV.2305.F). Each school district determines the content area in which to include substance abuse instruction. It is often included in health education or life science.

1. The substance abuse programs and curricula must also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

2. Elementary schools shall provide a minimum of 16 contact hours of substance abuse prevention education each school year. Instruction shall be provided within a comprehensive school health program and in accordance with the state substance abuse curriculum (Bulletin 1864) or through substance abuse programs approved by the Board of Elementary and Secondary Education (BESE).

3. Secondary schools must provide a minimum of eight contact hours of substance abuse prevention education each school year for grades 10-12 and 16 hours for grade 9. Instruction shall be provided within a comprehensive school health program and in accordance with the state substance abuse curriculum (Bulletin 1864) or through substance abuse programs approved by the BESE.

G. R.S. 17:275 states that all public middle and senior high schools shall provide instruction to all female students in the proper procedure for breast self-examination and the need for an annual Pap test for cervical cancer. Such instruction may be provided in the context of courses in the study of health, physical education, or such other appropriate curriculum or instruction period as may be determined by the respective local school boards. This instruction may be

taught by a school nurse, physician, or competent medical instructor. The local school boards shall adopt rules and regulations necessary for the implementation of this program of instruction. No student shall be required to take such instruction if his parent or tutor submits a written statement indicating that such instruction conflicts with the religious beliefs of the student. Added by Acts 1980, No. 789, §1.

H. In 2001, through Senate Bill No. 792, guidelines were established for the development of youth suicide prevention programs as required in R.S. 17:282.3. Some features of this bill include the involvement of the Department of Education in developing standards for these programs, classroom instruction integrated into the curriculum, and access to prevention services. Some of the instructional topics suggested for prevention in S.B. No. 792 are:

1. encourage sound decision-making and promote ethical development;
2. increase student awareness of the relationship between drug and alcohol use and suicide;
3. teach students to recognize signs of suicidal tendencies; and
4. inform students of the available community suicide prevention services.

I. In 2009, House Bill No. 319 established that each city, parish, or other local public school board shall provide each school year, to high school students enrolled in Health Education, at least thirty minutes of age and grade appropriate classroom instruction relative to the state's safe haven relinquishment law, Children's Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than 30 days old to the state in safety and anonymity and without fear of prosecution. Such information shall include, but not be limited to providing students with the following information:

1. an explanation the relinquishment of an infant means to give over possession or control of the infant to other specified persons as provided by the law with the settled intent to forego all parental responsibilities;
2. the process to be followed by a parent making relinquishment;
3. the general locations where the infant may be left in the care of certain others;
4. the toll-free number established by the Louisiana Department of Children and Family Services to direct individuals to designated emergency care facilities;
5. the available options if a parent is unable to travel to a designated emergency care facility; and
6. the process by which the relinquishing parent may reclaim parental rights to the infant and the timelines established for taking this action.

J. In 2010, House Bill 46, Act 321, established that each school year the governing authority of each public school shall provide to students in grades seven through twelve, enrolled in health education, age and grade appropriate classroom instruction relative to dating violence. Such instruction shall include but need not be limited to providing students with the following information:

1. the definition of "dating violence", which is a pattern of behavior where one person threatens to use, or actually uses, physical, sexual, verbal, or emotional abuse to control his or her dating partner;

2. dating violence warning signs;
3. characteristics of healthy relationships.

K. The above measures easily fit within the health education curriculum that is based on these health education content standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1944 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2099 (July 2011).

Chapter 5. Health Education Content Standards, Benchmarks and Grade-Level Expectations (GLEs)

§501. Coding Key

A. Standards are broad goals for student achievement in a content area. Each standard is followed by a set of benchmarks. The benchmarks state what a student should know and be able to do in order to reach the standard. The GLEs are more specific statements regarding what students should know and be able to do at the end of each grade level. The key in below will explain the coding used for the GLEs contained in this document.

1. The first number indicates the standards number.
2. The capitol letter represents the cluster level.
3. The third symbol is a second number, which represents the benchmark number.
4. The number following the decimal point is the GLE number for the benchmark
 - a. The letters for each grade cluster level are as follows:

| | |
|--|--|
| E | represents the elementary cluster level, grades K-5 |
| M | represents the middle school cluster level, grades 6-8 |
| H | represents the high school cluster level, grades 9-12 |
| Example: Kindergarten, 2-E-4.1 would represent the first GLE for standard two on the Kindergarten level. | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1945 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2100 (July 2011).

§503. Kindergarten Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-E-1—identify that healthy behaviors affect personal health.
 - a. 1-E-1.1—identify major body parts (e.g., stomach, ears, eyes).
 - b. 1-E-1.2—list personal health behaviors (e.g., hand washing, teeth brushing).
 - c. 1-E-1.3—name a variety of healthy foods.
 - d. 1-E-1.4—explain why a variety of foods are necessary for good health.
 - e. 1-E-1.5—describe why a healthy breakfast is important.
 - f. 1-E-1.6—identify healthy snacks and beverages.
 - g. 1-E-1.7—list ways to be physically active.

- h. 1-E-1.8—explain the importance of sleep in rest.
2. Benchmark 1-E-2—recognize that there are multiple dimensions of health (social, emotional, and physical).
 - a. 1-E-2.1—describe one’s own physical characteristics.
 - b. 1-E-2.2—review similarities and differences between self and others.
 - c. 1-E-2.3—state characteristics that make each individual unique.
 - d. 1-E-2.4—identify a variety of emotions (e.g., angry vs. sad, happy vs. excited).
 - e. 1-E-2.5—identify appropriate ways to express emotion.
3. Benchmark 1-E-3—identify the prevention and treatment of communicable and non-communicable diseases.
 - a. 1-E-3.1—list common illnesses and diseases (e.g., colds, flu, lice and asthma).
 - b. 1-E-3.2—practice ways to prevent diseases and other health problems.
 - c. 1-E-3.3—describe germs and why they can be harmful.
 - d. 1-E-3.4—review effective dental and personal hygiene practices.
 - e. 1-E-3.5—explain why medicines are used for illnesses and diseases such as asthma.
 - f. 1-E-3.6—recognize that medicines should only be taken with adult supervision.
4. Benchmark 1-E-4—identify risk behaviors and ways to avoid and reduce them.
 - a. 1-E-4.1—describe how to get on and off a school bus safely.
 - b. 1-E-4.2—explain how rules at home and school can help keep one safe.
 - c. 1-E-4.3—identify ways injuries can be prevented (e.g., seatbelt, playground, street, and water).
 - d. 1-E-4.4—distinguish between appropriate and inappropriate touch.
- B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.
 1. Benchmark 2-E-1—identify how family and culture influence personal health practices and behaviors.
 - a. 2-E-1.1—state roles and responsibilities of family members.
 - b. 2-E-1.2—list ways family can help promote well-being.
 2. Benchmark 2-E-2—describe how peers influence personal health behaviors.
 - a. 2-E-2.1—review that everyone has unique talents and interests they can share.
 - b. 2-E-2.2—identify how friends can affect health behaviors.
 - c. 2-E-2.3—state how schools promote good health.
 - d. 2-E-2.4—discuss the importance of respect and getting along with others.
 3. Benchmark 2-E-3—explain how media influence thoughts, feelings and health behaviors.
 - a. 2-E-3.1—list examples of media (e.g., television, radio, internet, signs/billboards, advertisements).
 - b. 2-E-3.2—recognize that not all products advertised or sold are healthy choices.

C. Standard 3. Students will demonstrate the ability to access valid information, products and services to enhance health.

1. Benchmark 3-E-1—identify sources of valid health information.

a. 3-E-1.1—identify characteristics of a trusted adult at home, school or in the community.

b. 3-E-1.2—list trusted adults who can help in an emergency situation.

2. Benchmark 3-E-2—demonstrate the ability to locate resources for health-promoting products and services.

a. 3-E-2.1—identify people who are sources of valid health information and health-promoting products and services (e.g., trusted adults, doctor, police, teacher).

b. 3-E-2.2—discuss how to get help from trusted adults in a health emergency (e.g., dial 911, firefighters, police, teachers, family).

3. Benchmark 3-E-3—explain how media influence the selection of health information, products and services.

a. 3-E-3.1—recognize how television programs, websites and magazines/books influence one’s health choices.

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-E-1—use effective communication skills.

a. 4-E-1.1—speak clearly and directly to express needs and emotions.

b. 4-E-1.2—review verbal and non-verbal forms of communication.

c. 4-E-1.3—use active listening skills in everyday situations.

d. 4-E-1.4—recognize that others have needs and feelings.

2. Benchmark 4-E-2—demonstrate healthy ways to communicate needs, wants and feelings through verbal and non-verbal communication.

a. 4-E-2.1—use effective communication (I messages) to communicate emotions and needs.

b. 4-E-2.2—use words to identify emotions and communicate needs.

c. 4-E-2.3—describe and practice situations when it is appropriate to use “please,” “thank you,” “excuse me,” and “I’m sorry.”

d. 4-E-2.4—tell when to seek help from a trusted adult (e.g., fire, if threatened, crossing the street).

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-E-1—discuss the steps of effective decision-making.

a. 5-E-1.1—discuss how to make healthy decisions (choices).

b. 5-E-1.2—demonstrate making simple decisions (choices).

2. Benchmark 5-E-2—identify situations when a health-related decision is needed.

a. 5-E-2.1—recognize choices or decisions that could affect one’s health.

b. 5-E-2.2—list a range of choices that could affect one’s health (e.g., healthy foods; grow strong, taking

medicines; get well, going to bed on time; feel good in the morning).

3. Benchmark 5-E-3—apply a decision-making process to address personal health issues and problems.

a. 5-E-3.1—distinguish between decisions that can be made on one’s own and decisions that require the help of a trusted adult.

4. Benchmark 5-E-4—demonstrate refusal skills to enhance health.

a. 5-E-4.1—recognize that other people can influence choices.

b. 5-E-4.2—review that it is all right to say no to choices that are unsafe or unhealthy.

F. Standard 6. Students will demonstrate the ability to use goal setting skills to enhance health.

1. Benchmark 6-E-1—use goal setting to enhance health.

a. 6-E-1.1—describe what a goal is.

b. 6-E-1.2—list healthy goals (e.g., to eat more fruit and veggies, to exercise daily, to brush teeth, to wash hands).

c. 6-E-1.3—identify ways that parents and trusted adults can help meet a goal.

2. Benchmark 6-E-2—establish personal health goals and track progress towards achievement.

a. 6-E-2.1—create and work toward a simple health enhancing goal (choose healthy snacks daily, to exercise daily, to play safely and remain injury free on playground).

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-E-1—demonstrate healthy practices and behaviors to maintain or improve personal health.

a. 7-E-1.1—identify healthy practices in one’s daily routine (e.g., nutrition, fitness, safety, conflict resolution).

b. 7-E-1.2—illustrate how healthful behavior choices can help maintain health.

2. Benchmark 7-E-2—demonstrate behaviors that avoid or reduce health risks.

a. 7-E-2.1—describe how following rules can help keep one safe.

b. 7-E-2.2—practice using effective communication skills to avoid or reduce health risks.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-E-1—define advocacy.

a. 8-E-1.1—review examples of advocacy.

b. 8-E-1.2—tell others how to be healthy.

2. Benchmark 8-E-2—demonstrate the ability to communicate information that promotes positive health choices.

a. 8-E-2.1—practice making healthy choices.

3. Benchmark 8-E-3—encourage peers and family to make positive health choices.

a. 8-E-3.1—identify ways to encourage others to make positive health choices.

b. 8-E-3.2—describe positive ways to show care, consideration and concern for others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2100 (July 2011).

§505. Grade 1 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-E-1—identify that healthy behaviors affect personal health.

a. 1-E-1.1—describe the relationship between personal health behaviors and individual well-being.

b. 1-E-1.2—explain why sleep and rest are important for growth and good health.

c. 1-E-1.3—identify ways injuries can be prevented.

d. 1-E-1.4—explain the relationship between healthy eating and daily exercise.

e. 1-E-1.5—report how personal decisions impact one’s safety.

f. 1-E-1.6—describe a healthy relationship.

g. 1-E-1.7—discuss personal hygiene.

2. Benchmark 1-E-2: Recognize that there are multiple dimensions of health (social, emotional and physical).

a. 1-E-2.1—recognize the difference between physical and emotional health.

b. 1-E-2.2—demonstrate appropriate ways to express and deal with emotions and feelings.

c. 1-E-2.3—list ways to eat healthy and be physically active every day.

d. 1-E-2.4—identify stress makers and stress helpers.

3. Benchmark 1-E-3—identify the prevention and treatment of communicable and non-communicable diseases.

a. 1-E-3.1—identify ways to keep germs from spreading.

b. 1-E-3.2—recognize when hand-washing is necessary.

c. 1-E-3.3—discuss how behaviors can reduce the spread of some diseases.

d. 1-E-3.4—review the role of health care providers in diagnosing and treating diseases.

e. 1-E-3.5—describe how to keep food safe to eat.

4. Benchmark 1-E-4—identify risk behaviors and ways to avoid and reduce them.

a. 1-E-4.1—state risky behaviors and describe potentially harmful consequences.

b. 1-E-4.2—identify safety rules for home, school and community (e.g., fire, falls, burns, medications/poisons, seat belts, street crossing, sun, bike, weapons).

c. 1-E-4.3—identify strategies for avoiding second-hand smoke.

d. 1-E-4.4—review that everyone has the right to tell others not to touch his or her body.

e. 1-E-4.5—describe the characteristics of a bully and how to avoid conflict.

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.

1. Benchmark 2-E-1—identify how the family influences personal health practices and behaviors.

a. 2-E-1.1—list family habits that relate to one’s health practices.

b. 2-E-1.2—identify how family can influence one’s personal health.

2. Benchmark 2-E-2—describe how culture influences personal health behaviors.

a. 2-E-2.1—define culture and discuss how it impacts the health-impacting choices we make.

b. 2-E-2.2—review cultural influences on food choices and physical activity.

c. 2-E-2.3—discuss the influence of school on health behaviors.

3. Benchmark 2-E-3—explain how media influence thoughts, feelings and health behaviors.

a. 2-E-3.1—explain how advertisements can influence food choices and other behaviors related to health.

C. Standard 3. Students will demonstrate the ability to access valid information, products and services to enhance health.

1. Benchmark 3-E-1—identify sources of valid health information.

a. 3-E-1.1—identify the range of health care workers who can promote healthful practices.

b. 3-E-1.2—locate websites that provide accurate health information.

2. Benchmark 3-E-2—demonstrate the ability to locate resources for health-promoting products and services.

a. 3-E-2.1—list where to find health resources in one’s community.

3. Benchmark 3-E-3—explain how media influence the selection of health information, products and services.

a. 3-E-3.1—explain how television programs, movies, websites or magazines/books affect health related choices.

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-E-1—practice effective communication skills.

a. 4-E-1.1—identify the characteristics of a good communicator.

b. 4-E-1.2—demonstrate ways to respond when in an unwanted, threatening or dangerous situations.

2. Benchmark 4-E-2—demonstrate healthy ways to communicate needs, wants and feelings through verbal and non-verbal communication.

a. 4-E-2.1—demonstrate how to express a range of emotions using words, expressions and body language.

b. 4-E-2.2—identify ways to treat others kindly.

c. 4-E-2.3—use “I” messages in communicating to avoid a conflict.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-E-1—discuss the steps of effective decision-making.

a. 5-E-1.1—recognize the steps in making a decision.

b. 5-E-1.2 Identify decisions one makes every day.

c. 5-E-1.3—differentiate between healthy and unhealthy decisions.

d. 5-E-1.4—review when help is needed to make healthy decisions.

2. Benchmark 5-E-2—identify situations when a health-related decision is needed.

a. 5-E-2.1—recognize choices or decisions that could affect family health.

b. 5-E-2.2—explain a range of personal or family choices and how they enhance health.

3. Benchmark 5-E-3—apply a decision-making process to address personal health issues and problems.

a. 5-E-3.1—identify health-related decisions made daily.

b. 5-E-3.2—distinguish between healthy and unhealthy choices.

4. Benchmark 5-E-4—demonstrate refusal skills to enhance health.

a. 5-E-4.1—practice refusal skills that help avoid unhealthy or unsafe situations.

F. Standard 6. Students will demonstrate the ability to use goal setting skills to enhance health.

1. Benchmark 6-E-1—demonstrate how to set a goal and why it is important to enhance health.

a. 6-E-1.1—practice writing a goal.

b. 6-E-1.2—describe how setting and reaching a goal can enhance health.

2. Benchmark 6-E-2—establish personal health goals and track progress towards achievement

a. 6-E-2.1—plan and apply a simple health enhancing goal related to physical health.

b. 6-E-2.2—plan and apply a simple health-enhancing goal related to social/emotional health (e.g., to being a good friend, to getting along/resolving conflict peacefully, to helping others daily).

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-E-1—demonstrate healthy practices and behaviors to maintain or improve personal health.

a. 7-E-1.1—practice choosing a variety of healthy snacks.

b. 7-E-1.2—identify physical activities that one can do daily.

c. 7-E-1.3—discuss the importance of following rules at home and school.

d. 7-E-1.4—practice relaxation techniques to reduce stress effects on the body.

2. Benchmark 7-E-2—demonstrate behaviors that avoid or reduce health risks.

a. 7-E-2.1—list ways to reduce or prevent injuries while participating in a variety of activities.

b. 7-E-2.2—describe how personal choices can affect one's health (e.g., eating fatty foods = obesity or diabetes; not brushing teeth = tooth decay; tobacco = lung/heart disease).

c. 7-E-2.3—demonstrate the ability to use self-control when angry.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-E-1—define advocacy.

a. 8-E-1.1—explain what it means to be an advocate.

b. 8-E-1.2—report how one can advocate for healthy behaviors (e.g., asking parents to buy more fruit, asking friends to exercise with them).

2. Benchmark 8-E-2—demonstrate the ability to communicate information that promotes positive health choices.

a. 8-E-2.1—practice using good communication skills to promote the health of others.

3. Benchmark 8-E-3—encourage peers and family to make positive health choices.

a. 8-E-3.1—explain how making healthy choices makes one feel better (e.g., eating healthy gives me energy, exercising makes me sleep better, crossing at the corner helps keep me safe).

b. 8-E-3.2—review how one can encourage family and friends to make healthier choices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2102 (July 2011).

§507. Grade 2 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-E-1—identify that healthy behaviors affect personal health.

a. 1-E-1.1—describe what it means to be healthy.

b. 1-E-1.2—compare healthy and unhealthy behaviors and how they affect one's health (e.g., disease prevention, healthy eating, fitness, safety).

c. 1-E-1.3—identify healthy behaviors one can practice.

d. 1-E-1.4—list ways to prevent harmful effects of the sun.

e. 1-E-1.5—create an individual fitness diary to record physical activity each day (time of day, duration, activity)

f. 1-E-1.6—review MyPyramid and identify food groups.

2. Benchmark 1-E-2—recognize that there are multiple dimensions of health (social, emotional and physical).

a. 1-E-2.1—identify each of the dimensions of health.

b. 1-E-2.2—define the concepts of self-image and self-esteem.

c. 1-E-2.3—analyze characteristics that impact self-image.

d. 1-E-2.4—report the benefits of healthy relationships among family and friends.

e. 1-E-2.5—explain ways to reduce or manage stress (e.g., study early for tests, go to bed on time).

f. 1-E-2.6—identify negative influences on one's environment and how to avoid them.

3. Benchmark 1-E-3—identify the prevention and treatment of communicable and non-communicable diseases.

a. 1-E-3.1—define communicable and non-communicable diseases.

b. 1-E-3.2—list communicable and non-communicable diseases.

c. 1-E-3.3—describe healthy behaviors to prevent the spread of germs (e.g., immunizations, vitamins, sanitary food practices, hand washing).

4. Benchmark 1-E-4—identify risk behaviors and ways to avoid and reduce them.

a. 1-E-4.1—describe how risk behaviors can affect one’s personal health.

b. 1-E-4.2—identify safety hazards at home, school and in the community.

c. 1-E-4.3—apply fire safety rules to various situations.

d. 1-E-4.4—explain the importance of using safety belts and car booster seats.

e. 1-E-4.5—demonstrate basic traffic safety rules for pedestrians and bicyclists (include crossing a street safely, crossing an intersection, parking lot safety).

f. 1-E-4.6—dramatize using good communication skills to defuse a bully or aggressive situation (e.g., listening, observing body language, using assertive communication, I messaging)

g. 1-E-4.7—describe eating behaviors that contribute to maintaining healthy weight.

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.

1. Benchmark 2-E-1—identify how the family influences personal health practices and behaviors.

a. 2-E-1.1—report how family health practices can influence personal health practices.

b. 2-E-1.2—explain how family can influence food choices.

c. 2-E-1.3—describe activities an individual’s family can do to increase physical activity.

2. Benchmark 2-E-2—describe how culture influences personal health behaviors.

a. 2-E-2.1—document how cultural influences impact one’s daily life.

b. 2-E-2.2—identify how culture affects one’s individual choices and behaviors.

c. 2-E-2.3—relate how cultural influences impact one’s health.

3. Benchmark 2-E-3—explain how media influence thoughts, feelings and health behaviors.

a. 2-E-3.1—identify television, print or web ads that may influence health.

b. 2-E-3.2—summarize how media can influence choices related to health (positively or negatively).

C. Standard 3. Students will demonstrate the ability to access valid information, products and services to enhance health.

1. Benchmark 3-E-1—identify sources of valid health information.

a. 3-E-1.1—identify resources for health information in one’s home, community and school.

b. 3-E-1.2—select websites and other media that provide valid health information.

2. Benchmark 3-E-2—demonstrate the ability to locate resources for health-promoting products and services.

a. 3-E-2.1—identify trusted adults who can help one read and follow directions on medicine labels.

b. 3-E-2.2—demonstrate how to dial 911 or other emergency numbers and provide appropriate information (knowing what to say).

3. Benchmark 3-E-3—explain how media influence the selection of health information, products and services.

a. 3-E-3.1—review the variety of health-related information available in the media (television, radio, web).

b. 3-E-3.2—question how media messages influence one’s health behaviors and the choice of products/services.

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-E-1—develop effective communication skills.

a. 4-E-1.1—define the steps to effective communication (e.g., listening, eye contact, body language).

b. 4-E-1.2—practice using effective communication skills with peers.

2. Benchmark 4-E-2—demonstrate healthy ways to communicate needs, wants and feelings through verbal and non-verbal communication.

a. 4-E-2.1—demonstrate verbal and non-verbal ways to communicate clearly.

b. 4-E-2.2—practice expressing feelings in a positive, non-confrontational way.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-E-1—discuss the steps of effective decision-making.

a. 5-E-1.1—review steps in the decision-making process.

b. 5-E-1.2—conclude that every decision has a consequence that may affect one’s health.

2. Benchmark 5-E-2—identify situations when a health-related decision is needed.

a. 5-E-2.1—identify situations that could put one’s health or safety at risk.

b. 5-E-2.2—describe safe places to go in order to avoid danger.

3. Benchmark 5-E-3—apply a decision-making process to address personal health issues and problems.

a. 5-E-3.1—use a decision-making model.

b. 5-E-3.2—analyze the outcome of using a decision-making model.

c. 5-E-3.3—restate how using a decision-making model can improve one’s health and safety.

4. Benchmark 5-E-4—demonstrate refusal skills to enhance health.

a. 5-E-4.1—practice skills to avoid unhealthy behaviors.

b. 5-E-4.2—demonstrate refusal skills to avoid unhealthy or unsafe situations.

F. Standard 6. Students will demonstrate the ability to use goal setting skills to enhance health.

1. Benchmark 6-E-1—explain how to set a goal and why it is important to enhance health.

a. 6-E-1.1—analyze how others have set and reached personal goals (e.g., Olympic athletes set goal, work toward goal, reach Olympics).

b. 6-E-1.2—create a list of personal health goals.

c. 6-E-1.3—describe how the accomplishment of a personal goal enhances one’s health.

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-E-1—demonstrate healthy practices and behaviors to maintain or improve personal health.

a. 7-E-1.1—demonstrate ways to show respect, consideration and caring for classmates.

b. 7-E-1.2—demonstrate pride in personal qualities and accomplishments (e.g., self-esteem).

c. 7-E-1.3—examine how one’s personal choices can positively impact health.

d. 7-E-1.4—develop a plan to eat a variety of nutritious foods each day.

e. 7-E-1.5—demonstrate ways to be physically active.

2. Benchmark 7-E-2—demonstrate behaviors that avoid or reduce health risks.

a. 7-E-2.1—examine personal choices that can affect one’s health.

b. 7-E-2.2—demonstrate strategies to avoid risks (e.g., social/emotional; violence, intentional/unintentional injury).

c. 7-E-2.3—identify behavior choices that can reduce health risks (e.g., physical activity, nutrition, fitness, avoiding tobacco).

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-E-1—define advocacy.

a. 8-E-1.1—dramatize advocating for a healthy behavior.

b. 8-E-1.2—demonstrate ways to support friends and family who are trying to maintain or improve healthy practices.

2. Benchmark 8-E-2—demonstrate the ability to communicate information that promotes positive health choices.

a. 8-E-2.1—illustrate how one can communicate what one has learned about health to others (e.g., family, friends, peers).

3. Benchmark 8-E-3—encourage peers and family to make positive health choices.

a. 8-E-3.1—demonstrate the ability to influence health and safety practices of family members (e.g., smoking cessation).

b. 8-E-3.2—explain the benefits of positive health choices to family and friends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2103 (July 2011).

§509. Grade 3 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-E-1—explain relationships among physical, emotional and social health.

a. 1-E-1.1—define physical, emotional and social health.

b. 1-E-1.2—describe the influence of the components of health on each other.

2. Benchmark 1-E-2—discuss the relationship between healthy behaviors and personal health.

a. 1-E-2.1—identify personal health behaviors (e.g., good nutrition, brushing teeth, washing hands, exercise).

b. 1-E-2.2—explain how personal health behaviors affect individual well being.

c. 1-E-2.3—identify serving sizes and their relationship to healthy eating.

d. 1-E-2.4—describe the connection between food consumption and energy expenditure.

3. Benchmark 1-E-3—describe ways to prevent common childhood injuries and health problems.

a. 1-E-3.1—dist ways to prevent injuries at home, school, and in the community.

b. 1-E-3.2—identify methods of personal hygiene to prevent common health problems (e.g., washing hands, covering mouth when coughing).

4. Benchmark 1-E-4—describe ways in which a safe and healthy school and community environment can promote personal health.

a. 1-E-4.1—identify safe pedestrian behaviors and how they promote health.

b. 1-E-4.2—list school safety rules (e.g., playground, halls, lunch room, etc.) and how they promote health.

c. 1-E-4.3—describe public transportation safety rules (e.g., seatbelts, child car seats, road signs and how they promote health).

5. Benchmark 1-E-5—identify when it is important to seek health care.

a. 1-E-5.1—recognize when and how to seek help from a trusted adult.

b. 1-E-5.2—demonstrate the ability to access important phone numbers to get help in emergencies.

c. 1-E-5.3—illustrate through role play the ability to seek help when sick or hurt.

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.

1. Benchmark 2-E-1—identify the influence of culture on health practices and behaviors.

a. 2-E-1.1—list different cultural traditions in the community.

b. 2-E-1.2—identify cultural influences on nutrition and physical activity.

2. Benchmark 2-E-2—describe how the family influences personal health practices and behaviors.

a. 2-E-2.1—identify healthy and unhealthy practices and behaviors in families (e.g., tobacco use, alcohol use, overeating).

b. 2-E-2.2—discuss the ability to make healthy choices based on personal preferences.

3. Benchmark 2-E-3—identify how peers can influence healthy and unhealthy behaviors.

a. 2-E-3.1—define peer pressure.

b. 2-E-3.2—describe how peers can influence one’s health choices (e.g., food, tobacco, alcohol, drugs).

4. Benchmark 2-E-4—describe how the school and community can support personal health practices and behaviors.

a. 2-E-4.1—identify school and community support staff (e.g., school nurse, counselor, social worker, nutritionist).

b. 2-E-4.2—explain the role of school and community support staff.

c. 2-E-4.3—identify health care facilities in the community and their functions.

5. Benchmark 2-E-5—explain how media influence thoughts, feeling, and health behaviors.

a. 2-E-5.1—list different media types (e.g., TV, newspaper, billboards).

b. 2-E-5.2—discuss how and why media attempt to influence personal thoughts, feelings, and health choices.

c. 2-E-5.3—identify strategies to make positive health choices despite the influence of media.

6. Benchmark 2-E-6—discuss ways that technology can influence personal health.

a. 2-E-6.1—identify different types of technology (e.g., TV, computer, video games).

b. 2-E-6.2—discuss how these technology sources positively and negatively impact personal health.

c. 2-E-6.3—list ways to make positive health choices when using technology.

C. Standard 3. Students will demonstrate the ability to access valid information and products and services to enhance health.

1. Benchmark 3-E-1—identify characteristics of valid health information, products, and services.

a. 3-E-1.1—recognize what makes something valid and invalid as it relates to health.

b. 3-E-1.2—identify health websites.

2. Benchmark 3-E-2—locate resources from home, school, and community that provide health information.

a. 3-E-2.1—examine sources of valid health information from the home such as parents.

b. 3-E-2.2—examine health information that can be obtained from school personnel (e.g., school nurse, teacher).

c. 3-E-2.3—research sources of valid health information from the community (e.g., library, family health care provider).

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-E-1—compare effective verbal and non-verbal communication skills to enhance health.

a. 4-E-1.1—identify verbal and non-verbal communication skills that enhance health.

b. 4-E-1.2—demonstrate how verbal and non-verbal communication skills are used to enhance health.

2. Benchmark 4-E-2—demonstrate refusal skills to avoid or reduce health risks.

a. 4-E-2.1—identify examples of dangerous or risky behaviors that might lead to injuries.

b. 4-E-2.2—create a list of risky health behaviors.

c. 4-E-2.3—identify ways to say “no” to risky health behaviors.

d. 4-E-2.4—apply refusal skills to given situations through activities such as role play.

3. Benchmark 4-E-3—adopt non-violent strategies to manage or resolve conflict.

a. 4-E-3.1—discuss different kinds of conflict.

b. 4-E-3.2—list violent and non-violent responses to conflict.

c. 4-E-3.3—explain benefits of using non-violence to resolve conflicts.

4. Benchmark 4-E-4—demonstrate how to ask for assistance to enhance personal health.

a. 4-E-4.1—list ways to ask for help in uncomfortable situations.

b. 4-E-4.2—identify adults in the school and community who can provide personal health guidance.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-E-1—illustrate the outcomes of a health-related decision.

a. 5-E-1.1—identify health-related situations that require a thoughtful decision.

b. 5-E-1.2—recognize when assistance is needed when making health-related decisions.

c. 5-E-1.3—list options in dealing with health-related issues or problems.

F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.

1. Benchmark 6-E-1—establish personal health goals and track progress towards achievement.

a. 6-E-1.1—create a personal goal to improve a personal health practice (e.g., exercise daily, eat fruits/veggies daily).

b. 6-E-1.2—examine the steps completed in reaching a personal health goal (journal listing of steps over time).

c. 6-E-1.3—report to the class a personal health goal and progress toward achieving that goal.

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-E-1—examine personal health behaviors.

a. 7-E-1.1—list actions or habits that are healthy.

b. 7-E-1.2—list actions or habits that are harmful or unhealthy.

c. 7-E-1.3—demonstrate ways to avoid engaging in risky behaviors associated with childhood injuries and health problems.

2. Benchmark 7-E-2—demonstrate a variety of healthy practices and behaviors to maintain or improve personal health.

a. 7-E-2.1—describe how a healthy behavior can be maintained.

3. Benchmark 7-E-3—demonstrate a variety of behaviors that avoid or reduce health risks.

a. 7-E-3.1—describe how an unhealthy behavior could be avoided or eliminated.

b. 7-E-3.2—practice and log the selection of healthful foods and being physically active.

c. 7-E-3.3—demonstrate how to prepare a meal or snack using sanitary food preparation.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family, and community health.

1. Benchmark 8-E-1—encourage others to make positive health choices.

a. 8-E-2.1—demonstrate being a role-model who practices healthy behaviors.

b. 8-E-2.2—explain the importance of practicing positive health behaviors with your peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2105 (July 2011).

§511. Grade 4 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-E-1—explain relationships among physical, emotional and social health.

a. 1-E-1.1—describe the interrelationship of, emotional, social, and physical health during childhood.

2. Benchmark 1-E-2—demonstrate the relationship between healthy behaviors and personal health.

a. 1-E-2.1—analyze the differences between healthy and unhealthy personal behaviors.

b. 1-E-2.2—explore the importance of drinking water and eating fiber to maintain a healthy digestive system.

c. 1-E-2.3—identify the relationship of calcium rich foods, vitamin D, and weight-bearing physical activity to strong bones.

d. 1-E-2.4—identify nutrient-dense foods and high calorie foods.

3. Benchmark 1-E-3—describe ways to prevent common childhood injuries and health problems.

a. 1-E-3.1—identify health problems or injuries that can be prevented or treated early.

b. 1-E-3.2—explain how injuries and health problems can be prevented or treated.

c. 1-E-3.3—recognize how risky behaviors are related to childhood injuries and health problems.

4. Benchmark 1-E-4—describe ways in which a safe and healthy school and community environment can promote personal health.

a. 1-E-4.1—list ways to promote safe routes to school (e.g., sidewalks, crossing guards).

b. 1-E-4.2—explain the importance of healthy food choices at school and at home.

5. Benchmark 1-E-5—identify when it is important to seek health care.

a. 1-E-5.1—describe how communicable and non-communicable diseases (e.g., HIV/AIDS, diabetes, cancer, heart disease) impact the overall health of the community.

b. 1-E-5.2—identify when it is important to seek health care for communicable and non-communicable diseases.

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.

1. Benchmark 2-E-1—identify the influence of culture on health practices and behaviors.

a. 2-E-1.1—discuss different cultural traditions in the community and how they relate to health.

b. 2-E-1.2—identify the impact of cultural influences on the community's health practices and behaviors.

c. 2-E-1.3—recognize that citizens of other countries that may not have access to quality health care.

2. Benchmark 2-E-2—describe how the family influences personal health practices and behaviors.

a. 2-E-2.1—list the impact that families have on one's personal health (e.g., tobacco use, alcohol use, overeating).

b. 2-E-2.2—identify family barriers one may face in making healthy choices.

3. Benchmark 2-E-3—identify how peers can influence healthy and unhealthy behaviors.

a. 2-E-3.1—identify ways to avoid negative peer pressure and practice positive health behaviors.

b. 2-E-3.2—model positive peer leadership skills that lead to good health behaviors.

4. Benchmark 2-E-4—describe how the school and community can support personal health practices and behaviors.

a. 2-E-4.1—identify school and community support groups (e.g., peer leadership teams, Boy/Girl Scouts).

b. 2-E-4.2—list how support groups influence one's personal health practices and behaviors.

5. Benchmark 2-E-5—explain how media influence thoughts, feeling, and health behaviors.

a. 2-E-5.1—list strategies to create a media PSA that impacts making positive health choices.

b. 2-E-5.2—identify the negative impact media may have on personal health choices.

6. Benchmark 2-E-6—discuss ways that technology can influence personal health.

a. 2-E-6.1—identify the positive and negative impacts that technology can have on making health choices.

b. 2-E-6.2—list ways that technology can be used to influence positive health choices.

C. Standard 3. Students will demonstrate the ability to access valid information and products and services to enhance health.

1. Benchmark 3-E-1—identify characteristics of valid health information, products, and services.

a. 3-E-1.1—identify valid sources of health information.

b. 3-E-1.2—list the importance in securing correct health information as it relates to personal health.

c. 3-E-1.3—define health “misinformation.”

2. Benchmark 3-E-2—locate resources from home, school, and community that provide health information.

a. 3-E-2.1—identify ways to best utilize those resources identified in the home, school, and the community.

b. 3-E-2.2—identify key concepts of nutrition food labels.

c. 3-E-2.3—determine sugar and fat content of selected foods and beverages.

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-E-1—compare effective verbal and non-verbal communication skills to enhance health.

a. 4-E-1.1—identify verbal and nonverbal communication skills that can be used to positively influence others in situations that impact health.

2. Benchmark 4-E-2—demonstrate refusal skills to avoid or reduce health risks.

a. 4-E-2.1—explain how to apply refusal skills to a health risk situation.

b. 4-E-2.2—demonstrate through role play how using good refusal skills can avoid or reduce risky health behaviors.

3. Benchmark 4-E-3—adopt non-violent strategies to manage or resolve conflict.

a. 4-E-3.1—demonstrate through role play effective conflict resolution strategies.

- b. 4-E-3.2—discuss strategies to prevent bullying.
- 4. Benchmark 4-E-4: Demonstrate how to ask for assistance to enhance personal health.
 - a. 4-E-4.1—identify situations where personal health assistance may be required.
 - b. 4-E-4.2—demonstrate how to seek personal health assistance from a trusted adult.
- E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.
 - 1. Benchmark 5-E-1—illustrate the outcomes of a health-related decision.
 - a. 5-E-1.1—list the potential short-term and long-term outcomes that can occur when making a health-related decision.
 - b. 5-E-1.2—choose a healthy option when making a decision.
 - c. 5-E-1.3—use MyPyramid to evaluate daily food choices in meeting nutrition requirements.
 - F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.
 - 1. Benchmark 6-E-1—define and discuss a personal health goal.
 - a. 6-E-1.1—identify resources to assist in achieving a personal health goal.
 - b. 6-E-1.2—monitor personal progress toward goals that address healthy eating and physical activity.
 - G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.
 - 1. Benchmarks 7-E-1—examine personal health behaviors.
 - a. 7-E-1.1—discuss how healthy and unhealthy habits influence our health.
 - b. 7-E-1.2—demonstrate a positive health behavior.
 - c. 7-E-1.3—develop a daily log of individual caloric intake and energy expenditure.
 - 2. Benchmark 7-E-2—demonstrate a variety of healthy practices and behaviors to maintain or improve personal health.
 - a. 7-E-2.1—list barriers that may delay or impede an individual from making good personal health choices.
 - b. 7-E-2.2—based upon current research-based guidelines, select healthy snacks.
 - 3. Benchmark 7-E-3—demonstrate a variety of behaviors that avoid or reduce health risks.
 - a. 7-E-3.1—journal about individual behaviors that avoid or reduce health risks.
 - H. Standard 8. Students will demonstrate the ability to advocate for personal, family, and community health.
 - 1. Benchmarks 8-E-1—identify and describe community and school health service providers and their function.
 - a. 8-E-1.1—list the importance of having school health providers.
 - b. 8-E-1.2—identify barriers to accessing community and school health providers.
 - 2. Benchmark 8-E-2—encourage others to make positive health choices
 - a. 8-E-2.1—discuss the impact, on others, of not making positive health choices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2107 (July 2011).

§513. Grade 5 Grade-Level Expectations

- A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.
 - 1. Benchmark 1-E-1—describe relationships among physical, mental, emotional and social health.
 - a. 1-E-1.1—list the behaviors that influence physical, emotional, and social health.
 - b. 1-E-1.2—describe the consequences of the behaviors that influence physical, emotional, and social health.
 - 2. Benchmark 1-E-2—demonstrate the relationship between healthy behaviors and personal health.
 - a. 1-E-2.1—list the consequences of negative health choices (e.g., drinking, smoking).
 - b. 1-E-2.2—examine the consequences of good and bad health choices on one’s personal health.
 - 3. Benchmark 1-E-3—describe ways to prevent common childhood injuries and health problems.
 - a. 1-E-3.1—recognize the responsibility to reduce risk of injury to self and to others.
 - b. 1-E-3.2—list possible hazards of physical activity and how to prevent injuries.
 - c. 1-E-3.3—recognize the responsibility to reduce health risk (e.g., hygiene, exercise, healthy eating)
 - 4. Benchmark 1-E-4—describe ways in which a safe and healthy school and community environment can promote personal health.
 - a. 1-E-4.1—assess the school environment to identify things that contribute to positive health and safety.
 - 5. Benchmark 1-E-5—identify when it is important to seek health care.
 - a. 1-E-5.1—identify different areas of healthcare and how to access them.
 - b. 1-E-5.2—recognize the signs of injury that require medical attention in self and in others (e.g., lack of consciousness, broken bones, bleeding, and heat exposure).
- B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.
 - 1. Benchmark 2-E-1—identify the influence of culture on health practices and behaviors.
 - a. 2-E-1.1—examine personal cultural practices and how they impact personal health decisions.
 - b. 2-E-1.2—investigate the quality of healthcare in a foreign country and how it compares to the United States.
 - 2. Benchmark 2-E-2—describe how the family influences personal health practices and behaviors.
 - a. 2-E-2.1—develop a family plan to maintain and improve health practices (journal).
 - 3. Benchmark 2-E-3—identify the influence of others on health beliefs, practices, and behaviors.
 - a. 2-E-3.1—describe instances when one may have to overcome the influence of others to maintain good health.
 - 4. Benchmark 2-E-4—describe how the school and community can support personal health practices and behaviors.
 - a. 2-E-4.1—report on a local community support group and how it is influencing health in the community.

b. 2-E-4.2—explore the effects of the environment on food choices.

5. Benchmark 2-E-5—explain how media influence thoughts, feeling, and health behaviors.

a. 2-E-5.1—identify positive influences that the media can have on health.

b. 2-E-5.2—analyze specific media/advertisements regarding the health message they convey.

7. Benchmark 2-E-7—discuss ways that technology can influence personal health.

a. 2-E-4.1—analyze specific technologies regarding the health messages they convey.

b. 2-E-4.2—investigate how technology can promote positive health behaviors (e.g., pedometers, Wiifit).

C. Standard 3. Students will demonstrate the ability to access valid information and products and services to enhance health.

1. Benchmark 3-E-1—identify characteristics of valid health information, products, and services.

a. 3-E-1.1—assess a health product or service using valid sources of health information.

2. Benchmark 3-E-2—locate resources from home, school, and the community that provide valid health information.

a. 3-E-2.1—report on how resources from home, school and the community are used to impact personal and family health.

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-E-1—compare effective verbal and non-verbal communication skills to enhance health.

a. 4-E-1.1—demonstrate the ability to communicate a health message in a verbal and non-verbal manner.

2. Benchmark 4-E-2—demonstrate refusal skills to avoid or reduce health risks.

a. 4-E-2.1—create and share a scenario that utilizes refusal skills to avoid engaging in risky behaviors.

3. Benchmark 4-E-3—adopt non-violent strategies to manage or resolve conflict.

a. 4-E-3.1—differentiate between assertive and aggressive behavior.

b. 4-E-3.2—role-play different scenarios identifying assertive and aggressive behavior and the impact of that behavior in conflict situations.

4. Benchmark 4-E-4—demonstrate how to ask for assistance to enhance personal health.

a. 4-E-4.1—identify personal and family experiences where access to care positively or negatively impacted health.

b. 4-E-4.2—describe how personal health care decisions and assistance can be impacted by personal experiences.

c. 4-E-4.3—use communication skills to effectively deal with influences from peers and media regarding food choices and physical activity.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-E-1—identify how others can influence decision making.

a. 5-E-1.1—analyze elements of effective decision-making model.

b. 5-E-1.2—identify circumstances that can help or hinder healthy decision-making.

F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.

1. Benchmark 6-E-1—define and discuss a personal health goal.

a. 6-E-1.1—track progress toward the achievement of a personal health goal.

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or refuse health risks.

1. Benchmark 7-E-1—examine personal health behaviors.

a. 7-E-1.1—make a list of positive and negative personal health habits.

b. 7-E-1.2—examine personal habits that promote lifelong health.

2. Benchmark 7-E-2—demonstrate a variety of healthy practices and behaviors to maintain or improve personal health.

a. 7-E-2.1—journal about individual health practices and behaviors that maintain or improve one’s personal health.

b. 7-E-2.2—compare healthy and risky approaches to weight management.

3. Benchmark 7-E-3—demonstrate a variety of behaviors that avoid or reduce health risks.

a. 7-E-3.1—list items that are perceived as negative health risk behaviors (e.g., smoking, drinking).

b. 7-E-3.2—explain the harmful effects of negative health risk behaviors (e.g., smoking, drinking).

H. Standard 8. Students will demonstrate the ability to advocate for personal, family, and community health.

1. Benchmark 8-E-1—identify and describe community and school health service providers and their function.

a. 8-E-1.1—educate younger students on the job functions of community and school health service providers and their function. (group project).

2. Benchmark 8-E-2—encourage others to make positive health choices.

a. 8-E-2.1—choose and create two mediums of communications to influence positive health choices (e.g., poster on saying no to drugs, assembly on not bullying).

b. 8-E-2.2—identify something in the school environment that does not contribute to positive health and safety and advocate for change (e.g., vending machines, snack sales, lack of recess).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2108 (July 2011).

§515. Grade 6 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-M-1—describe interrelationships among physical, intellectual, emotional and social health.

a. 1-M-1.1 Identify and categorize behaviors that can affect physical, intellectual, emotional and social health.

b. 1-M-1.2—analyze the physical, intellectual, emotional and social benefits of eating breakfast daily.

2. Benchmark 1-M-2—describe the relationship between positive health behaviors and the prevention of injury, illness, disease, and premature death.
 - a. 1-M-2.1—distinguish between health knowledge and practicing healthy behaviors.
 - b. 1-M-2.2—relate correct portion sizes and number of servings to energy needs.
 3. Benchmark 1-M-3—analyze high risk behaviors to determine their impact on wellness.
 - a. 1-M-3.1—examine the likelihood and seriousness of injury or illness if engaging in risky behaviors.
 4. Benchmark 1-M-4—use appropriate strategies to prevent/reduce risk and promote well-being.
 - a. 1-M-4.1—explain how preventive health care can reduce risk of premature death and disability.
 - b. 1-M-4.2—analyze the harmful effect of engaging in unscientific diet practices to lose or gain weight.
- B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors.
1. Benchmark 2-M-1—describe the influence of others on health beliefs, practices and behaviors.
 - a. 2-M-1.1—identify the influences on personal values, beliefs and perceived norms.
 - b. 2-M-1.2—examine how parents and family influence health practices.
 - c. 2-M-1.3—analyze how the school can affect personal health practices and behaviors.
 2. Benchmark 2-M-2—analyze how media and technology influence personal and family health behaviors.
 - a. 2-M-2.1—investigate the impact of media (e.g., television, newspaper, billboards, magazines, Internet) on positive and negative health behaviors.
 - b. 2-M-2.2—describe the ways that technology affects health (e.g., video games).
 - c. 2-M-2.3—describe the influence of culture and media on body image and eating disorders.
 3. Benchmark 2-M-3—explain the influence of personal values and beliefs on individual health practices and behaviors.
 - a. 2-M-3.1—discuss personal beliefs about participating in healthy behaviors.
 - b. 2-M-3.2—identify barriers and opportunities to engaging in healthy behaviors (e.g., physical activity and healthy nutritional practices).
- C. Standard 3. Students will demonstrate the ability to access valid information and products and services to enhance health.
1. Benchmark 3-M-1—utilize resources at home, school and community to access valid health information and services.
 - a. 3-M-1.1—differentiate credible vs. non-credible sources of health information (e.g., internet, trusted adult, healthcare professionals).
 - b. 3-M-1.2—evaluate functions of community health agencies and professional health services.
 - c. 3-M-1.3—interpret the nutrition information available on the Nutrition Facts panel of food labels.
 - d. 3-M-1.4—use nutrition information to differentiate between nutrient dense foods and low nutrient foods.

- D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.
 1. Benchmark 4-M-1—demonstrate healthy ways to express needs, wants, feelings and respect of self and others.
 - a. 4-M-1.1—role play verbal and non-verbal communication skills to enhance health.
 - b. 4-M-1.2—practice the use of “I” messages when expressing needs, wants and feelings.
 - c. 4-M-1.3—demonstrate how to refuse less nutritious foods and extra servings in social settings.
 2. Benchmark 4-M-2—demonstrate how to ask for assistance to enhance the health of self and others.
 - a. 4-M-2.1—role-play seeking assistance from trusted health resources in the school or community.
 3. Benchmark 4-M-3—demonstrate effective conflict management or resolution strategies.
 - a. 4-M-3.1—differentiate between negative and positive behaviors used in conflict situations (e.g., compromise, avoidance, mediation, assertive/aggressive, non-violent behaviors).
 4. Benchmark 4-M-4—exhibit characteristics needed to be a responsible friend and family member.
 - a. 4-M-4.1—identify qualities of healthy relationships (e.g., respect, trust, honesty, support, communication).
- E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.
 1. Benchmark 5-M-1—discuss how emotional health affects decision making.
 - a. 5-M-1.1—examine how emotional health can affect decision making.
 2. Benchmark 5-M-2—determine when health-related situations require the application of a thoughtful decision-making process.
 - a. 5-M-2.1—relate the steps of a decision-making model as it applies to health-related decisions.
 - b. 5-M-2.2—examine the role of decision making in maintaining personal fitness, blood pressure, weight and body mass index.
- F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.
 1. Benchmark 6-M-1—identify goals to adopt, maintain or improve a personal health practice.
 - a. 6-M-1.1—assess personal health practices and health status.
 - b. 6-M-1.2—set a goal and describe steps needed to attain goal.
 - c. 6-M-1.3—develop practical solutions for removing barriers to practicing healthy lifestyles.
- G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.
 1. Benchmark 7-M-1—demonstrate healthy practices and behaviors that will maintain or improve the health of self and others.
 - a. 7-M-1.1—complete a personal health assessment to determine health strengths and risks (e.g., physical activity, nutrition, stress, bullying).
 - b. 7-M-1.2—plan a class party or family meal that meets dietary guidelines.

2. Benchmark 7-M-2—demonstrate behaviors that avoid or reduce health risks to self and others.

a. 7-M-2.1—describe how to avoid threatening situations (e.g., inappropriate touch, bullying).

b. 7-M-2.2—identify safe ways to report abuse.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-M-1—analyze various communication methods to accurately express health ideas and opinions.

a. 8-M-1.1—identify communication techniques to persuade or support a health-enhancing issue.

2. Benchmark 8-M-2—demonstrate how to influence and support others to make positive health choices.

a. 8-M-2.1—demonstrate effective persuasion skills to encourage healthy behaviors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2109 (July 2011).

§517. Grade 7 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-M-1—describe interrelationships among physical, intellectual, emotional and social health.

a. 1-M-1.1—explain how emotional health (stress) impacts other dimensions of health.

b. 1-M-1.2—describe appropriate ways to express and deal with emotions and how this can impact other areas of personal health.

2. Benchmark 1-M-2—describe the relationship between positive health behaviors and the prevention of injury, illness, disease, and premature death.

a. 1-M-2.1—explain the importance of assuming responsibility for personal health behaviors.

b. 1-M-2.2—define HIV.

c. 1-M-2.3—explain and define abstinence.

3. Benchmark 1-M-3—analyze high risk behaviors to determine their impact on wellness

a. 1-M-3.1—describe the benefits of and barriers to practicing healthy behaviors (e.g., sexual

abstinence, avoiding substance abuse, practicing good nutrition).

b. 1-M-3.2—describe the relationship between using alcohol and other drugs and health risk behaviors. (e.g., sexual activity, driving/riding while intoxicated, violence, etc.).

4. Benchmark 1-M-4—use appropriate strategies to prevent/reduce risk and promote well-being.

a. 1-M-4.1—describe how family history and environment are related to the cause or prevention of disease.

b. 1-M-4.2—explain how abstinence prevents emotional and physical health risks.

5. Benchmark 1-M-5—discuss the basic male and female reproductive anatomy and physiology.

a. 1-M-5.1—describe basic male and female reproductive body parts and their functions.

b. 1-M-5.2—define puberty.

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors.

1. Benchmark 2-M-1—describe the influence of others on health beliefs, practices and behaviors.

a. 2-M-1.1—describe how peers influence healthy and unhealthy behaviors.

b. 2-M-1.2—analyze how the community can affect personal health practices and behaviors.

c. 2-M-1.3—define gender stereotypes in social relationship roles.

2. Benchmark 2-M-2—analyze how media and technology influence personal and family health behaviors.

a. 2-M-2.1—assess ways in which various media influence buying decisions (e.g., health products, medicines, food).

b. 2-M-2.2—discuss the role of the media in supporting gender stereotypes in relationship roles.

3. Benchmark 2-M-3—explain the influence of personal values and beliefs on individual health practices and behaviors.

a. 2-M-3.1—identify the difference between external and internal influences.

b. 2-M-3.2—discuss how individual values and beliefs affect personal decisions to engage in healthy and unhealthy behaviors (e.g., eating and exercising habits, engaging in sexual risk behaviors and choosing abstinence).

c. 2-M-3.3—recognize how external influences can affect an individual's judgment, self-control and behavior (e.g., substance abuse, peer pressure).

C. Standard 3. Students will demonstrate the ability to access valid information and products and services to enhance health.

1. Benchmark 3-M-1—utilize resources at home, school and community to access valid health information and services.

a. 3-M-1.1—explore validity, cost and safety of health products and services (e.g., diet pills, tanning beds, energy drinks, generic drugs).

b. 3-M-1.2—describe situations that may require professional health services.

c. 3-M-1.3—engage trusted adults at home, school and community in health issues.

d. 3-M-1.4—identify credible health-related websites.

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-M-1—demonstrate healthy ways to express needs, wants, feelings and respect of self and others.

a. 4-M-1.1—use effective listening techniques when communicating with others (active listening).

b. 4-M-1.2—describe healthy ways to express affection, love, friendship and concern.

c. 4-M-1.3—explain the characteristics of a healthy and unhealthy social relationship.

d. 4-M-1.4—analyze the relationship between self-respect and healthy social relationships.

2. Benchmark 4-M-2—demonstrate how to ask for assistance to enhance the health of self and others.

a. 4-M-2.1—identify techniques for approaching trusted adults.

b. 4-M-2.2—demonstrate skills for requesting assistance with health issues.

3. Benchmark 4-M-3—demonstrate effective conflict management or resolution strategies.

a. 4-M-3.1—compare and contrast the steps for conflict resolution/negotiation.

b. 4-M-3.2—demonstrate skills to effectively resist pressure from peers to engage in unhealthy behaviors.

4. Benchmark 4-M-4—exhibit characteristics needed to be a responsible friend and family member.

a. 4-M-4.1—identify methods for responding to problems of others with empathy and support.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-M-1—discuss how emotional health affects decision-making.

a. 5-M-1.1—analyze the impact of peer pressure on decision-making.

b. 5-M-1.2—determine barriers that can hinder healthy decision-making.

2. Benchmark 5-M-2—determine when health-related situations require the application of a thoughtful decision-making process.

a. 5-M-2.1—apply use of a decision-making model in making a healthy decision (e.g., food choices, substance abuse, relationships, violence and abstinence) through role play and skits.

b. 5-M-2.2—predict the short and long-term consequences of healthy and unhealthy choices (abstinence, sexual risk behaviors, alcohol and tobacco use, exercise, healthy eating).

F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.

1. Benchmark 6-M-1—identify goals to adopt, maintain or improve a personal health practice.

a. 6-M-1.1—identify a health practice to improve.

b. 6-M-1.2—adopt a goal to maintain and improve a health practice (e.g., increase physical activity, increase time spent with people engaged in positive behaviors, increase healthful eating, practice honest ways to be successful in school, practice abstinence).

c. 6-M-1.3—journal progress to measure accomplishments toward selected goal.

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-M-1—discuss healthy practices and behaviors that will maintain or improve the health of self and others.

a. 7-M-1.1—identify common barriers to making healthy choices.

b. 7-M-1.2—problem-solve how to overcome obstacles to making healthy choices.

c. 7-M-1.3—explain the importance of assuming responsibility for personal health behaviors.

2. Benchmark 7-M-2—demonstrate behaviors that avoid or reduce health risks to self and others.

a. 7-M-2.1—develop strategies to improve personal and family health (e.g., injury prevention, physical activity).

b. 7-M-2.2—analyze the risk of impulsive behaviors.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-M-1—analyze various communication methods to accurately express health ideas and opinions for oneself or others.

a. 8-M-1.1—identify ways that health messages and communication techniques can be altered for different audiences.

2. Benchmark 8-M-2—demonstrate how to influence and support others to make positive health choices.

a. 8-M-2.1—use accurate information to support a health-enhancing position on a topic (e.g., need for personal hygiene, healthful food choices at school, disease, genetic disorder).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2111 (July 2011).

§519. Grade 8 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-M-1—describe interrelationships among physical, intellectual, emotional and social health.

a. 1-M-1.1—explain how healthy and unhealthy behaviors impact various body systems.

b. 1-M-1.2—discuss research related to the impact the dimensions of health have upon each other. (class project).

c. 1-M-1.3—explore the relationship of nutrients to physical, intellectual, emotional, and social health.

2. Benchmark 1-M-2—describe the relationship between positive health behaviors and the prevention of injury, illness, disease, and premature death.

a. 1-M-2.1—identify preventive health measures to reduce or prevent injuries and other health problems.

b. 1-M-2.2—explain how HIV is and is not transmitted.

c. 1-M-2.3—explain the positive aspects of abstinence.

d. 1-M-2.4—analyze behaviors and situations that may result in increased risk for HIV and other sexually transmitted infections (STIs).

e. 1-M-2.5—describe the relationship between one's dating partner, one's health and the prevention of harm.

3. Benchmark 1-M-3—analyze high risk behaviors to determine their impact on wellness.

a. 1-M-3.1—discuss how high risk behavior consequences may extend beyond self to friends, family and community.

b. 1-M-3.2—describe types of violence.

c. 1-M-3.3—discuss the frequency of violence, and its consequences, in social relationships.

d. 1-M-3.4—analyze the impact on health of selecting foods and beverages of various caloric and nutritional value.

4. Benchmark 1-M-4—use appropriate strategies to prevent/reduce risk and promote well-being.

a. 1-M-4.1—identify the causes, symptoms, treatment and prevention of various diseases and disorders.

b. 1-M-4.2—set personal boundaries and limits related to physical intimacy and sexual behaviors.

c. 1-M-4.3—analyze situations where assertive communication and refusal skills can be used to avoid and escape risky situations.

d. 1-M-4.4—log selection of food and beverages low in fat, sugar, and salt and high in nutrients when eating out and preparing meals at home.

5. Benchmark 1-M-5—recognize the interrelationships among organs in the male and female reproductive systems.

a. 1-M-5.1—identify basic male and female reproductive body parts and their functions.

b. 1-M-5.2—analyze the role of hormones in the reproductive maturation.

c. 1-M-5.3—describe the physical, social and emotional changes that occur during puberty (e.g., changes in friends, crushes/attractions, mood shifts, body hair, body odor, menstruation)

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors.

1. Benchmark 2-M-1—describe the influence of others on health beliefs, practices and behaviors.

a. 2-M-1.1—explain how the perceptions of cultural and peer norms influence healthy and unhealthy behaviors.

b. 2-M-1.2—describe how some health risk behaviors can influence the likelihood of engaging in additional unhealthy behaviors.

c. 2-M-1.3—compare the roles of heredity, food selection, and activity level in weight control.

d. 2-M-1.4—recognize health care disparities of different cultures, races and ethnic groups in the community.

2. Benchmark 2-M-2—analyze how media and technology influence personal and family health behaviors.

a. 2-M-2.1—identify how media influence the selection of health information and products.

b. 2-M-2.2—describe the ways that technology positively affects health (e.g., high-technological medical equipment).

c. 2-M-2.3—analyze ways that music, television and internet influence behaviors; such as risky sexual behavior, use of tobacco and alcohol and drugs.

3. Benchmark 2-M-3—explain the influence of personal values and beliefs on individual health practices and behaviors.

a. 2-M-3.1—describe factors that influence personal decisions to engage in behaviors which result in intentional or unintentional consequences (e.g., homicide, drinking and driving, wearing seat belt, lack of physical activity).

b. 2-M-3.2—discuss influence of values and beliefs on healthy relationships (e.g., respecting others, self-respect, positive interactions with others).

C. Standard 3. Students will demonstrate the ability to access valid information and products and services to enhance health.

1. Benchmark 3-M-1—utilize resources at home, school and community to access valid health information and services.

a. 3-M-1.1—determine the accessibility of services and products that enhance health (e.g., clinics, farmers markets).

b. 3-M-1.2—differentiate accurate from inaccurate health information on varying topics (e.g., sexual health information, alcohol and drugs and tobacco use).

c. 3-M-1.3—evaluate the accuracy of claims about dietary supplements and popular diets.

d. 3-M-1.4—discuss a credible Internet source for health information (e.g., types of diets, energy drinks, best vegetables to eat).

D. Standard 4. Students will demonstrate the ability to use interpersonal communication skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-M-1—demonstrate healthy ways to express needs, wants, feelings and respect of self and others.

a. 4-M-1.1—demonstrate refusal skills to avoid or reduce health risks (e.g., sexual contact, alcohol use).

b. 4-M-1.2—demonstrate how to communicate clear expectations and boundaries for personal safety (e.g., refusing to ride with someone who has been drinking).

c. 4-M-1.3—describe effective strategies for dealing with difficult relationships with family members, peers and boyfriends or girlfriends.

d. 4-M-1.4—identify the warning signs of an abusive relationship.

2. Benchmark 4-M-2—demonstrate how to ask for assistance to enhance the health of self and others.

a. 4-M-2.1—problem-solve situations with help from trusted adults and community professionals.

3. Benchmark 4-M-3—demonstrate effective conflict management or resolution strategies.

a. 4-M-3.1—role-play appropriate ways to respond to feedback from others.

b. 4-M-3.2—justify the use of effective strategies for resolving conflict with another person in non-violent ways.

c. 4-M-3.3—demonstrate the use of conflict resolution models in interpersonal conflicts.

4. Benchmark 4-M-4—exhibit characteristics needed to be a responsible friend and family member.

a. 4-M-4.1—describe possible outcomes of using effective communication skills in maintaining healthy family relationships.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-M-1—discuss how emotional health affects decision-making.

a. 5-M-1.1—discuss the impact of stress and coping skills on decision-making.

b. 5-M-1.2—demonstrate how to overcome barriers that can hinder healthy decision making.

c. 5-M-1.3—analyze how decisions about food choices should be different depending on age, gender, and activity level.

2. Benchmark 5-M-2—determine when health-related situations require the application of a thoughtful decision-making process.

a. 5-M-2.1—analyze the positive and negative consequences of a health-related decision.

b. 5-M-2.2—prepare a report on the short and long-term consequences of healthy and unhealthy choices (e.g.,

abstinence, sexual risk behaviors, alcohol and tobacco use, exercise and healthy eating).

F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.

1. Benchmark 6-M-1—identify goals to adopt, maintain or improve a personal health practice.

a. 6-M-1.1—revise personal health goals in response to changing information, abilities, priorities, and responsibilities.

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-M-1—demonstrate healthy practices and behaviors that will maintain or improve the health of self and others.

a. 7-M-1.1—formulate a contract for behavior change (e.g., controlling portion sizes, reading labels, implementing a physical activity plan, improving school attendance, breakfast eating, anger management, tobacco reduction or cessation, reduction in texting, and abstinence or return to abstinence).

b. 7-M-1.2—chart progress toward behavior changes.

c. 7-M-1.3—evaluate the results of the behavior changes.

2. Benchmark 7-M-2—demonstrate behaviors that avoid or reduce health risks to self and others.

a. 7-M-2.1—identify specific abusive behaviors in social relationships (by discussing the Power and Control Wheel).

b. 7-M-2.2—discuss the Cycle of Abuse. (dynamics of an abusive relationship).

c. 7-M-2.3—describe impulsive behaviors and strategies for controlling them.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-M-1—analyze various communication methods to accurately express health ideas and opinions.

a. 8-M-1.1—identify barriers to effective communication about health issues.

b. 8-M-1.2—use effective interpersonal skills to advocate for healthy behaviors with family, friends and others. (e.g., use of “I” statements, use of active listening).

2. Benchmark 8-M-2—demonstrate how to influence and support others to make positive health choices.

a. 8-M-2.1—demonstrate the ability to work cooperatively when advocating for healthy individuals, families, and schools (e.g., advocate for school policy change).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2112 (July 2011).

§521. Grades 9-12 Grade-Level Expectations

A. Standard 1. Students will comprehend concepts related to health promotion and disease prevention to enhance health.

1. Benchmark 1-H-1—predict and analyze how healthy behaviors can affect health status, disease prevention, and potential severity of injury.

a. 1-H-1.1—explain the impact of personal health behavior on the function of body systems.

b. 1-H-1.2—design a plan for maintaining good personal hygiene, oral hygiene and getting adequate sleep and rest.

c. 1-H-1.3—research the possible consequences of risky hygiene and health behavior and fads (e.g., tattooing, piercing of body or mouth, sun exposure, and sound volume).

d. 1-H-1.4—justify why sexual abstinence is the safest, most effective risk avoidance method of protection from HIV, STD/STIs, and pregnancy.

e. 1-H-1.5—summarize the importance of setting personal limits to avoid risky sexual behavior.

f. 1-H-1.6—describe the importance of maintaining healthy dating relationships to one’s long-term physical and emotional health.

2. Benchmark 1-H-2—analyze how genetics, family history, and environmental influences can impact personal health.

a. 1-H-2.1—chart a family health tree.

b. 1-H-2.2—interview family members regarding health conditions.

c. 1-H-2.3—research environmental factors that impact health.

d. 1-H-2.4—determine how the home and community environments affect health.

3. Benchmark 1-H-3—describe the interrelationship(s) of mental, emotional, social, and physical health throughout the life span.

a. 1-H-3.1—provide examples of how physical, mental, emotional, and social health affect one’s overall well-being.

b. 1-H-3.2—define victimization in dating relationships. (the effects of abuse on a victim).

c. 1-H-3.3—keep a journal to illustrate how emotions change over a period of time.

d. 1-H-3.4—research the resources or services available to assist people with mental, emotional, or social health conditions.

e. 1-H-3.5—summarize healthy and appropriate ways to express feelings.

f. 1-H-3.6—summarize healthy ways to express affection, love, and friendship.

4. Benchmark 1-H-4—identify the causes, symptoms, treatment and prevention of various diseases and disorders.

a. 1-H-4.1—compile a list of disorders, their causes and their effects on the body (e.g., eating and genetic disorders).

b. 1-H-4.2—describe the relationship between poor eating habits and chronic diseases (e.g., heart disease, obesity, cancer, diabetes, hypertension, and osteoporosis).

c. 1-H-4.3—identify major infectious diseases; methods of transmission; their signs and symptoms, prevention and control (e.g. HIV and other common sexually transmitted diseases/infections).

B. Standard 2. Students will analyze the influence of family, peers, culture, media, technology and other factors on health behaviors.

1. Benchmark 2-H-1—analyze how family, peers, and the perception of norms influence healthy and unhealthy behaviors.

- a. 2-H-1.1—describe positive choices involving family members that influence healthy behavior.
- b. 2-H-1.2—discuss the influences of healthy and unhealthy behavior of family and peers.
- c. 2-H-1.3—interview peers to determine perceptions of normal health behaviors.
- d. 2-H-1.4—summarize a variety of external influences, such as parents, the media, culture, peers and society, on sexual decision-making.
- e. 2-H-1.5—describe the influences of family, peers, and community on personal health.
- f. 2-H-1.6—describe the role of family, peers and community on influencing decisions surrounding personal and sexual health.
- g. 2-H-1.7—identify factors that influence personal selection of health products and services.

2. Benchmark 2-H-2—investigate how personal values and the economy influence and challenge health behaviors.

- a. 2-H-2.1—report how personal values influence and challenge health behaviors.
- b. 2-H-2.2—research the influence of brand names’ and generic medicines’ cost on consumer decisions.
- c. 2-H-2.3—analyze the relationship between income and health behaviors.
- d. 2-H-2.4—examine personal values and how these influence relationships and sexual decision-making.
- e. 2-H-2.5—analyze the cost of medicines to treat HIV and other STD/STIs and how these illnesses affect a person’s ability to attend school or maintain employment.

3. Benchmark 2-H-3—analyze how public health policies and government can influence health promotion and disease prevention.

- a. 2-H-3.1—research public agencies (local, state, national) dedicated to health promotion and disease prevention.
- b. 2-H-3.2—describe government policies dedicated to health promotion and disease prevention.
- c. 2-H-3.3—describe federal laws and rights of individuals infected and affected by HIV and AIDS.

4. Benchmark 2-H-4—evaluate the impact of technology and media on personal, family, community, and world health.

- a. 2-H-4.1—analyze product advertising campaigns that promote good health and disease prevention to determine their validity.
- b. 2-H-4.2—use technology to compile a list of health statistics of other countries compared to the United States (e.g., infant mortality rate, obesity statistics, teen birth rates).
- c. 2-H-4.3—investigate health-related websites to determine the usefulness of the health content.
- d. 2-H-4.4—provide examples of how advanced technology has improved diagnostics and treatment.
- e. 2-H-4.5—analyze the influence of the Internet and other media on sexual decision-making.

C. Standard 3. Students will demonstrate the ability to assess valid information and products and services to enhance health.

1. Benchmark 3-H-1—use resources from home, school and community that provide valid health information.

- a. 3-H-1.1—identify local wellness centers or clinics that provide health treatment and resources.
- b. 3-H-1.2—organize a health fair or presentation to provide valid information regarding a health issue.
- c. 3-H-1.3—demonstrate the ability to access a trusted adult who can provide accurate information about sexual health (e.g. contraception, dating abuse).
- d. 3-H-1.4—demonstrate the ability to assess accurate data on sexual behaviors among young people.
- e. 3-H-1.5—identify key information and processes related to the Safe Haven relinquishment law.
- f. 3-H-1.6—using technology, compare health care systems of other countries to the United States health care system.
- g. 3-H-1.7—present websites that provide self health assessment tools to peers.
- h. 3-H-1.8—investigate and compare legal options for adoption proceedings.

2. Benchmark 3-H-2—evaluate the validity of health information, products, and services using a variety of resources.

- a. 3-H-2.1—identify criteria for evaluating the validity of health claims of products in advertisements.
- b. 3-H-2.2—evaluate the validity of health claims in advertisements found in various media (e.g., websites, magazines, television).
- c. 3-H-2.3—evaluate the cost effectiveness of alternative health products.
- d. 3-H-2.4—evaluate the accuracy of sources of information on sexual health.

D. Standard 4. Students will demonstrate the ability to use interpersonal communications skills to enhance health and avoid or reduce health risks.

1. Benchmark 4-H-1—analyze the short-term and long-term consequences of choices and behaviors throughout the life span.

- a. 4-H-1.1—describe a healthy life-style by comparing and contrasting healthy and unhealthy choices.
- b. 4-H-1.2—explain the relationship between health choices and short and long term health goals and outcomes.

2. Benchmark 4-H-2—utilize skills for communicating effectively with family, peers, and others to enhance health.

- a. 4-H-2.1—practice effective communication techniques through role playing.
- b. 4-H-2.2—compose a script for communicating on a health related topic.
- c. 4-H-2.3—demonstrate refusal, negotiation, and collaboration skills to avoid potentially harmful situations (e.g. avoiding sexual risky behaviors).
- d. 4-H-2.4—demonstrate the communication skills necessary to maintain healthy relationships.
- e. 4-H-2.5—describe methods to help someone who is in an abusive relationship.

3. Benchmark 4-H-3—demonstrate ways to reduce threatening situations to avoid violence.

- a. 4-H-3.1—identify effective strategies for avoiding violence.
- b. 4-H-3.2—demonstrate effective negotiation skills that can be used to avoid dangerous situations.
- c. 4-H-3.3—present a media presentation on bullying and violence awareness.

d. 4-H-3.4—demonstrate how to set clear expectations, boundaries, and personal safety strategies related to sexual health and abusive behavior.

E. Standard 5. Students will demonstrate the ability to use decision-making skills to enhance health.

1. Benchmark 5-H-1—describe the short and long-term health impact of decision-making on health-related issues and problems.

a. 5-H-1.1—identify a variety of situations (e.g., group drinking, car racing) where personal decisions can result in avoidance of health risks to self and others.

b. 5-H-1.2—debate the pros and cons of various social issues and factors that affect decision-making.

c. 5-H-1.3—analyze the possible consequences of sexual behavior and the emotional, social and physical benefits of delaying sexual behavior.

2. Benchmark 5-H-2—discuss barriers that can hinder healthy decision-making and how to apply thoughtful decision-making to health related situations.

a. 5-H-2.1—develop and complete a survey/questionnaire to assess students' decision-making process. (class project).

b. 5-H-2.2—identify barriers (e.g., peer pressure, misinformation, desire for acceptance) that hinder health decision-making.

c. 5-H-2.3—analyze the benefits of delaying romantic involvement.

d. 5-H-2.4—discuss the Cycle of Abuse and its effect on decision making.

e. 5-H-2.5—model how to use decision-making skills to avoid violent situations.

3. Benchmark 5-H-3—develop the ability to use critical thinking when making decisions related to health needs and risks typical of young adults.

a. 5-H-3.1—identify effective strategies for decision-making.

b. 5-H-3.2—apply critical decision-making process to a personal health issue or problem.

F. Standard 6. Students will demonstrate the ability to use goal-setting skills to enhance health.

1. Benchmark 6-H-1—assess personal health practices and overall health status.

a. 6-H-1.1—design a health questionnaire and use it to assess students' personal health.

b. 6-H-1.2—identify goals for attaining lifelong personal health.

c. 6-H-1.3—set a goal related to personal boundaries and limits related to sexual behaviors.

2. Benchmark 6-H-2—develop a plan to address strengths and needs to attain one or more personal health goals.

a. 6-H-2.1—identify short and long-term goals that are measurable.

b. 6-H-2.2—describe desirable activities that are related to goal achievement.

c. 6-H-2.3—implement strategies to monitor progress in achieving personal health goals.

d. 6-H-2.4—formulate a long-term personal health plan based upon current health status.

e. 6-H-2.5—evaluate appropriate strategies to promote well-being during adulthood.

f. 6-H-2.6—make or renew a personal commitment to remain sexually abstinent.

G. Standard 7. Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

1. Benchmark 7-H-1—identify and describe risk reduction activities.

a. 7-H-1.1—brainstorm a list of common risk-taking behaviors and the reasons why people take risks.

b. 7-H-1.2—list ways that television and movie advertising influence risk-taking behavior.

2. Benchmark 7-H-2—describe the role of individual responsibility for enhancing health.

a. 7-H-2.1—describe how personal nutrition and physical activity early in life impact health during later years.

b. 7-H-2.2—develop a log or food diary to compare personal diet to the dietary requirements.

c. 7-H-2.3—examine the selection of healthcare providers and products such as physicians, hospitals, health and accident insurances, life insurance, day care centers, and nursing homes.

3. Benchmark 7-H-3—develop strategies to improve or maintain health and safety on community, and world levels.

a. 7-H-3.1—develop a disaster preparedness plan for family and the community.

b. 7-H-3.2—describe a family plan to prevent injuries during emergencies and disasters.

c. 7-H-3.3—discuss the benefits of effective health policies (e.g., mandating use of seat belts, banning tobacco use in public places).

4. Benchmark 7-H-4—demonstrate lifesaving techniques through CPR and first aid.

a. 7-H-4.1—perform the skills needed for adult, child, and infant CPR.

b. 7-H-4.2—demonstrate appropriate responses (e.g. application of bandages and splints) to emergency situations.

c. 7-H-4.3—demonstrate treatment for specific wounds.

5. Benchmark 7-H-5—examine strategies to manage stress.

a. 7-H-5.1—identify ways and outlets to deal with stress.

b. 7-H-5.2—develop a plan of action for avoiding or managing the impact of stress.

c. 7-H-5.3—identify sources of information that are available for any stress-related problems that are the consequence of mental, emotional, or social problems.

H. Standard 8. Students will demonstrate the ability to advocate for personal, family and community health.

1. Benchmark 8-H-1—identify effective strategies to overcome barriers or attitudes when communicating about health issues.

a. 8-H-1.1—describe scenarios that demonstrate personal or group sensitivities around health issues.

b. 8-H-1.2—develop a checklist to differentiate between helpful and harmful strategies for coping with someone who is angry.

c. 8-H-1.3—demonstrate how effective communications skills strengthen family relationships and friendships.

d. 8-H-1.4—use a creative medium (e.g., poem, poster, song) to advocate to family and peers about good health choices by identifying positive health behaviors.

2. Benchmark 8-H-2—demonstrate techniques that support others in obtaining quality healthcare.

a. 8-H-2.1—research the various types of health advocacy organizations (e.g., American Heart Association, American Cancer Society, American Diabetic Association) and their role.

b. 8-H-2.2—work cooperatively as an advocate for improving personal, family and community health.

c. 8-H-2.3—adopt health messages and communication techniques to support a health cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:2114 (July 2011).

§523. Definitions

[Formerly §105]

Adolescent Risk Behaviors—behaviors identified by the U.S. Centers for Disease Control and Prevention (CDC) as being the most influential in the health of our nation's youth. These behaviors include avoidance of:

1. tobacco use;
2. dietary patterns that contribute to disease, sedentary lifestyle, sexual behaviors that result in HIV infection/other STDs and unintended pregnancy, alcohol and other drug use; and
3. behaviors that result in unintentional and intentional injuries.

Critical Thinker and Problem Solver—health-literate individuals are critical thinkers and problem solvers who identify and creatively address health problems and issues at multiple levels, ranging from personal to international. They use a variety of sources to access the current, credible, and applicable information required to make sound health-related decisions. Furthermore, they understand and apply principles of creative thinking along with models of decision-making goal setting in a health-promotion context.

Effective Communicators—health-literate individuals who organize and convey beliefs, ideas and information about health through oral, written, artistic, graphic, and technologic mediums are effective communicators. They create a climate of understanding and concern for others by listening carefully and responding thoughtfully and presenting a supportive demeanor which encourages others to express themselves. They conscientiously advocate for positions, policies, and programs that are in the best interest of society and intended to enhance personal, family, and community health.

Health Education Standards—standards specify what students should know and be able to do. They involve the knowledge and skills essential to the development of health literacy. That "knowledge" includes the most important and enduring ideas, issues and concepts in health education. Those "skills" include the ways of communicating, reasoning, and investigating which characterize health education. Health Education standards are not merely facts, rather, they identify the knowledge and skills students

should master to attain a high level of competency in health education.

Health Literacy—the capacity of an individual to obtain, interpret, and understand basic health information and services and the competence to use such information and services in ways which are health enhancing.

Institution for Higher Education—a college or university that awards undergraduate degrees and that may include programs of professional preparation for teachers.

Local Education Agency—the organization that has the responsibility for overseeing the public education of students within a community.

Performance Indicator—specific concepts and skills which fourth-, eighth-, and eleventh-grade students should know and be able to do to achieve the National Health Education Standards. They are intended to help educators focus on the essential knowledge and skills basic to the development of health-literate students. They serve the same purpose as the benchmarks in other standards documents. The performance indicators form a blueprint for organizing student assessment.

Responsible, Productive Citizens—individuals who realize their obligation to ensure that their community is kept healthy, safe, and secure so that all citizens can experience a high quality of life. They also realize that this obligation begins with oneself. That is, they are responsible individuals who avoid behaviors which pose a health or safety threat to themselves and/or others, or an undue burden on society. Finally, they apply democratic and organizational principles in working collaboratively with others to maintain and improve individual, family, and community health.

School Health Education—one component of the comprehensive school health program. This component includes the development, delivery, and evaluation of a planned instructional program and other activities for students pre-school through grade 12, for parents, and for school staff. It is designed to positively influence the health knowledge, attitudes, and skills of individuals.

School Health Educator—a practitioner who is professionally prepared in the field of school health education, meets state teaching requirements, and demonstrates competence in the development, delivery, and evaluation of curricula for students and adults in the school setting that enhance health knowledge, attitudes, and problem-solving skills.

Self-Directed Learner—health-literate individuals are self-directed learners who have a command of the dynamic, changing health promotion and disease prevention knowledge base. They use literacy, numeracy, and critical thinking skills to gather, analyze, and apply health information as their needs and priorities change throughout life. They also apply interpersonal and social skills in relationships to learn from and about others and, as a consequence, grow and mature toward high-level wellness.

State Education Agency—the department of state government that has the responsibility for overseeing the public education of students within the state.

State Health Agency—the department of state government that has the responsibility for recording and overseeing the health of citizens within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1940 (September 2002), amended LR 37:2117 (July 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.302, 409, 515, 703, 3501, 4301, 4302, 4311, 4313, 4503, and 4509)

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*: §302. 9-12 Transition from 2010 to 2012, §409. Calculating a 9-12 Assessment Index, §515. State Assessments and Accountability, §703. Inclusion of Students in the Subgroup Component, §3501. Alternative Schools, §4301. Inclusion of All Districts, §4302. District Responsibility Indicators, §4503. One Year Waiver for “Severe Impact” Schools and Districts, §4509. Assessment Index Calculations with Displaced Students for Limited Impact Schools, §4311. District Letter Grades, and §4313. Corrective Actions. 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.

The changes in *Bulletin 111*, Chapters 3, 4, 5, 7, and 35, provide detail for transition from the use of the graduation exit exams (GEE) to end-of-course (EOC) tests. Added to policy are the subject-test index points for calculating an assessment index, use of end-of-course with LAA 1 and LAA 2, and rules for routing end-of-course scores from alternative schools to sending schools. Federally required changes to ethnicity codes are made for reporting test results by subgroup.

The changes in *Bulletin 111*, Chapters 43 and 45 provide detail for the district letter grade system to replace performance labels in policy.

**Title 28
EDUCATION**

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

Chapter 3. School Performance Score Component

§302. 9-12 Transition from 2010 to 2012

A. - E.3. ...

F. In 2011, schools with only 9th grade enrollment shall receive baseline SPSs that include adjusted assessment indices comprised of the schools’ iLEAP results for 2010 and GEE results for 2011 from a high school with which the ninth grade-only school is paired.

G. - I. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2241 (October 2010), amended LR 37:857 (March 2011), LR 37:2118 (July 2011).

Chapter 4. Assessment, Attendance, and Dropout Index Calculations

§409. Calculating a 9-12 Assessment Index

A. For GEE, use the values from the table in §405.A, above.

B. For EOC, use the values in the table below:

| EOC | |
|-------------------|---------------------------|
| Label | Subject-Test Index Points |
| Excellent | 200 |
| Good | 135 |
| Fair | 75 |
| Needs Improvement | 0 |

C. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 4.0 percent (100.0 percent - 9th grade DO rate + 4.0 percent).

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0 percent - 9th grade DO rate + 4.0 percent) x (100.0 percent - 10th grade DO rate + 4.0 percent)].

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0 percent - 9th grade DO rate + 4.0 percent) x (100.0 percent - 10th grade DO rate + 4.0 percent) x (100.0 percent - 11th grade DO rate + 4.0 percent)].

D. Weight each adjusted subject-test index score by the corresponding value from the table below.

| Grade | ELA | Math | Science | Social Studies | Total |
|------------|------|------|---------|----------------|-------|
| 9th Grade | 1000 | 1000 | | | 200 |
| 10th Grade | 1.25 | 1.25 | | | 2.5 |
| 11th Grade | | | 1.25 | 1.25 | 2.5 |

E. Sum all weighted values from Subsection C of this Section.

F. Divide the sum from Subsection D of this Section, by the sum of all weights applied to subject-test index scores from the table above in Subsection C of this Section. This quotient is the 9-12 Assessment Index.

G. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are; 9th-95.0 percent, 10th-98.0 percent, and 11th-99.0 percent.

| Grade | Subject | Subject-Test Index Score | Dropout Adjustment | Adjusted Subject-Test Index Score | Unit Weight | Weighted Adjusted Subject-Test Index Score |
|-------|---------|--------------------------|--------------------|-----------------------------------|-------------|--|
| 9 | ELA | 100 | .990 | 99.0 | 1000 | 99.0 |
| 9 | MTH | 50 | .990 | 49.5 | 1000 | 49.5 |
| 10 | ELA | 100 | 1.010 | 101.0 | 1.25 | 126.3 |
| 10 | MTH | 150 | 1.010 | 151.5 | 1.25 | 189.4 |
| 11 | SCI | 50 | 1.040 | 52.0 | 1.25 | 65.0 |

| Grade | Subject | Subject-Test Index Score | Dropout Adjustment | Adjusted Subject-Test Index Score | Unit Weight | Weighted Adjusted Subject-Test Index Score |
|-----------------------|---------|--------------------------|--------------------|-----------------------------------|-------------|--|
| 11 | SS | 50 | 1.040 | 52.0 | 1.25 | 65.0 |
| Sums | | | | | 7 | 594.2 |
| 9-12 Assessment Index | | | | 594.2 ÷ 7 = 84.9 | | |

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011).

Chapter 5. Inclusion in Accountability

§515. State Assessments and Accountability

A. Louisiana students in grades 3 through 8 will participate in at least one of the following state assessments on an annual basis:

1. LEAP, or;
2. GEE, or; EOC
3. iLEAP; or
4. LEAP Alternate Assessment Level 1 (LAA 1); or
5. LEAP Alternate Assessment Level 2 (LAA 2).

a. Some LAA 2 students will participate in a combination of regular assessment (LEAP, iLEAP, GEE, EOC) and LAA 2 if the IEP requires this.

b. These students can take only one test in each subject at any single test administration, e.g., LAA 2 in ELA and GEE or EOC in mathematics, science, and social studies.

B. For the fall 2010-11 accountability cycle, students in grades 10 and 11 will participate in at least one of the following state assessments on an annual basis:

1. EOC;
2. GEE;
3. LEAP Alternate Assessment Level 1 (LAA 1); or
4. LEAP Alternate Assessment Level 2 (LAA 2).

C. For the fall 2010-2011 accountability cycle, students in grade 9 will participate in EOC if they are enrolled in a course for which a test is available.

D. All LEP students shall take the English Language Development Assessment (ELDA) annually as well as the appropriate state assessment for their enrolled grade.

E. GEE 21 and EOC scores for repeaters (in any subject) shall not be included in high school SPS calculations.

F. Scores shall not be included in school performance score calculations for LEP students who have not been enrolled in a school in the United States for one full school year.

G. Scores earned by any student during an academic year who transferred into the LEA after October 1 of the same academic year shall not be included in the school performance score (SPS) or subgroup performance score (GPS).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011).

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup Component

A. - B. ...

C. Each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Multi-Racial, Pacific Islander, economically disadvantaged, limited English proficient, students with disabilities, and all students) within each school shall be evaluated separately on ELA and mathematics. Students who are identified as Hispanic in one or more subgroup categories will be included in the Hispanic subgroup.

C.1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:428 (March 2008), LR 34:867 (May 2008), LR 36:1991 (September 2010), LR 37:2119 (July 2011).

Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability

§3501. Alternative Schools

A. - J.2. ...

3. EOC results will be aggregated with other assessment data.

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 31:423 (February 2005), LR 34:868 (May 2008), LR 35:1472 (August 2009), LR 37:2119 (July 2011).

Chapter 43. District Accountability

§4301. Inclusion of All Districts

A. Every school district shall participate in a district accountability system based on the performance of schools as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

B. Indicators for District Accountability. There shall be two statistics reported for each school district for district accountability:

1. a district performance score (DPS); and
2. a subgroup component.

C. District Performance Score (DPS). A district performance score (DPS) shall be calculated in the same manner as a SPS, aggregating all of the students in the district.

1. Assessment data from students enrolled in a district for a full academic year shall be used to calculate the DPS.

2. The DPS shall be reported as a numeric value and a letter grade shall be assigned based on the numeric value.

D. Subgroup Component. District AYP shall be determined by evaluating the performance of subgroups as defined below.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 30:1446 (July 2004), LR 32:543 (April 2006), LR 37:2119 (July 2011).

§4302. District Responsibility Indicators

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:634 (April 2005), amended LR 33:1611 (August 2007), LR 34:428 (March 2008), repealed LR 37:2120 (July 2011).

§4311. District Letter Grades

A. Districts shall be assigned a district letter grade using their district performance score as follows.

| Letter Grade | Scale |
|--------------|--------------------------------------|
| A | 120.0-200.0 |
| B | 105.0-119.9 |
| C | 90-104.9 |
| D | 65.0-89.9 (2011) 75.0-89.9 (2012) |
| F | 0-64.9 (2011) 0-74.9 (2012) |

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:635 (March 2005), LR 33:635 (April 2007), LR 35:640 (April 2009), LR 36:1770 (August 2010), LR 37:2120 (July 2011).

§4313. Corrective Actions

A. The Louisiana Department of Education shall report district scores and letter grades on every school district.

B. Districts must complete a self-assessment only after failing all three clusters in the same subject.

1. The DOE shall review each self-assessment.
2. The DOE may recommend that BESE schedule a district dialogue with the district.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:1334 (July 2007), LR 33:1612 (August 2007), LR 33:2032 (October 2007), LR 34:429 (March 2008), LR 37:2120 (July 2011).

Chapter 45. Disaster Considerations for School and District Accountability

§4503. One Year Waiver for "Severe Impact" Schools and Districts

A. - B. ...

C. Severe impact schools that receive the one year "disaster" waiver shall not have school performance scores, growth labels, or letter grades published for the year of the waiver. Assessment results will be provided to the districts for planning purposes.

D. - E.3. ...

F. Districts receiving a one year waiver shall not have district performance scores, or letter grades published for the year of the waiver.

G. Districts may elect to have severe impact schools:

1. remain fully in accountability and receive scores and labels as limited impact schools (see §4507 and §4509); or

2. receive scores and letter grades as limited impact schools, but schools:

G.2.a. - M. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:636 (April 2007), LR 36:1994 (September 2010), LR 37:2120 (July 2011).

§4509. Assessment Index Calculations with Displaced Students for Limited Impact Schools

A. - B. ...

C. Letter grades shall be assigned and Baseline SPS reported using the lower of the two assessment indices, except:

1. when using the higher of the two prevents a school from being labeled academically unacceptable, the higher assessment index shall be used.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006), amended LR 37:2120 (July 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII.1101, 1102, 1103, and 1601)

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*: §1101. Letter Grades, §1102. Academic Watch and Academically Unacceptable Schools (AUS), §1103. Honor Rolls, and §1601. Entry into Academically Unacceptable School Status. 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. The changes in Bulletin 111, Chapters 11 and 16, provide detail for a letter grade system in all schools to accurately reflect both the status and progress of students and will replace performance labels currently in Bulletin 111.

Title 28

EDUCATION

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

Chapter 11. School Performance Categories

§1101. Letter Grades

A. Beginning with the release of 2010-2011 school accountability data, schools will receive letter grades based on the baseline school performance score (SPS) and growth targets.

| Letter Grade | Baseline SPS Range | Approximate Percentage of Students Basic or Below | Plus or Minus | Rule for Grade Assignment |
|--------------|---|---|---------------|--|
| A | 120.0-200.0 | 0%-12% | A+ | In SPS range for letter grade A and met or exceeded Growth Target |
| | | | A | In SPS range for letter grade A and did not meet Growth Target and did not decline |
| | | | A- | In SPS range for letter grade A and SPS declined |
| B | 105.0-119.9 | 13%-24% | B+ | In SPS range for letter grade B and met or exceeded Growth Target |
| | | | B | In SPS range for letter grade B and did not meet Growth Target and did not decline |
| | | | B- | In SPS range for letter grade B and SPS declined |
| C | 90.0-104.9 | 25%-36% | C+ | In SPS range for letter grade C and met or exceeded Growth Target |
| | | | C | In SPS range for letter grade C and did not meet Growth Target and did not decline |
| | | | C- | In SPS range for letter grade C and SPS declined |
| D | 65.0-89.9 (in 2011) 75.0-89.9 (in 2012 and beyond) | 37%-61% | D+ | In SPS range for letter grade D and met or exceeded Growth Target |
| | | | D | In SPS range for letter grade D and did not meet Growth Target and did not decline |
| | | | D- | In SPS range for letter grade D and SPS declined |
| F | 0-64.9 (in 2011) 0-74.9 (in 2012 and beyond) | 62%-100% | F+ | In SPS range for letter grade F and met or exceeded Growth Target |
| | | | F | In SPS range for letter grade F and did not meet Growth Target and did not decline |
| | | | F- | In SPS range for letter grade F and SPS declined |

B. Schools will be assigned a letter grade based on their baseline SPS.

1. A plus (+) will be added to the letter grade of schools that meet their growth target.

2. A minus (-) will be added to the letter grade of schools that have a declining SPS of .1 point or greater.

C. When a school's letter grade is an A (SPS > 120.00), it shall not receive a "negative" growth label (minimal growth, no growth, school in decline).

D. The LDE should identify all schools that have selective, non-traditional academic admissions requirements.

E. BESE shall reconsider §1101, Letter Grades, no later than 2014-2015.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2120 (July 2011).

§1102. Academically Watch and Academically Unacceptable Schools (AUS)

Unacceptable Schools (AUS)

A. Schools with a baseline SPS below the established minimum SPS shall be identified as an academically unacceptable school (AUS).

B. School Performance Score

| Performance Label | School Performance Score |
|---------------------------|--|
| Academically Unacceptable | Below 60.0 (through 2010) Below 65.0 (in 2011) Below 75.0 (in 2012 and beyond) |
| Academic Watch | 60 - 74.9 (in 2010) 65.0 - 74.9 (in 2011) |

C. In the fall of 2011, for one academic year, schools that are not AUS and have an SPS less than 75.0 shall be labeled "academic watch."

D. Academic watch schools that meet additional criteria associated with specific grant programs (such as federal school improvement grants) can:

1. be eligible for participation in those programs; and
2. are waived from the requirements of academic assistance when they do participate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2121 (July 2011).

§1103. Honor Rolls

A. Beginning with the release of 2010-2011 school accountability data, the LDE shall produce a letter grade honor roll to recognize all schools that earn a letter grade in the range of A+ through B-.

B. Beginning with the release of 2010-2011 school accountability data, the LDE shall produce a graduation rate honor roll to recognize all schools with a graduation rate greater than or equal to the state goal of 80 percent.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2121 (July 2011).

Chapter 16. Academically Unacceptable Schools and Subgroup Component Failure

§1601. Entry into Academically Unacceptable School Status

A. In the fall 2010 accountability release, schools with baseline school performance scores (SPS) of less than 60.0

points shall be labeled "academically unacceptable schools" (AUS). Beginning with the 2010-11 accountability release, schools with SPS of less than 65.0, shall be labeled "AUS". This value shall increase annually by 10.0 SPS points to 75.0 in 2012. All AUS schools shall implement remedies from the "academically unacceptable schools" table (below).

1. A school shall enter AUS Level 1 when identified as AUS if the school was not labeled AUS the previous year, including schools that did not receive performance labels the previous year.

2. BESE may, during times of transition in the accountability system, waive schools meeting certain conditions from receiving the AUS label and/or from implementing certain remedies and sanctions.

B. Schools progress to more serious levels of AUS based on the number of consecutive years a school has been labeled AUS.

C. Remedies/sanctions are additive, requiring schools to continue implementation of remedies/sanctions from earlier levels (a school labeled AUS3 must implement sanctions from AUS1, 2, and 3).

D. - G. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2595 (December 2007), amended LR 35:2312 (November 2009), LR 36:1770 (August 2010), LR 37:2121 (July 2011).

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1107#024

RULE

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation
Specifications and Procedures
(LAC 28: CXIII. Chapters 3-9, 13-15, and 19-31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: Chapters 3-9, 13-15, and 19-31. The policy revision corrects the minimum age of bus drivers. The minimum age was incorrectly stated in the prior rule. The correct age is 21 years of age or older, not 18. In addition, as required in R.S. 32:80 and R.S. 32:18, amber and red flashing warning signs must be used for student loading and unloading. The number of amber and red lights that are required to flash during certain stops was increased from four to eight. The remaining changes are technical in nature.

Title 28 EDUCATION

Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures

Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§303. Certification of School Bus Drivers

A. - B. ...

1. Initial certification of new applicants and annual certification of existing school bus drivers must be conducted by LEAs on all full-time and substitute school bus drivers. Documentation of those components required for initial certification must be verified and kept on file for all school bus drivers each year.

C. ...

1. Drivers must be 21 years of age or older.

2. - 3. ...

a. No driver or applicant shall be employed as a school bus driver if within the past five years, he/she has been convicted of, or has forfeited a bond on, any charge of:

i. DUI, possession, distribution, or use of a controlled dangerous substance, as defined by R.S. 40:963 et seq.;

ii. leaving the scene of an accident involving an injury or fatality; or

iii. any felony involving the use of a motor vehicle.

4. - 7.a....

b. Initial applicants must complete the 44-hour pre-service phase of the school bus driver training program which includes 30 hours of pre-service instruction provided by a DOE-certified school bus operator instructor, four hours of vehicle familiarization, and 10 hours of on-the-bus training.

8. Newly hired school bus drivers shall be placed on a mandatory three-year probationary period prior to earning tenure within an LEA.

C.9. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587, R.S. 17:15, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:432, R.S. 17:491, R.S. 17:493, R.S. 17:497, R.S. 17: 691, R.S. 32:52, R.S. 32:402, R.S. 32:408, R.S. 32:417, and R.S. 40:963, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:1467 (July 2010), LR 37:2122 (July 2011).

§307. Retaining School Bus Drivers

A. - B. ...

C. The LEA must develop policies that require immediate action when a school bus driver violates any requirements of Part 383 of the Federal Motor Carrier Safety Act regulations.

1. School bus drivers must acknowledge that they understand the requirements of the Act and attest that driving and licensing information is correct.

2. Drivers must complete the Employer Notification Form and submit it to the district office when receiving suspension, revocation, cancellation, loss of privilege, disqualification, and/or right to operate a motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999), amended LR 36:1468 (July 2010), LR 37:2122 (July 2011).

Chapter 5. Instructional Program for School Bus Drivers

§501. Driver Training Program

A. - E.2. ...

F. In order to ensure safe operation from the onset, all driver trainees must complete the 44-hour pre-service phase of the school bus driver training program. Pre-service certification of school bus drivers shall be through

successful completion of the Louisiana School Bus Operator Training course conducted by a certified trainer.

G. - H. ...

I. Exemptions based on verification of previously completed courses or job-related experiences are approved at the discretion of the LEA.

J. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 37:2122 (July 2011).

§503. Pre-service Training

A. - A.1.h. ...

2. Additional classroom instruction may include the following topics:

A.2.a. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:1469 (July 2010), LR 37:2123 (July 2011).

Chapter 7. Vehicle Inspection and Maintenance

§701. Inspection and Maintenance

A. - A.9. ...

10. LEAs shall develop and provide pre-trip and post-trip inspection report forms to all school bus drivers and develop a system for collection and evaluation of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 36:1470 (July 2010), LR 37:2123 (July 2011).

Chapter 9. Vehicle Operation

§903. Loading and Unloading

A. Warning Signals

1. As required in R.S. 32:80 and R.S. 32:318, amber and red flashing warning signals must be used for student loading and unloading. At no other time are these lights to be used.

2. Amber and red Eight-Light Flashing Warning System. For buses equipped with a amber and red eight-light flashing warning system, drivers must activate the amber flashing lights at least 100 feet but not more than 500 feet before coming to a stop. Red flashing warning lights must be activated when the bus is stopped and must continue flashing while children board, alight, and/or cross roadways.

B. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, and R.S. 32:318.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1470 (July 2010), LR 37:2123 (July 2011).

§905. Crossing Railroad Tracks

A. - C.2. ...

3. If the view of the tracks is obstructed for 1,000 feet or less in either direction, no portion of the bus may be driven onto the tracks until the driver has made certain that no train is approaching. Although railroad signals may indicate the tracks are clear, the driver must develop and use visual and auditory senses to determine whether or not it is safe to proceed.

4. The bus driver must never accept a lack of movement as an indication that the railroad signal is working or is out of order. A bus driver must always consider a railroad grade crossing as conclusive warning of danger and shall not cross the track until the bus driver has determined that no train is approaching.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, R.S. 32:171, R.S. 32:173.1, and R.S. 32:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1471 (July 2010), LR 37:2123 (July 2011).

§911. Prohibition of Drugs and Weapons

A. School buses are an extension of the school campus and are designated as a drug-free zone.

B. ...

C. The ownership, possession, or custody of illegal weapons (carried or concealed) as defined in state law is prohibited on a school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:95, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:240, and R.S. 17:405.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1472 (July 2010), amended LR 37:2123 (July 2011).

Chapter 13. Student Instruction

§1303. Emergency Exit Drills

A. - E.5. ...

6. students shall practice going a distance of at least 100 feet from the bus and remain there in a group until further directions are given by the principal or persons assigned by the principal to act in a supervisory capacity. Practice drills must provide instruction for student helpers to assist passengers from the bus. Further direction regarding student helpers is discussed in §1307. Students must be instructed in how and where to get help in emergencies.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:1474 (July 2010), LR 37:2123 (July 2011).

§1305. Verification of Classroom Instruction and Drill Procedures

A. ...

B. A copy of the *Certification of Passenger Instruction* form and *Emergency Evacuation Drill* form must be verified by the school principal and submitted to the LEA to be maintained in the current transportation files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:1474 (July 2010), LR 37:2123 (July 2011).

§1307. Student Helpers

A. - B.6. ...

C. The bus driver should perform all these functions when possible and should use student helpers only to help with orderly evacuations, except when the driver is unable to direct the operation personally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:839 (May 1999), amended LR 36:1474 (July 2010), LR 37:2123 (July 2011).

Chapter 15. School Bus Routes

§1501. Routes: Authority and Responsibilities

A. The term *route* shall apply to the combined total daily trips (or "runs") regularly assigned to the bus driver. The statutory authority governing the establishment and continuation of school bus routes in Louisiana is R.S. 17:158 and R.S. 17:497. BESE has been granted the authority under the provisions of R.S. 17:164, et seq., to establish and adopt regulations relating to the operation of school buses in the transportation of students to and from school. These statutes shall be used as a basis in decisions concerning the transportation program in an LEA.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010), LR 37:2124 (July 2011).

Chapter 19. Transporting Students

§1903. Transportation of Students Living Within One Mile of School of Attendance

A. BESE allows the LEA to transport students living within one-mile of the school they attend if there are "exceptional" or hazardous walking situations.

B. ...

1. Approval of requests for the transportation of students living less than one mile from the school they attend will not be granted unless the request for such approval is accompanied by a plan or procedure to eliminate the exceptional conditions (if possible) by providing safe walking areas and conditions.

2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1476 (July 2010), amended LR 37:2124 (July 2011).

Chapter 21. Transporting Students with Disabilities

§2101. Transporting Students with Disabilities

A. ...

B. All students with disabilities (regardless of age) are eligible for free appropriate public education (FAPE). Facilities, services and activities provided to students with disabilities must be comparable with those provided to non-disabled student, and students with these disabilities must have an equal opportunity for participation in any non-academic and extracurricular services and activities provided by an LEA.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1476 (July 2010), LR 37:2124 (July 2011).

§2103. Guidelines for Providing Transportation Service for Students with Disabilities

A. LEAs must comply with IDEA, Section 504, Louisiana Statutes and regulations and policies set forth in the DOE bulletins governing educational services for students with disabilities.

B. - C.1. ...

2. In determining whether to include transportation in a student's IEP, the IEP team must consider how the student's disability affects the student need for transportation. Factors include: the student's ability to move independently, ability to reason and understand potential safety hazards en route to the bus stop as a result of the student's age or disability, nature and condition of the route, availability of public assistance, and access to private assistance.

3. - 4. ...

5. Certain students may be picked up at a safe bus stop near (e.g., at the corner of) their residences. Alternate arrangements can be made that are mutually agreeable to all parties, but must be handled on an individual basis and indicated in the IEP.

6. - 7. ...

D. When attendance at a school outside the student's geographic zone is mutually agreeable and determined to be part of the student's FAPE, the home LEA has the responsibility to provide transportation, if transportation is also related to FAPE. In situations where the student attends an out-of-district school based solely on personal preference and the home LEA has offered an opportunity for FAPE, transportation may not be required, even in instances where the student may otherwise qualify for this service.

E. ...

F. LEAs must ensure that:

1. ...

2. Specialized equipment used to transport students to educational sites complies with all Federal Motor Vehicle Safety Standards (FMVSS), where such standards are applicable;

F.3. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1477 (July 2010), LR 37:2124 (July 2011).

§2107. Transportation of Students with Disabilities by Other than a School Bus

A. - A.3. ...

4. LEAs will reimburse drivers of vehicles (private cars, station wagons, vans, etc.) approved by the LEA for such purposes at the current state-approved rate for reimbursement of mileage on the basis of miles traveled for one round trip per vehicle for each day of attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 35:645 (April 2009), LR 36:1478 (July 2010), LR 37:2124 (July 2011).

Chapter 23. Bus Body Standards for School Buses

§2303. Federal Motor Vehicle Safety Standards (FMVSS)

A. - B. ...

C. In addition to FMVSS regulations, school buses used to transport students to and from school and school-related activities must meet the school bus body, chassis or equipment that meet the latest revised minimum standards for school buses adopted and recommended by the National Conference on School Transportation, sponsored by the National Council of Chief State School Officers, the

American Association of School Administrators, NEA, the Department of Rural Education, and the U.S. Office of Education. Copies of the current National Conference on School Transportation specifications can be obtained through the website: www.ncstonline.org.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999), amended LR 36:1478 (July 2010), LR 37:2124 (July 2011).

§2305. Definitions and Descriptions of School Bus Types

A. ...

1. Federal Definition. *School Bus*—a passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school.

2. State Definition *School Bus*—every motor vehicle that complies with the color, equipment, and identification requirements required by law and is used to transport children to and from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children.

B. School Bus Types

1. *Type A*—school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver's door. This definition includes two classifications: Type A-1, with a Gross Vehicle Weight Rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

2. *Type B*—school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

3. *Type C*—school bus is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels; also known as a *conventional school bus*. This type also includes cutaway truck chassis or truck chassis with cab with or without a left side door and a GVWR greater than 21,500 pounds.

4. *Type D*—school bus is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels; also known as *rear* or *front engine transit style school buses*.

5. *Specially Equipped*—a school bus designed, equipped, or modified to accommodate students with special needs.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1478 (July 2010), LR 37:2125 (July 2011).

Chapter 25. Purchase, Sale, Lease, and Repair of School Buses

§2503. Purchase of School Buses

A. All school bus vendors shall certify to the purchaser (LEA, contract, or individual), upon delivery that the school bus(es) sold for use by Louisiana school systems meet or exceed all standards specified herein and comply with the

applicable FMVSS set forth by the United States Department of Transportation.

B. - C. ...

D. LEAs must keep current records of purchases of school buses. Information must be provided to the DOE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:494.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1479 (July 2010), LR 37:2125 (July 2011).

§2505. Sale of School Buses

A. - B. ...

C. LEAs must keep current records of sales of school buses. Information shall be provided to the DOE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1479 (July 2010), LR 37:2125 (July 2011).

§2515. Repair of School Buses

A. - B. ...

C. School bus warranty repair work shall be performed by repair facilities authorized by the manufacturer or distributor.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:1261.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1480 (July 2010), LR 37:2125 (July 2011).

Chapter 27. Evaluation of the Student Transportation System

§2701. Criteria

A. - C.4. ...

D. The LEA school transportation evaluation program must provide for periodic evaluation of progress along predetermined time schedules and a point-by-point comparison of the system's present program with state policies and standards to identify deficiencies

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1480 (July 2010), LR 37:2125 (July 2011).

Chapter 29. Records and Reporting Procedures

§2901. Records and Reporting Procedures

A. - D. ...

1. an annual report of publicly and privately owned buses, including:

- a. names of drivers;
- b. vehicle data;
- c. number of daily trips;
- d. number of students;
- e. number of daily miles; and
- f. costs.

2. Reporting forms or formats for electronic transmission of data will be provided by the Department of Education.

3. frozen mileage reports that indicate the route mileage approved by the LEA authority at the time the school bus is placed into service. Use of the School Bus Purchase Form is required.

D.4. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1480 (July 2010), LR 37:2125 (July 2011).

§2903. Uniform School Bus Accident Reporting Procedures

A. ...

B. The Uniform School Bus Accident Report form shall be completed whether passengers are on board or not if the accident involves property damage, personal injury or fatality to:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:847 (May 1999), amended LR 36:1481 (July 2010), LR 37:2126 (July 2011).

Chapter 31. Glossary of Definitions

§3101. Definitions

Activity Bus Driver—a person meeting all licensing requirements and local, state and federal regulations to operate a vehicle used to transport students to and from school-related activities or on “as-needed” basis for the LEA.

Alternately Flashing Signal Lamps—a system of red and amber signal lamps mounted horizontally both front and rear, intended to identify a vehicle as a school bus and to inform other users of the highway that the bus is about to stop or is stopped to load or unload children.

School Bus—

1. Federal Definition. *School Bus*—passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school;

2. State Definition. *School Bus*—every motor vehicle that complies with the color, equipment, and identification requirements required by law and is used to transport children to and from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children.

a. *Type “A” school bus* is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver’s door. This definition includes two classifications: Type A-1, with a Gross Vehicle Weight Rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

b. *Type “B” school bus* is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

c. *Type “C” school bus* is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels; also known as a *conventional school bus*. This type also includes cutaway

truck chassis or truck chassis with cab with or without a left side door and a GVWR greater than 21,500 pounds.

d. *Type “D” school bus* is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels; also known as *rear or front engine transit style school buses*.

e. *Specially Equipped school bus* is designed, equipped, or modified to accommodate students with special needs.

Special Route—a route established for students with disabilities who cannot be transported by school buses or within the regular established school bus routing system, and must be transported in non-school buses that meet appropriate federal, state and special equipment requirements.

Tenured School Bus Driver—a full-time driver who has successfully completed the three-year probationary period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:641 (April 1999), amended LR 36:1481 (July 2010), LR 37:2126 (July 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 131—Alternative Education Schools/Programs Standards (LAC 28:CXLIX.Chapters 1-19)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 131—Alternative Education Schools/Programs Standards*. The implementation of Alternative Education Standards via Bulletin 131 will increase the quality of alternative education for students: (1) over aged for grade, (2) under-performing academically, (3) possessing learning disabilities, (4) displaying emotional or behavioral issues, (5) involved in criminal or juvenile justice systems, (6) pregnant or parenting, or (7) involved in drug abuse; and increase the number of high school graduates and decrease dropouts.

Title 28

EDUCATION

Part CXLIX. Bulletin 131—Alternative Education Schools/Programs Standards

Chapter 1. General Provisions

§101. Mission and Purpose

A. Exemplary alternative education develops a guiding mission and purpose that drives the overall operation of the program. All stakeholders (i.e., administrators, community representatives, parents/guardians, staff, and students) share in developing, implementing, directing and maintaining the mission and purpose. The mission and purpose include the identification of the target student population and promotion

of the success of all students. Additionally, the mission and purpose embody high expectations for academic achievement, along with the nurturing of positive social interactions between staff and students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2126 (July 2011).

Chapter 3. Support Services

§301. Leadership

A. Alternative education shall employ passionate, innovative, competent, and experienced leadership that has administrative and bureaucratic autonomy, as well as operational flexibility.

1. The administrators, teachers, and staff shall be committed to full implementation of alternative education's mission and core values.

2. Onsite leadership shall utilize and engage in a collaborative approach that ensures shared decision-making, high expectations for alternative education services, and continuous monitoring of quality.

3. The superintendent or designated district administrator shall sustain the independence of alternative education and allocate sufficient resources (i.e., financial or other necessary resources) to protect its integrity while supporting overall quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 5. Learning Environment

§501. Safety and Counseling

A. Alternative education shall maintain a safe, caring, and orderly climate and culture that promotes collegial relationships among students, parents/guardians, and program staff.

1. The culture and climate shall be characterized by a positive rather than punitive atmosphere for behavioral management and student discipline that encourages academic, behavioral, and social success.

2. Alternative education staff shall establish clear expectations for learning and student conduct.

3. The staff shall actively model and reward appropriate student behavior.

4. Alternative education shall use proven practices such as positive behavior support to organize student support systems.

5. Counseling services shall be responsive and focus on helping students who face obstacles that interfere with their personal/social, career, or educational development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 7. Employee Qualifications

§701. Staffing and Professional Development

A. Alternative education shall be staffed with effective, innovative, and qualified individuals trained in current research-based teaching methods that facilitate active learning. Written professional development shall:

1. identify staff training needs;
2. match needs to relevant training;

3. emphasize quality implementation of research-based and best practices; and

4. establish performance evaluations aimed at improving program and student outcomes and overall program quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 9. Individualized Student Learning Plan

§901. Curriculum and Instruction

A. Alternative education shall:

1. maintain high academic expectations for students across academic, behavioral, life skill, service coordination, transitional, and career and technical education domains;

2. integrate a creative and engaging curricula and instructional methods that are relevant to the individual student's needs; and

3. use integrated, well organized framework of research-based curricula and teaching practices designed to address the whole student while continuing to meet or exceed federal and state standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 11. Progress Monitoring

§1101. Student Assessment

A. Alternative education shall include screening, progress monitoring, diagnostic and outcome-based measurements and procedures to improve short- and long-term results at the student level.

1. Student assessments shall be used to measure achievement and identify specific learner needs.

2. The program shall exercise a research-based framework that values use of reliable measures to monitor student progress and adjust program services accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 13. Transition and Placement Process

§1301. Transitional Planning and Support

A. Alternative education shall have clear criteria and procedures for transitioning students from the traditional education setting to the alternative education setting, from the alternative education setting to the student's next education or workforce setting while ensuring timely access to community agencies and support services. This process calls for trained transitional personnel experienced in this particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 15. Staff and Parent/Guardian Partnership

§1501. Parent/Guardian Involvement

A. Alternative education shall actively involve parents/guardians beyond parent/guardian-teacher meetings. The program shall emphasize a nonjudgmental, solution-focused approach that incorporates parents/guardians as respected partners throughout the student's length of stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011).

Chapter 17. Community Representatives

§1701. Collaboration

A. Alternative education shall establish authentic partnerships with community resources based on trust, open communication, clearly defined goals, and shared responsibility which links the program, home, and community.

1. Collaborative partnerships shall promote opportunities for service learning, life skills, and career exploration for all students.

2. Community representatives shall have a role in the planning, resource development, and the decision-making process for alternative education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2128 (July 2011).

Chapter 19. Data Collection and Analysis

§1901. Program Evaluation

A. Alternative education shall systematically conduct program evaluations using the monitoring tool for compliance and for continuous improvement.

B. Data triangulation shall be employed with three different sources of data collected for analysis. Data collection shall include the following items:

1. program implementation ratings;
2. student outcome data; and
3. student, parent/guardian, and staff surveys as mandated by Louisiana state law.

C. All sources of data shall be gathered and used to assess quality, provide a course for improvement, and to direct future activities. The guidelines presented herewith titled Alternative Education Standards, as well as state specific standards, shall serve as an appropriate means in which to evaluate the program.

D. Further information on full implementation can be found in the Louisiana Alternative Education Handbook found on the DOE website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2128 (July 2011).

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Executive Director

1107#023

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Approval for Alternative Schools/Programs (LAC 28: CXV.2903)

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*: §2903. Approval for Alternative

Schools/Programs. Implementing changes to Bulletin 741, including the introduction of standards will:

Increase the quality of alternative education for students: (1) over aged for grade, (2) under-performing academically, (3) possessing learning disabilities, (4) displaying emotional or behavioral issues, (5) involved in criminal or juvenile justice systems, (6) pregnant or parenting, or (7) involved in drug abuse.

Increase the number of high school graduates and decrease dropouts.

Alternative school/programs are implemented according to BESE policy and state law.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 29. Alternative Schools and Programs

§2903. Approval For Alternative Schools/Programs

A. Alternative schools/programs shall comply with prescribed policies and standards according to *Bulletin 131—The Louisiana Handbook for School Administrators* and for regular schools except for those deviations granted by BESE. Additional information can be obtained in the Louisiana Alternative Education Handbook found on the DOE website.

B. Approval to operate an Alternative School/Program shall be obtained from BESE.

1. An LEA choosing to implement a new Alternative School/Program shall submit an application to the Office of College and Career Readiness, Division of Dropout Prevention on or before the date prescribed by the DOE.

2. The DOE will provide BESE with an annual report from alternative schools/programs in June of each year.

C. An approved alternative school/program shall be described in the LEA's pupil progression plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2318 (November 2009), LR 37:2128 (July 2011).

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1107#018

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit for Middle School Students (LAC 28: CXV.2321)

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*: §2321. Carnegie Credit for Middle School Students. The JAG curriculum has already been approved for Carnegie credit in secondary schools. Currently, ten middle schools offer a JAG program. The addition of Carnegie credit will allow for these most at-risk

students to have the opportunity to gain Carnegie credit before entrance into high school.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators
Chapter 23. Curriculum and Instruction
§2321. Carnegie Credit for Middle School Students**

A. Students in grades five through eight are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, social studies, English, foreign language, keyboarding/keyboarding applications, introduction to business computer applications, computer/technology literacy, health education, journey to careers, or jobs for America’s graduates.

B. Students who intend to take a GLE-based course for Carnegie credit in middle school should successfully complete a seventh grade course in that content area that addresses both the seventh and eighth GLEs. Upon completion of the course, the LEA shall administer a test based on the eighth grade GLEs. The purpose of the test is to determine student readiness for the Carnegie credit course. Upon request, the DOE will provide a test, if available, to the LEA for its use. The LEA shall publish in its pupil progression plan the criteria for placement of students in the Carnegie credit course, one of which shall be the student's performance on the eighth grade GLE test. Other suggested criteria include the student's performance in the seventh grade course, standardized test scores, and teacher recommendation.

C. Middle school students may receive Carnegie credit for successfully completing the high school course provided that:

1. the time requirement for the awarding of Carnegie credit is met (§907);
2. the student has mastered the established high school course standards for the course taken;
3. the teacher is certified at the secondary level in the course taught, or the student has passed a credit examination in the subject taken.
 - a. The credit examination shall be submitted each year for approval to the Division of Student Standards and Assessments or the Division of Family, Career and Technical Education of the DOE.
 - b. School principals may request the state Algebra I credit examination by notifying the Division of Student Standards and Assessments.

D. The LEA may grant credit on either a letter grade or a pass or fail (P/F) basis, provided there is consistency system-wide.

E. Students who are repeating the eighth grade because they have scored unsatisfactory on the mathematics and/or English language arts components of LEAP shall not take or receive Carnegie credit for any high school courses in a content area in which they scored unsatisfactory on the eighth grade LEAP.

F. Students who are repeating the eighth grade because they have scored unsatisfactory on the mathematics and/or English language arts components of LEAP shall not take or receive Carnegie credit for any high school courses in a content area in which they scored unsatisfactory on the eighth grade LEAP.

1. In addition to the courses in §2321.A, these students may receive Carnegie credit in other elective courses.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007), LR 34:609 (April 2008), LR 34:2031 (October 2008), LR 35:443 (March 2009), LR 35:2319 (November 2009), repromulgated LR 36:59 (January 2010), amended LR 36:2260 (October 2010), LR 37:2129 (July 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—College-Career Diploma; Career Diploma (LAC 28: CXV.2318 and 2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2318. The College and Career Diploma and §2319. The Career Diploma. These policy revisions adjust the numbering of the paragraphs relating to the end-of-course assessments. These changes are required to provide clarity to the policies by correcting an error in the numbering.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators
Chapter 23. Curriculum and Instruction
§2318. The College and Career Diploma**

A. - B.1.c. ...

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

- a. Students must pass three end-of-course tests in the following categories:
 - i. English II or English III;
 - ii. Algebra I or Geometry;
 - iii. Biology or American History.

3. Students enrolled in a course for which there is an EOC test must take the EOC test.

- a. The EOC test score shall count a percentage of the student’s final grade for the course.
- b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.
- c. The grades assigned for the EOC test achievement levels shall be as follows.

| EOC Achievement Level | Grade |
|-----------------------|--------|
| Excellent | A |
| Good | B |
| Fair | C |
| Needs Improvement | D or F |

d. The DOE will provide conversion charts for various grading scales used by LEAs.

4. For students with disabilities who have passed two of the three required end-of-course tests and have exhausted all opportunities available through the end of the 12th grade to pass the remaining required end-of-course test, that end-of-course test may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the end-of-course test.

5. Remediation and retake opportunities will be provided for students that do not pass the GEE or, LAA 2, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass on the GEE or LAA 2. Students shall be offered 30 hours of remediation each year in each EOC test they do not pass. Refer to *Bulletin 1566—Guidelines for Pupil Progression*, and the addendum to *Bulletin 1566—Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year*.

6. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an 8th grade student who has scored at the *Unsatisfactory* achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP provided the student:

- i. successfully completed specially designed elective(s) for LEAP remediation;
- ii. scored at or above the *Basic* achievement level on those component(s) of the 8th grade LEAP for which the student previously scored at the *Unsatisfactory* achievement level.

7. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests.

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE, LAA 2, or the end-of-course tests.

C. - C.6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2-3; R.S. 17:274; R.S. 17:274.1; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:2129 (July 2011).

§2319. The Career Diploma

A. - B.1.c. ...

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

a. Students must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. Algebra I or Geometry;
- iii. Biology or American History.

3. Students enrolled in a course for which there is an EOC test must take the EOC test.

a. The EOC test score shall count a percentage of the student's final grade for the course.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

c. The grades assigned for the EOC test achievement levels shall be as follows.

| EOC Achievement Level | Grade |
|-----------------------|--------|
| Excellent | A |
| Good | B |
| Fair | C |
| Needs Improvement | D or F |

d. The DOE will provide conversion charts for various grading scales used by LEAs.

4. For students with disabilities who have passed two of the three required end-of-course tests and have exhausted all opportunities available through the end of the 12th grade to pass the remaining required end-of-course test, that end-of-course test may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the end-of-course test.

5. Remediation and retake opportunities will be provided for students that do not pass the GEE or, LAA 2, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass on the GEE or LAA 2. Students shall be offered 30 hours of remediation each year in each EOC test they do not pass. Refer to *Bulletin 1566—Guidelines for Pupil Progression*, and the addendum to *Bulletin 1566—Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year*.

6. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP provided the student:

- i. successfully completed specially designed elective(s) for LEAP remediation;
- ii. scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP for which the student previously scored at the *Unsatisfactory* achievement level.

7. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests.

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE, LAA 2, or the end-of-course tests.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2; R.S. 17:183.3; R.S. 17:274; R.S. 17:274.1; R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:2130 (July 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Connections Process
(LAC 28:CXV.2907)

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: §2907. Connections Process. Connections* is a one year process for overage students to receive targeted instruction and accelerated remediation. The connections process will include the following elements: academic and behavioral interventions; mentoring; job skills training; TABE locator and battery assessments; committee reviews; parent meetings; individual prescriptions for instruction; individual graduation plans; and exiting pathways (high school diploma via accelerated pathway: core or career diploma; GED pathway; state-approved skills certificate). Students on the high school diploma and GED pathways may also work towards industry-based certification. This action revises *Bulletin 741—Louisiana Handbook for School Administrators: §2907*, in order to set forth policy regarding the newly developed connections process. There is no federal regulation attached to this action.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 29. Alternative Schools and Programs §2907. Connections Process

A. The connections process replaces Louisiana's PreGED/Skills Option Program. Connections is a one year process for overage students to receive targeted instruction and accelerated remediation aimed at attaining a high school diploma, high school equivalency diploma (by passage of GED tests), or state-approved skills certificate. The process includes a connections profile to track the following elements: academic and behavioral interventions; mentoring; job skills training; TABE locator and battery assessments; committee reviews; parent meetings; individual prescriptions for instruction; individual graduation plans; and exiting pathways. A school system shall implement the connections

process and shall obtain approval from the DOE at least 60 days prior to establishment.

NOTE: Refer to High Stakes Testing Policy in *Bulletin 1566—Guidelines* for pupil progression plans.

B. A program application describing the connections process shall be submitted and shall address the following program requirements.

1. Students who shall be 15 years of age or older by September 30 and are two years behind their peers academically. In addition, current PreGED/Skills Option students are eligible for entrance into one of the exiting pathways, pending committee review.

2. Enrollment is voluntary and requires parent/guardian consent.

3. Counseling/mentoring is a required component of the program.

4. The program shall have both an academic component and a career readiness component. Traditional Carnegie credit course work may be offered. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses to enhance course offerings, content, and partnerships for promoting college and career readiness.

5. There shall be three exiting pathways for the connections process student provided the student has completed all requirements for LEAP or LAA2 (if applicable) testing. In addition, high school diploma and GED students may work on an industry based certification (recommended TABE reading grade level score = 8.0).

a. High school diploma (accelerated pathway: core or career diploma) pathway for students meeting the following recommended goals/targets:

i. reading grade level score = 9.0;

ii. additional criteria to include connections committee review of student progress (ex. WorkKeys/KeyTrain or Career Ready 101 scores) to determine exiting pathway.

b. GED pathway for students meeting the following recommended goals/targets:

i. TABE reading grade level score = 7.0 to be considered for the pre-GED pathway and TABE reading G\grade level score = 9.0 to be considered for the GED pathway;

ii. additional criteria to include connections committee review of student progress (ex. WorkKeys/KeyTrain or Career Ready 101 scores) to determine exiting pathway.

c. State-approved skills certificate for students meeting the following recommended goals/targets:

i. TABE reading grade level score = 5.0;

ii. additional criteria to include connections committee review of student progress (ex. WorkKeys/KeyTrain or Career Ready 101 scores) to determine exiting pathway.

6. The connections process shall include the following components:

a. district coordinator;

b. lead teacher/JAG specialist;

c. counselor (on-site);

d. ELA/math certified teachers;

e. CTE/IBC certified teachers;

f. special education certified teacher for SWDs;

- g. teachers who are certified to offer Carnegie unit credits;
 - h. mentor/JAG specialist;
 - i. low teacher: student ratio will be required at each site: 1:15 or 1:25 with a paraprofessional in the class;
 - j. TABE certified test administrators.
7. The connections process can be held on high school campuses, middle school campuses, or off site provided the above components exist.
 8. Students will count in the October 1 MFP count.
 9. Students will be included in school accountability.

C. While enrolled as an eighth grader in the connections process, they shall be required to take the eighth grade LEAP or LAA2 (if applicable).

D. Further information on full process implementation can be found in the Connections Process Handbook on the Louisiana Department of Education website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 34:2032 (October 2008), LR 37:2131 (July 2011).

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1107#019

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, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §1103, Compulsory Attendance. This policy revision to §1103, required by Act 927 of the 2010 Regular Legislative Session, removes the statement that students between the ages of 17 and 18 may withdraw from school prior to graduation with parental consent.

**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 17 and is attending or is seeking admission to a National Guard Youth Challenge Program in this state, shall not be considered to be in violation of 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.

B.2. - N.Note. ...

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 37:2132 (July 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28:CXV.2318, 2333, 2337, 2354, 2355, and 2369)

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*: §2318. The College and Career Diploma, §2333. Art, §2337. Dance, §2354. Media Arts, §2355. Music, and §2369. Theatre Arts. These policy revisions provide additional courses that can be taken in the visual and performing arts. These revisions were made to update the course offerings in the arts and to provide a new program of study in the media arts.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2318. The College and Career Diploma

A. - C.2. ...

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

| *** | |
|---|-----------------|
| Arts | 1 unit |
| 1 unit Art (§2333), Dance (§2337), Media Arts (§2354), Music (§2355), Theatre Arts, (§2369), or Fine Arts Survey. A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit: *** | |
| Electives | 3 units |
| TOTAL | 24 units |

4. - 6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2-3; R.S. 17:274; R.S. 17:274.1; R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:2132 (July 2011).

§2333. Art

A. Art course offerings shall be as follows.

| Course Title(s) | Units |
|-----------------------------|--------|
| Art I, II, III, IV | 1 each |
| AP Art Studio 3-D Design | 1 |
| AP Art History | 1 |
| Talented Art I, II, III, IV | 1 each |

B. Art I is a prerequisite to Art II and Art III.

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 31:1295 (June 2005), amended LR 31:3069 (December 2005), LR 37:2132 (July 2011).

§2337. Dance

A. Dance course offerings shall be as follows.

| Course Title(s) | Units |
|----------------------|--------|
| Dance I, II, III, IV | 1 each |

B. Dance II, III, and IV are performance classes with new literature each year; they may be repeated more than once.

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 31:1295 (June 2005), amended LR 37:2133 (July 2011).

§2354. Media Arts

A. Media arts course offerings shall be as follows.

| Course Title(s) | Units |
|---------------------------|--------|
| Media Arts I, II, III, IV | 1 each |

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 37:2133 (July 2011).

§2355. Music

A. The music course offerings shall be as follows.

| Course Title(s) | Units |
|-------------------------------|--------|
| Applied Music | 1 |
| Beginning Band | 1 |
| Beginning Choir | 1 |
| Sectional Rehearsal | 1 |
| Studio Piano I, II, III | 1 each |
| Studio Strings I, II, III | 1 each |
| Intermediate Band | 1 |
| Intermediate Choir | 1 |
| Advanced Band | 1 |
| Advanced Choir | 1 |
| Beginning Orchestra | 1 |
| Intermediate Orchestra | 1 |
| Advanced Orchestra | 1 |
| Small Vocal Ensemble | 1 |
| Wind Ensemble | 1 |
| Jazz Ensemble | 1 |
| Guitar Class | 1 |
| Piano Class | 1 |
| Music Theory I, II | 1 each |
| Music and Media | 1 |
| Music and Technology | 1 |
| Talented Music I, II, III, IV | 1 each |

B. Advanced Choir, Advanced Band, Advanced Orchestra, Intermediate Choir, Intermediate Band, Intermediate Orchestra, Studio Strings III, Sectional Rehearsal, Small Vocal Ensemble, Wind Ensemble, Applied Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Approval by DOE is required before private piano and studio strings instruction can be given for credit.

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 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011).

§2369. Theatre Arts

A. The theatre arts course offerings shall be as follows.

| Course Title(s) | Units |
|---------------------------------|--------|
| Theatre I, II, III, IV | 1 each |
| Technical Theatre | 1 |
| Theatre Design and Technology | 1 |
| Talented Theatre I, II, III, IV | 1 each |

B. Theatre II, III, and IV are performance classes with new literature each year; they may be repeated more than once.

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 31:1298 (June 2005), amended LR 31:3070 (December 2005), LR 37:2133 (July 2011).

Catherine R. Pozniak
Executive Director

1107#007

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Immunizations (LAC 28: CXV.1121)

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*: §1121. Immunizations. The addition to Bulletin 741 is to comply with the requirements of R.S. 17:170.3, which requires each city, parish and other local public school board that provides information on immunizations to provide information to parents or legal guardians on human papillomavirus.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1121. Immunizations

A. - H. ...

I. Each LEA that provides information relative to immunizations shall provide to the parent or legal guardian of each student in grades six through twelve information relative to the risks associated with human papillomavirus and the availability, effectiveness, and known contraindications of immunizations against human papillomavirus. This information will be provided by the Department of Education.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 33:429 (March 2007), LR 35:1476 (August 2009), LR 35:2322 (November 2009), LR 37:2134 (July 2011).

Catherine R. Pozniak
Executive Director

1107#017

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Written Policies and Procedures (LAC 28: CXV.337)

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*: §337, Written Policies and Procedures. This policy revision to §337 requires local education agencies to have policies and procedures that address appropriate responses to the behavior of students with exceptionalities that may require immediate intervention. This policy revision is required by Act 698 of the 2010 Regular Legislative Session.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Personnel

§337. Written Policies and Procedures

A. - B. ...

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

1. - 25. ...

26. appropriate responses to the behavior of students with exceptionalities that may require immediate intervention (see for reference: *Guidelines for the Use of Seclusion Rooms and Restraint of Students with Exceptionalities*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7(29); R.S. 17:81; R.S.17:240; R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:2134 (July 2011).

Catherine R. Pozniak
Executive Director

1107#015

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Religious Studies (LAC 28: CXV.2367)

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*: §2367. Religious Studies. This policy revision to §2367 changed the name of the Religion courses for nonpublic schools to Religious Studies. This revision was recommended by the study group required by HR 204 of the 2010 Regular Legislative Session.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2367. Religious Studies

A. A maximum of four units in religious studies shall be granted to students transferring from state-approved private and sectarian high schools who have completed such coursework. Those credits shall be accepted in meeting the requirements for high school graduation.

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 31:1298 (June 2005), amended LR 37:2134 (July 2011).

Catherine R. Pozniak
Executive Director

1107#016

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Elementary Mathematics Specialist (LAC 28:CXXXI.666)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §666. Elementary Mathematics Specialist. The policy revision will allow an individual to serve as an Elementary Mathematics Specialist. This policy was based on the *Standards for Elementary Math Specialists: A Reference for Teacher Credentialing and Degree Programs* and will allow an individual to serve as either an elementary mathematics teacher or mathematics coach in grades PK-6. There are currently no guidelines in *Bulletin 746* that will allow an individual to serve as a math coach. This certification will allow an individual to serve in this capacity.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 6. Endorsements to Existing Certificates Subchapter C. All Other Teaching Endorsement Areas §666. Elementary Mathematics Specialist

Note: Valid for serving as an instructional coach in mathematics in grades PK-6.

A. In January 2010 the Association of Mathematics Teacher Educators (AMTE) adopted standards for elementary math specialists. These standards are included in *Standards for Elementary Math Specialists: A Reference for Teacher Credentialing and Degree Programs*. (See the Teach Louisiana website for further information on these standards.) These standards served as the basis for the elementary mathematics specialist certification.

B. This certification will be available to individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), or middle school mathematics certificate (e.g., 4-8, 5-8, 6-8), or a secondary mathematics certificate (6-12, 7-12). The following must be achieved:

1. three years of successful teaching experience to include the teaching of mathematics;
2. completion of 21 graduate hours of coursework which must be reflective of the Specialized Mathematics Content for Teaching as outlined in the AMTE standards. The 21 graduate hours are listed below:
 - a. three semester hours of number and operations;
 - b. three semester hours of algebra and functions;
 - c. three semester hours of geometry and measurement;
 - d. three semester hours of data analysis and probability;
 - e. three semester hours in mathematics pedagogical content knowledge which must include learners and learning, teaching, curriculum, and assessment;

f. three semester hours of leadership which must cover topics of leadership knowledge and skills; and

g. a three semester hour practicum to include leadership challenges and issues which mathematics leaders encounter. Candidates complete thirty-five hours of field experience shadowing a mathematics specialist and/or completing job-like activities in addition to participating in various projects, readings, and discussions as a member of a class.

C. If a teacher is certified to teach in any range of grades for PreK-6, then he/she may be the math teacher of record and assign grades to students in his/her certified grades. A secondary certified math teacher is allowed to teach math in grades 6-12 and/or serve as a math coach in grades PK-6. The EMS endorsement can be used to verify specialized knowledge in mathematics.

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 37:2135 (July 2011).

Catherine R. Pozniak
Executive Director

1107#008

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Overview (LAC 28:CXXXI.421)

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*: §421. Overview. The policy will provide for certification as a Certified Behavior Analyst. Individuals holding assistant or full level certification issued by the Behavior Analyst Certification Board (BACB) or Comprehensive Application of Behavior Analysis to Schooling Board (CABAS) will be allowed to serve in this capacity. There are currently no guidelines in *Bulletin 746* that will allow an individual to serve as a behavior analyst. This certification will allow someone certified to serve in this capacity.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 4. Ancillary School Service Certificates Subchapter B. School Therapists §421. Overview

- A. - E.3.b. ...
F. - F.2.b. Reserved.
G. Certified Behavior Analyst
1. Assistant Behavior Analyst (BCaBA)
 - a. Eligibility requirements:

- i. bachelor's degree from a regionally accredited college or university;
- ii. current assistant level certification issued by the Behavior Analyst Certification Board (BACB) or Comprehensive Application of Behavior Analysis to Schooling Board (CABAS);
- iii. the word assistant designates that direct supervision by a BCBA or CABAS is required;
- iv. a written request from the Louisiana employing authority indicating that the person will be employed once the certification is granted.

b. **Renewal Guidelines.** This certificate is valid provided the holder maintains current level certification issued by the Behavior Analyst Certification Board (BACB) or Comprehensive Application of Behavior Analysis to Schooling Board (CABAS). A worker who changes employing school systems must provide a copy of his/her current certification issued by BACB or CABAS to serve as a behavior analyst.

2. Behavior Analyst (BCBA)

a. Eligibility requirements:

- i. master's degree from a regionally accredited college or university;
- ii. current behavior analyst certification issued by the Behavior Analyst Certification Board (BACB) or Comprehensive Application of Behavior Analysis to Schooling Board (CABAS); and
- iii. a written request from the Louisiana employing authority indicating that the person will be employed once the certification is granted.

b. **Renewal Guidelines.** This certificate is valid provided the holder maintains current level certification issued by the Behavior Analyst Certification Board (BACB) or Comprehensive Application of Behavior Analysis to Schooling Board (CABAS). A worker who changes employing school systems must provide a copy of his/her current certification issued by BACB or CABAS to serve as a behavior analyst.

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 32:1811 (October 2006), amended LR 34:433 (March 2008), LR 37:884 (March 2011), LR 37:2135 (July 2011).

Catherine R. Pozniak
Executive Director

1107#006

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Supervisor of Student Teaching (LAC 28:CXXXI.787)

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*: §787. Supervisor of Student Teaching. The policy revision will allow an

individual to serve as a supervisor of student teaching by either meeting specific criteria or by having this endorsement added to their teaching certificate by completing a college level course in supervision of student teaching. The revision to this policy is a correction of *Bulletin 746* to read “or” instead of “and” in the requirements to serve as a supervisor of student teachers.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 7. Administrative and Supervisory Credentials

Subchapter E. All Other Supervisory Endorsements
§787. Supervisor of Student Teaching

A. This is no longer a required endorsement that must appear on a certificate.

B. To qualify to perform this supervisory service, a teacher must meet one of the following eligibility criteria:

- 1. valid Type A or Level 3 Louisiana certificate in the field of the supervisory assignment;
- 2. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete the three semester-hour course in the supervision of student teaching;
- 3. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete assessor training through the Louisiana Teacher Assistance and Assessment Program; or
- 4. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and National Board Certification in the field of the supervisory assignment.

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 32:1829 (October 2006), amended LR 37:2136 (July 2011).

Catherine R. Pozniak
Executive Director

1107#005

RULE

Board of Elementary and Secondary Education

Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools—Driver Education; Required (LAC 28:XXXI.507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools*: §507. Driver Education; Required (R.S. 32:402.1). The revision requires that no person under the age of fifteen shall be allowed to enroll or participate in the driving experience portion of any driver education course or driver training program. A person, no sooner than 90 days prior to his fifteenth birthday and who is in, at a minimum, grade nine, shall be permitted to participate in the classroom instruction component of a driver education course or driving program.

**Title 28
EDUCATION**

**Part XXXI. Bulletin 1179—Driver Education, Traffic Safety and Administrative Guide for Louisiana Schools
Chapter 5. Administrative Policies**

§507. Driver Education; Required (R.S. 32:402.1)

A. - C. ...

D. No person under the age of fifteen shall be allowed to enroll or participate in the driving experience portion of any driver education course or driver training program. A person, no sooner than ninety days prior to his fifteenth birthday and who is in, at a minimum, grade nine, shall be permitted to participate in the classroom instruction component of a driver education course or driving program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999), amended LR 35:1488 (August 2009), LR 36:490 (March 2010), LR 37:2137 (July 2011).

Catherine R. Pozniak
Executive Director

1107#004

RULE

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and
Nutrition Programs, Policies of Operation
(LAC 28:XLIX.741, 1503, 1509, 1511, and 1517)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1196—Louisiana Food and Nutrition programs, Policies of Operation*: §741. Competitive Foods, §1503. Procurement Systems, §1509. Other Procurement Methods, §1511. Diversion of Commodities for Processing, and §1517. Contract Provisions. Due to changes from the 2010 Regular Legislative Session pertaining to the Child Nutrition Program, it was imperative to revise Chapter 7 in Bulletin 1196. These changes affect the policy regarding the sale of beverages to public high school students. In Chapter 15, the aggregate amount for purchases of materials and supplies was changed from \$20,000 to \$30,000. These revisions will consolidate necessary changes to Child Nutrition Programs and, therefore, make it more useful to the local systems throughout the state.

**Title 28
EDUCATION**

**Part XLIX. Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation
Chapter 7. Meal Planning Service**

§741. Competitive Foods

A. Act 331 of the 2005 Regular Louisiana Legislative Session establishes healthy standards for foods and beverages sold on school grounds within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day.

1. When food and beverage items are sold through vending, concessions or other such sales on school grounds,

outside the National School Lunch Program (NSLP) and School Breakfast Program (SBP), during the times mentioned, elementary and middle school children can be offered only those products that meet or exceed the content and nutritional standards established in Act 331.

2. When food items are offered to high school students on school grounds during the times mentioned, at least 50 percent of the items offered must meet the content and nutritional standards established in Act 331. Schools must use the approved list of snacks that meet the nutritional standards established in Act 331. The snack list has been approved by Pennington Biomedical Research Center. Pennington Biomedical Research Center may recommend additional nutritional restrictions for certain nutrients based on nutritional research.

3. Beverages offered to high school students on school grounds during the times mentioned must comply with the guidelines listed in Subsection F of this Section.

B. The approved list of snack items can be found on the Louisiana Department of Education (LDOE) website at <http://www.louisianaschools.net>. If an item is approved for inclusion on the list of allowable food items for sale on school grounds per Act 331 and SBESE Bulletin 1196, the list is only valid for the item as submitted with nutritional information to the Louisiana Department of Education. It is the responsibility of any school district/school, that chooses to sell such food/items, to ensure that products sold on school grounds meet the minimum standards required by Act 331 and SBESE Bulletin 1196.

C. Beverages that may be sold at any time beginning 1/2 hour before the start of the normal school day and ending 1/2 hour after the end of the normal school day for elementary and secondary schools include the following:

1. - 3. ...

D. Food items which may not be sold to elementary and secondary students at any time beginning 1/2 hour before the start of the normal school day and ending 1/2 hour after the end of the normal school day are listed below:

1 - 2. ...

3. fresh pastries, as defined by Pennington Biomedical Research Center.

E. Elementary Schools

1. After the end of the last lunch period, only items defined as healthy snacks may be sold. Healthy snacks must be listed on the Pennington Biomedical Research Center approved snack list, and are defined as having the following:

- a. 150 calories or less per serving;
- b. 35 percent or less of their calories from fat; and
- c. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

E.2. - F. ...

1. A high school shall mean any school whose grade structure falls within the 6 through 12 range and includes grades in the 10 to 12 range or any school that contains only grade 9 as defined in Act 331. Beginning the last 10 minutes of each lunch period, public high schools may choose to offer food and beverages of their choosing to students, so long as at least 50 percent of such items are healthy snacks. Healthy snacks are defined as having the following.

a. Food Items

i. At least 50 percent of food items offered must be healthy snacks. Healthy snacks must be listed on the

Pennington Biomedical Research Center approved snack list, and are defined as having the following:

- (a). 150 calories or less per serving;
- (b). 35 percent or less of their calories from fat;

and

- (c). 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

b. Beverages

- i. Act 306 of the 2009 Regular Louisiana Legislative Session states that beverages offered for sale to students in public high schools shall be comprised of the following:

- (a). bottled water;
- (b). no-calorie or low-calorie beverages that contain up to ten calories per eight ounces;
- (c). up to 12-ounce servings of beverages that contain 100 percent fruit juice with no added sweeteners and up to 120 calories per eight ounces;
- (d). up to 12-ounce servings of any other beverage that contains no more than 66 calories per 8 ounces;
- (e). at least 50 percent of non-milk beverages shall be water and no-calorie or low-calorie options that contain up to ten calories per eight ounces;
- (f). low-fat milk, skim milk, and nondairy milk.

2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 32:806 (May 2006), LR 37:2137 (July 2011).

Chapter 15. Procurement

§1503. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$30,000 must be formally bid. *Aggregate* is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$30,000, but the total invoices during the two-month period are over \$30,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$30,000 must be documented for review and audit purposes.

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

- a. the aggregate amount does not exceed \$30,000; and/or

- b. the purchases are for highly perishable materials.

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$30,000 shall be made by obtaining an adequate number of price quotations. The adequate number of price quotations for any items purchased under small purchase procedures that must be obtained is

determined by local market conditions. Regardless of dollar value, the SFA must have open and free competition. If in a small rural parish there are only two produce vendors that provide service to the area, two quotes may be sufficient. However, in a larger metropolitan area where there are six produce vendors, all six should be given an opportunity to submit price quotations.

3. Price quotes can be oral or written. At least three telephone, handwritten or facsimile quotations must be obtained for materials and supplies costing less than \$30,000. A written confirmation of the accepted offer shall be obtained and made part of the purchase file. If quotations lower than the accepted quotations are received, the reasons for their rejection shall be recorded in the purchase file. All written documentation must be maintained on file for three years after final payments have been made for the federal fiscal year to which they pertain.

3.a. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2183 (December 2001), amended LR 29:2032 (October 2003), LR 30:2460 (November 2004), LR 37:2138 (July 2011).

§1509. Other Procurement Methods

A. - E. ...

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$30,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$30,000. If the aggregate amount of a purchase exceeds \$30,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or state bid contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

E.2. - G.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2186 (December 2001), amended LR 29:2033 (October 2003), LR 30:2460 (November 2004), LR 37:2138 (July 2011).

§1511. Diversion of Commodities for Processing

- A. Federal and state procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$30,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$30,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2187 (December

2001), amended LR 29:2033 (October 2003), LR 30:2460 (November 2004), LR 37:2138 (July 2011).

§1517. Contract Provisions

A. - H.1. ...

I. Termination Provisions for Contracts over \$30,000

1. All contracts over \$30,000 must contain suitable provisions for termination by the grantee including the manner that the termination will be effected and the basis for settlement. In addition, such contracts shall describe the conditions under which the contract may be terminated for default because of circumstances beyond the control of the contractor.

J. Equal Opportunity Provision for Contracts over \$30,000

1. All contracts over \$30,000 must contain a provision requiring compliance with executive order 11246, entitled "Equal Employment Opportunity," as amended by executive order 11375, and as supplemented in Department of Labor regulations 40 CFR Part 60.

K. - K.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2188 (December 2001), amended LR 30:2461 (November 2004), LR 37:2139 (July 2011).

Catherine Pozniak
Executive Director

1107#022

RULE

Board of Elementary and Secondary Education

Organization, Operations (LAC 28:I.Chapters 5 and 7)

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, Chapters 5 and 7.

Louisiana Administrative Code, Title 28, Part I, §501 contains the committee structure for the Board of Elementary and Secondary Education. BESE duties will be performed in four committees aligned with key BESE education initiatives. The committee structure will assist the board in the exercise of its powers and responsibilities as defined by the constitution and statutes.

Louisiana Administrative Code, Title 28, Part I, §503 contains the authority, charge and membership of the Board of Elementary and Secondary Education advisory councils. Currently, business is referred to the advisory councils by BESE. Language is being modified in this Section to allow advisory council business items to be referred by BESE and the Department of Education.

Louisiana Administrative Code, Title 28, Part I, Chapter 7 contains the Board of Elementary and Secondary Education operational procedures. BESE is changing operational procedures to conform to the current BESE meeting schedule and modifying meeting protocol to be followed by board members.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 5. Organization

§501. Committees

A. As a means of assisting the board in the exercise of its powers and responsibilities as defined in the constitution and by law, committees are created.

B. Committees, composed of not less than three members of the board and appointed by the president, are:

1. Academic Goals and Instructional Improvement Committee. The following are examples of issues that will be considered by the Academic Goals and Instructional Improvement Committee.

a. Primary areas of responsibility (AORs):
i. accountability, academic standards, and assessment;

(a) raising accountability; and

(b) common standards policy concepts;

ii. improving academic performance and closing the achievement gap;

(a) goal office policy concepts and subcommittee reports;

iii. red tape reduction;

(a) policy waivers;

iv. BESE special schools and nonpublic school management;

(a) Brumfield v. Dodd approval; and

(b) academic classifications.

b. Issues included on "as needed" basis in AORs:

i. critical goal office updates;

ii. alternative, special education, and sub-population issues; and

iii. school/community support.

2. Administration and Finance Committee. The following are examples of issues that will be considered by the Administration and Finance Committee.

a. Primary areas of responsibility (AORs):

i. board operations;

(a). calendars, travel, etc.;

(b). evaluations:

(i). state superintendent of education;

(ii). BESE executive director, etc.; and

(c). responses to legislative action (studies/reports);

ii. financial management and performance;

(a). budgets:

(i). BESE;

(ii). LDE;

(iii). RSD;

(iv). SSD;

(b). contracts and grants;

(c). MFP:

(i). analysis;

(ii). planning; and

(iii). redesign;

(d). 8(g) grant program; and

(e). RSD capital projects.

- b. Issues included on “as needed” basis in AORs:
 - i. financially at-risk reports (charters and school systems).
- 3. Educator Effectiveness Committee. The following are examples of issues that will be considered by the Educator Effectiveness Committee.
 - a. Primary areas of responsibility (AORs):
 - i. educator certification;
 - (a). request for hearings and hearings; and
 - (b). policy concepts;
 - ii. educator evaluation and performance;
 - (a). analysis; and
 - (b). policy concepts;
 - iii. educator preparation;
 - (a). program approval (i.e., alternative preparation).
 - b. Issues included on “as needed” basis in AORs:
 - i. Advisory Committee on Educator Evaluation (ACEE) updates.
- 4. School Innovation and Turnaround Committee. The following are examples of issues that will be considered by the School Innovation and Turnaround Committee.
 - a. Primary areas of responsibility (AORs):
 - i. charter school performance, support, and oversight;
 - (a) amendment requests, approval, extension, and renewal, etc.;
 - ii. RSD performance management;
 - (a) school accountability—annual performance and exit eligibility; and
 - (b) school intervention decisions.
 - b. Issues included on “as needed” basis in AORs:
 - i. enrollment policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2139 (July 2011).

§503. Advisory Councils

A. Functions. In general, the function of an advisory council is to advise the board, directly or through its committees, in the discharge of its policymaking, supervisory control, and budgetary duties and responsibilities. Specific functions of an advisory council are determined by the creating law or policy. Advisory councils deal exclusively with matters referred to them by the board or the LDE. Matters referred to advisory councils are those that require external input regarding funding decisions, policy matters that need to be reviewed for local impact, bulletin revisions containing policies or supervisory controls, and matters particular to a council for which it was created. The LDE staff provides the board with a statewide and nationwide perspective on certain issues, while advisory councils respond from a local or community perspective.

- B. - C.1.c.iii. ...
 - iv. Consider all matters referred by the board or the LDE.
 - 2. - 2.c.i. ...
 - ii. Consider all matters referred by the board or the LDE.
 - 3. - 3.c....

- i. Consider all matters referred by the board or the LDE.
 - ii. Recommendations from the superintendents' Advisory Council shall go to the appropriate board committee. The LDE shall provide responses to the various recommendations.
 - 4. - 4.c.v. ...
 - vi. Review and comment on the LDE's recommendations for disbursement of competitive grants and awards to local education agencies and qualified nonprofit entities; and
 - vii. Consider all matters referred by the board or the LDE.
 - 5. - 5.c.i. ...
 - ii. Consider all matters referred by the board or the LDE.

d. Special Advisory Councils/Task Forces/Commissions/Study Groups. Special advisory groups may be created by the board with a limited charge and scope to study a specific topic as referred by the board.

D. Officers. Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership in attendance a chair and a vice-chair. Elections shall be held annually at the first meeting in a fiscal year, and the councils shall report election results to the board.

E. - F. ...

- 1. Each advisory council shall meet as scheduled in order to consider referrals from the board or the LDE. Special meetings shall be by call of the board, and emergency meetings may be called at the discretion of the executive director.

2. ...

- 3. Notices of council meetings shall be distributed to council members by the board staff at least 10 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana Open Meetings Law (R.S. 42:6.1). In the event that no items have been referred by the Board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

4. - 5. ...

- a. Requests from advisory councils for data/reports must be made in the form of a motion, requesting that the board direct the LDE or BESE staff to provide such information to the council making the request.

6. The minutes and reports of each advisory council shall be presented to the board's executive director for referral to the board. Actions taken in response to referrals shall be forwarded to the appropriate committee(s). A committee, after consideration of the recommendations of the advisory council, shall report its recommendations to the board for final action.

7. All meetings of advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, R.S. 17:11, 34 CFR 300.650-652, and R.S. 17:1954.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011).

Chapter 7. Operations

§701. Public Meeting Notice

A. ...

B. Public Notice. Public notices for regular and special meetings of the board, its committees, and its advisory councils shall be made as required by Louisiana's Open Meetings Law. A 24-hour written public notice shall be given of any regular, special, or rescheduled meeting of the board, its committees, and its advisory councils. The 24-hour public notice shall include the agenda, date, time, and place of the meeting, as posted on the BESE website.

C. Cancellations. Cancellations of any board or committee meetings shall be made only after a 24-hour public notice. In the event of the absence of a quorum, at the scheduled time and place of the meeting, the meeting shall be cancelled because a quorum must be present in order that official business may be legally transacted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:5, R.S. 42:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011).

§703. Regular and Special Meeting Schedules

A. R.S. 17 requires the board to meet in regular session in January of each year and at such other times as are fixed by the board.

B. The board and committee meeting schedules for the upcoming calendar year are approved in October of each year.

C. Regular Board Meetings. Generally, regular meetings of the board shall convene on the third Wednesday of the month. A simple majority of board members may agree to meet on another day.

D. Special Board Meetings. Special meetings of the board may be held upon call of the president, and the president shall call a special meeting whenever requested to do so by a majority of the total members of the board.

E. Joint Board of Regents (BOR)/BESE Meetings. The Board of Regents shall meet with BESE at least twice a year to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education.

F. Regular Committee Meetings. The chair of each committee of the board shall conduct regular committee meetings at such times as scheduled for consideration of agenda items.

G. Special Committee Meetings. Special meetings of a committee may be held upon call of the committee chair, and the chair shall call a special meeting whenever requested to do so by a majority of the total named members of the committee.

H. Committee of the Whole

1. The board may, if it so desires, constitute itself as a committee rather than as a full body and proceed to discuss matters as if it were in a committee, i.e., with relaxed rules.

2. When the board convenes itself as a Committee of the Whole, it acts as any committee, which has received a referral(s) from the board. Its discussion is limited to the item(s) of referral, and it has no greater authority than a regular committee. The board president convenes and

adjourns the meeting, and each committee chair presides over that portion of the meeting pertaining to the issues routinely considered by his/her committee. Votes are not final, and committee actions are considered to be recommendations from the committee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(E), R.S. 17:6(A)(10), and Article VIII, Section 5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 35:1874 (September 2009), LR 37:2141 (July 2011).

§705. Agenda

A. - B.3. ...

C. Distribution and Posting of the Agenda. The agenda for board and committee meetings shall be distributed to board members at least 10 days prior to the meeting date and posted on the web at <http://www.louisianaschools.net>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011).

§709. Board and Committee Meeting Protocol

A. - B.1. ...

2. The BESE staff member facilitating a meeting shall read each agenda item and staff recommendation prior to the matter being considered. If the matter involves a report or presentation by an LDE or BESE staff member or other authorized representative, he/she may make the presentation and members may discuss and ask questions regarding the matter prior to the making of a motion.

B.3. - C.3. ...

4. At the board meeting, when approving committee minutes and acting on committee recommendations, any board member wishing to address an item must have been in attendance at the committee meeting in which the action was taken.

D. Rules of Conduct

1. Board members and staff should be on time for all meetings.

2. - 9. ...

10. Board members are asked to remain seated when individuals are making presentations to the board or receiving recognition by the board, as it is always an honor to be recognized by state-level officials.

11. Cell phones and other electronic devices should be turned off or taken to the side rooms for conversations when activated.

12. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:4.2, R.S. 17:3(C), R.S. 42:5(C), and R.S. 42:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008), amended LR 37:2141 (July 2011).

§713. Public Comments

A. In order to carry on its business in an orderly and efficient manner, the board utilizes committees. Full discussion of board business usually occurs at the committee level, and public comment should ideally be at that time rather than after a recommendation has been forwarded to the board. Opportunity to comment publicly on a committee or board agenda item may be provided to a representative number of proponents and opponents according to the following procedures.

1. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008), amended LR 36:59 (January 2010), LR 37:2141 (July 2011).

§719. Minutes

A. In accordance with the Open Meetings Law, the board shall keep written minutes of all of its open meetings. All meetings of committees and advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties; and actions of the committees and advisory councils, to be operative, shall be recorded and presented to the board at its next regular meeting.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:7.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 37:2142 (July 2011).

Catherine R. Pozniak
Executive Director

1107#013

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for
Nonpublic School Administrators
(LAC 28:LXXIX.2109, 2305, 2309, 2324, 2325, and 2337)

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*: §2109. High School Graduation Requirements, §2305. Art, §2309. Dance, §2324. Media Arts, §2325. Music, and §2337. Theatre Arts. These policy revisions provide additional courses that can be taken in the visual and performing arts. These revisions were made to update the course offerings in the arts and to provide a new program of study in the media arts.

Title 28 EDUCATION

Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2109. High School Graduation Requirements

A. - B. ...

C. Minimum Requirements (effective for incoming freshmen 1999-2000 to 2008-2009)

1. English—4 units, shall be English I, II, and III, and English IV or Business English.

2. Mathematics—3 units.

a. Effective for incoming freshmen 2005-2006 and beyond, all students must:

i. complete one of the following:

(a). algebra I (1 unit); or

(b). algebra I-pt. 1 and algebra I-pt. 2 (2 units);

or

(c). integrated mathematics I (1 unit);

ii. the remaining unit(s) shall come from the following:

(a). integrated mathematics II;

(b). integrated mathematics III;

(c). geometry;

(d). algebra II;

(e). financial mathematics;

(f). advanced mathematics-pre-calculus;

(g). advanced mathematics-functions and statistics;

(h). pre-calculus;

(i). calculus;

(j). probability and statistics;

(k). discrete mathematics.

3. Science—3 units, shall be the following:

a. 1 unit of biology;

b. 1 unit from the following physical science cluster: physical science, integrated science, chemistry I, physics I, physics of technology I;

c. 1 unit from the following courses: aerospace science, biology II, chemistry II, earth science, environmental science, physics II, physics of technology II, agriscience II, an additional course from the physical science cluster, or a locally initiated science elective;

d. students may not take both integrated science and physical science;

e. agriscience I is a prerequisite for agriscience II and is an elective course.

4. Social Studies—3 units, shall be American history; one-half unit of civics, one-half unit of free enterprise or one full unit of civics or AP American government; and one of the following: world history, world geography, western civilization, or AP European history.

5. Health and Physical Education—2 units, shall be health and physical education I and health and physical education II, or adapted physical education for eligible special education students.

NOTE: The substitution of JROTC is permissible.

A maximum of four units may be used toward graduation.

6. Electives (including a maximum of four credits in religion)—8 units.

7. Total—23 units.

D.1. - 4. ...

E. For incoming freshmen in 2009-2010 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

1. English—4 units, shall be English I, II, III, and IV.

2. Mathematics—4 units, shall be:

a. algebra I (1 unit) or algebra I-Pt. 2;

b. geometry;

c. algebra II;

d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, or a locally-initiated elective approved by BESE as a math substitute.

3. Science—4 units, shall be:

a. biology;

b. chemistry;

c. two units from the following courses: physical science, integrated science, physics I, physics of technology I, aerospace science, biology II, chemistry II, earth science,

environmental science, physics II, physics of technology II, agriscience II, anatomy and physiology, or a locally initiated elective approved by BESE as a science substitute.

i. Students may not take both integrated science and physical science.

ii. Agriscience I is a prerequisite for agriscience II and is an elective course.

4. Social Studies—4 units, shall be:

a. 1 unit of civics or AP American government, or 1/2 unit of civics or AP American Government and 1/2 unit of free enterprise;

b. 1 unit of American history;

c. 1 unit from the following: world history, world geography, western civilization, or AP European history;

d. 1 unit from the following: world history, world geography, western civilization, AP European history, law studies, psychology, sociology, African American studies, or religion I, II, III, or IV.

5. Health and Physical Education—2 units.

6. Foreign Language—2 units, shall be 2 units from the same foreign language or 2 speech courses.

7. Arts—1 unit, shall be one unit of art (§2305), dance (§2309), media arts (§2324), music (§2325), theatre, or fine arts survey.

8. Electives—3 units.

9. Total—24 units.

F. For incoming freshmen in 2009-2010 and beyond who are completing the Louisiana Basic Core Curriculum, the minimum course requirements for graduation shall be the following.

1. English—4 units, shall be English I, II, III, and IV or senior applications in English.

2. Mathematics—4 units, shall be:

a. algebra I (1 unit) or algebra I-pt. 1 and algebra I-pt. 2 (2 units);

b. geometry;

c. the remaining units shall come from the following: algebra II, financial mathematics, math essentials, advanced mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, or a locally initiated elective approved by BESE as a math substitute.

3. Science—3 units, shall be:

a. biology;

b. 1 unit from the following physical science cluster: physical science, integrated science, chemistry I, physics I, physics of technology I;

c. 1 unit from the following courses: aerospace science, biology II, chemistry II, earth science, environmental science, physics II, physics of technology II, agriscience II, anatomy and physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute.

i. Students may not take both Integrated Science and Physical Science.

ii. Agriscience I is a prerequisite for agriscience II and is an elective course.

4. Social Studies—3 units, shall be:

a. 1 unit of civics and/or AP American government, or 1/2 unit of civics or AP American government and 1/2 unit of free enterprise;

b. 1 unit of American history;

c. 1 unit from the following: world history, world geography, western civilization, or AP European history.

5. Health and Physical Education—2 units.

6. Electives—8 units.

7. Total—24 units.

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 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142 (July 2011).

Chapter 23. High School Program of Studies

§2305. Art

A. Art course offerings shall be as follows.

| Course Title | Unit(s) |
|--------------------------|---------|
| Art I, II, III, IV | 1 each |
| AP Art Studio 3-D Design | 1 |
| AP Art History | 1 |
| Fine Arts Survey | 1 |

B. Fine Arts Survey (Art). Fine arts survey shall be taught by a qualified art teacher and the other semester by a qualified music teacher. If one or both of these teachers is not available, the principal is authorized to select the most qualified teacher, preferably one with a strong liberal arts or humanities background.

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 29:2353 (November 2003), amended LR 31:3085 (December 2005), LR 37:2143 (July 2011).

§2309. Dance

A. Dance course offerings shall be as follows.

| Course Title | Unit(s) |
|----------------------|---------|
| Dance I, II, III, IV | 1 each |

B. Dance II, III, and IV are performance classes with new literature each year; they may be repeated more than once.

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 31:3085 (December 2005), amended LR 37:2143 (July 2011).

§2324. Media Arts

A. Media arts course offerings shall be as follows.

| Course Title(s) | Units |
|---------------------------|--------|
| Media Arts I, II, III, IV | 1 each |

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 37:2143 (July 2011).

§2325. Music

A. Music course offerings shall be as follows.

| Course Title | Unit(s) |
|----------------------------|---------|
| Beginning Band | 1 |
| Beginning Choir | 1 |
| Beginning Orchestra | 1 |
| Composition | 1 |
| Conducting | 1 |
| General Music | 1 |
| Guitar Class | 1 |
| Intermediate Band | 1 |
| Intermediate Choir | 1 |
| Intermediate Orchestra | 1 |
| Instrument Technique Class | 1 |
| Jazz Ensemble | 1 |
| Jazz Improvisation | 1 |
| Music Appreciation | 1 |
| Music History | 1 |
| Music Theory I, II | 1 each |
| Piano class | 1 |
| Sectional Rehearsal | 1 |
| Studio Piano, I, II, III | 1 each |
| Advanced Band | 1 |
| Advanced Choir | 1 |
| Advanced Orchestra | 1 |
| Applied Music | 1 |
| Small Vocal Ensemble | 1 |
| Wind Ensemble | 1 |
| Sectional Rehearsal | 1 |
| Studio Strings I, II, III | 1 each |
| Music and Media | 1 |
| Music and Technology | 1 |

B. Advanced choir, advanced band, advanced orchestra, intermediate choir, intermediate band, intermediate orchestra, studio strings III, sectional rehearsal, small vocal ensemble, wind ensemble, applied music, jazz ensemble, and studio piano III are performance classes with new literature each year; they may be repeated more than once.

C. Refer to §2741 for credit for private piano and studio strings instruction.

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 29:2355 (November 2003), amended LR 31:3087 (December 2005), LR 37:2144 (July 2011).

§2337. Theatre Arts

A. The theatre arts course offerings shall be as follows.

| Course Title(s) | Units |
|---------------------------------|--------|
| Theatre I, II, III, IV | 1 each |
| Technical Theatre | 1 |
| Theater Design and Technology | 1 |
| Talented Theatre I, II, III, IV | 1 each |

B. Theatre II, III, and IV are performance classes with new literature each year; they may be repeated more than once.

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 29:2356 (November

2003), amended LR 31:3088 (December 2005), LR 37:2144 (July 2011).

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1107#003

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for
Nonpublic School Administrators
(LAC 28:LXXIX. 2109, 2331, and 2335)

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*: §2109. High School Graduation Requirements, §2331. Social Studies, and §2335. Course Credit for Religious Studies. These policy revisions change the name of the religion courses for nonpublic schools to religious studies. These revisions were recommended by the study group required by HR 204 of the 2010 Regular Legislative Session.

Title 28

EDUCATION

Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators

Chapter 21. Curriculum and Instruction

§2109. High School Graduation Requirements

A. - E.3.c.ii. ...

4. Social Studies—4 units, shall be:

a. 1 unit of civics or AP American government, or 1/2 unit of civics or AP American Government and 1/2 unit of free enterprise;

b. 1 unit of American history;

c. 1 unit from the following: world history, world geography, western civilization, or AP European history;

d. 1 unit from the following: world history, world geography, western civilization, AP European history, law studies, psychology, sociology, African American studies, or religious studies I, II, III, or IV.

D.5. - F.7. ...

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 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2144 (July 2011).

Chapter 23. High School Program of Studies

§2331. Social Studies

A. - C. ...

D. One unit of religious studies (§2335) may be used as the fourth social studies course required for the Louisiana Core 4 curriculum.

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 29:2356 (November

2003), amended LR 31:3088 (December 2005), LR 34:2102 (October 2008), LR 37:2144 (July 2011).

§2335. Course Credit for Religious Studies

A. A maximum of four units in religious studies shall be granted to students transferring from state-approved private and sectarian high schools who have completed such course work. Those credits shall be accepted in meeting the requirements for high school graduation.

| Course Title | Units |
|-----------------------|-------|
| Religious Studies I | 1 |
| Religious Studies II | 1 |
| Religious Studies III | 1 |
| Religious Studies IV | 1 |

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 29:2356 (November 2003), amended LR 31:3088 (December 2005), LR 37:2145 (July 2011).

Catherine R. Pozniak
Executive Director

1107#014

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—School Approval (LAC 28:LXXIX.107)

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: §107. School Approval*. This policy revision deletes the statement that nonpublic schools must meet all the standards listed in Section 107.A to be approved. This revision is necessary because the deleted statement contradicts state law. State law does not require a school to be in compliance with *Brumfield vs. Dodd* to be a state-approved school.

**Title 28
EDUCATION**

Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§107. School Approval

A. In order to benefit from state and federal funds, each approved school shall meet and maintain the following standards:

1. the school must have a state approval classification;
2. the school must be in compliance with *Brumfield vs. Dodd*; and
3. the school must be a nonprofit institutional day or residential school that provides elementary education, secondary education, or both.

B. This requirement applies to schools submitting an initial application for school approval and schools which are currently approved.

C. - F. ...

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 29:2342 (November 2003), amended LR 31:3073 (December 2005), LR 37:2145 (July 2011).

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1107#002

RULE

**Department of Environmental Quality
Office of the Secretary**

PM_{2.5} NSR Implementation
(LAC 33:III.509)(AQ318)

Editor's Note: Section 509 is being repromulgated to correct a submission error. The original Rule may be viewed on pages 1568-1571 of the June 20, 2011 edition of the *Louisiana Register*.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.509 (Log #AQ318).

This Rule incorporates the provisions of the Environmental Protection Agency's (EPA) final Rule entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})", found at 73 FR 28321, May 16, 2008, into the Louisiana air quality regulations. This action also addresses concerns raised by the EPA in correspondence dated January 24, 2008. The Clean Air Act requires both major and minor NSR programs to address any pollutant for which there is a National Ambient Air Quality Standard (NAAQS) and precursors to the formation of such pollutant when identified for regulation by EPA. EPA's PM_{2.5} NSR implementation Rule amends the federal NSR regulations to establish the minimum elements for state programs implementing NSR for the PM_{2.5} NAAQS and requires states with SIP-approved PSD programs (like Louisiana) to "submit revised PSD programs and revised NNSR programs for PM_{2.5}" by May 16, 2011. By letter dated January 24, 2008, EPA submitted comments on revisions to LDEQ's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) rules promulgated on December 20, 2005. LDEQ responded to EPA's concerns on October 6, 2008. In sum, to ensure SIP-approvability of LDEQ's PSD and NNSR regulations, the definition of "malfunctions" will be removed from LAC 33:III.504 and 509 and the reference to LAC 33:III.519 in Section 504 will be replaced with text that parallels the federal rule at 40 CFR 51.165. This Rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this Rule are to incorporate the provisions of EPA's PM_{2.5} NSR Implementation Rule into the air quality regulations and modify several existing provisions to ensure SIP-approvability. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report

regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

A. - A.5. ...

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

* * *

Malfunctions—Repealed.

* * *

Regulated New Source Review (NSR) Pollutant—

a. any pollutant for which a national ambient air quality standard has been promulgated or any constituent or precursor for the identified pollutant. Precursors identified by the administrative authority for purposes of PSD include the following:

i. volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas;

ii. sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas;

iii. nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations; and

iv. volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations;

b. any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act;

c. any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act;

d. any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Clean Air Act or added to the list in accordance with section 112(b)(2) of the Clean Air Act, which have not been delisted in accordance with Section 112(b)(3) of the Clean Air Act, are not *regulated NSR pollutants* unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Clean Air Act; or

e. particulate matter (PM) emissions, PM_{2.5} emissions, and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5}, and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5}, and PM₁₀ issued prior to this date shall not be based on condensable particulate matter. Applicability

determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Section.

* * *

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

| Pollutant | Emission Rate |
|--|---|
| Carbon monoxide | 100 tons per year (tpy) |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |
| Particulate matter | 25 tpy of particulate emissions |
| | 15 tpy of PM ₁₀ emissions |
| | 10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions ¹ |
| Ozone | 40 tpy of volatile organic compounds or nitrogen oxides |
| Lead | 0.6 tpy |
| Fluorides | 3 tpy |
| Sulfuric acid mist | 7 tpy |
| Hydrogen sulfide (H ₂ S) | 10 tpy |
| Total reduced sulfur (including H ₂ S) | 10 tpy |
| Reduced sulfur compounds (including H ₂ S) | 10 tpy |
| Municipal waste combustor organics ² | 0.0000035 tpy |
| Municipal waste combustor metals ³ | 15 tpy |
| Municipal waste combustor acid gases ⁴ | 40 tpy |
| Municipal solid waste landfills emissions ⁵ | 50 tpy |
| GHGs and GHGs as CO ₂ e | 0 tpy and 75,000 tpy, respectively ⁶ |

¹Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.
²Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
³Measured as particulate matter.
⁴Measured as sulfur dioxide and hydrogen chloride.
⁵Measured as nonmethane organic compounds.
⁶Both of the following conditions must be met: (1) the net emissions increase of GHGs calculated as the sum of the six GHGs on a mass basis (i.e., no global warming potentials applied) equals or exceeds 0 tpy; and (2) the net emissions increase of GHGs calculated as the sum of the six GHGs on a CO₂e basis (i.e., global warming potentials applied) equals or exceeds 75,000 tpy CO₂e.

b. - d.ii. ...

* * *

C. - AA.15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000),

LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011).

Herman Robinson, CPM
Executive Counsel

1107#046

RULE

Office of the Governor Auctioneers Licensing Board

Licensing; Examination Procedure; Fees; Qualifications
as Apprentice; Bonds; Funds; Advertising Violations;
Continuing Education
(LAC 46:III.1103, 1105, 1109, 1111, 1113,
1117, 1203, 1503, 1706, and 2701-2711)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3101 that the Auctioneers Licensing Board has amended its existing rules and regulations to further clarify existing rules and to take care of basic housekeeping issues.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part III. Auctioneers

§1103. Licensing Procedure

A. - B13. ...

14. Louisiana sales tax number or the signed waiver on the application stating they are not responsible for collecting sales tax since it is the employer's responsibility;

15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005), amended LR 37:2147 (July 2011).

§1105. Availability of Applications and Apprentice License

A. Applications and all other pertinent forms are available through the board's website or will be mailed upon request of the person seeking to be licensed as an auctioneer or as an apprentice auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005), amended LR 37:2147 (July 2011).

§1109. Examination Procedure

A. ...

B. The board shall issue a numbered license to an applicant who meets the requirements of this statute and rules, passes satisfactorily 68 percent the examination

administered by the board and pays the fee to be a licensed auctioneer.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), amended LR 37:2147 (July 2011).

§1111. License Renewal and Penalty

A. A license shall expire annually on December 31. Each renewal license shall be valid throughout this state from January 1 of each year to December 31 of each year. All applications for renewal of auctioneers' licenses shall be submitted to the board by November 1 of each year, and licenses shall be issued by January 10 of each year. If application of renewal of the license has not been made, the license shall expire on December 31 and it shall be illegal for any person to represent himself and act as an auctioneer thereafter. Any auctioneer who submits a renewal application after January 1 shall be subject to a late penalty of \$75, which shall be paid to the Louisiana Auctioneers Licensing Board. Any auctioneer having a previous annual license shall be presumed to be a renewal applicant unless the auctioneer has allowed the license to lapse for more than one year from the date of renewal. If such license has lapsed for one year or more, then the auctioneer shall be charged a license restoration fee of \$100, in addition to all other applicable fees, and the auctioneer's request for reinstatement must be approved by the Louisiana Auctioneers Licensing Board at one of the board's regularly scheduled meetings. If an applicant is seeking reinstatement after the license has been expired by more than 24 months, the applicant is subject to reexamination if originally licensed for less than five years.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3115.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), amended LR 37:2147 (July 2011).

§1113. Fees

A. - A.9. ...

10. annual certification of a licensed auctioneer school—\$150;

A.11. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), amended LR 37:2147 (July 2011).

§1117. Qualifications for Licensing as an Apprentice Auctioneer

A. - B.7. ...

8. a copy of the rules and regulations signed by both the apprentice and the supervising auctioneer

C. ...

D. All apprentice applicants must be approved by the Louisiana Auctioneers Licensing Board prior to licensing.

E. The prospective apprentice and his supervising Louisiana licensed auctioneer must both sign three copies of the rules and regulations governing issuance of apprentice licenses. This must be done before an apprentice license can be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), amended LR 37:2147 (July 2011).

Chapter 12. Bonds; Funds

§1203. Auctioneer Recovery Fund

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneer Licensing Board, LR 31:1327 (June 2005), repealed LR 37:2148 (July 2011).

Chapter 15. Violations and Penalties

§1503. Fines for Advertising Violations

A. Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second offense. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board. Signs and business cards shall be exempt from this requirement of displaying the licensee number so long as the contact information is present since these are not considered ads.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 20:1367 (December 1994), amended LR 37:2148 (July 2011).

Chapter 17. Responsibilities of Licensed Auctioneer

§1706. Absolute Auction

A. Absolute Auction—changes ownership regardless of price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 37:2148 (July 2011).

Chapter 27. Continuing Education

§2701. Continuing Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005), repealed LR 37:2148 (July 2011).

§2703. Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005), repealed LR 37:2148 (July 2011).

§2705. Application Process and Provider Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005), repealed LR 37:2148 (July 2011).

§2707. Revocation of Provider Status

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005), repealed LR 37:2148 (July 2011).

§2709. Auctioneer Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005), repealed LR 37:2148 (July 2011).

§2711. Continuing Education for Auction Businesses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005), repealed LR 37:2148 (July 2011).

Sandy Edmonds
Executive Assistant

1107#037

RULE

Office of the Governor Office of Financial Institutions

Broker-Dealer and Investment Adviser Recordkeeping Requirements (LAC 10:XIII.Chapter 17)

Editor's Note: This Rule is being repromulgated to correct a printing error. The effective date of this Rule, October 19, 2011, was inadvertently omitted. This Rule was promulgated on pages 1611-1612 in the June 20, 2011 *Louisiana Register*.

In accordance with the Louisiana Securities Law, R.S. 51:701 et seq., and particularly R.S. 51:703(I), as amended, and the Administrative Procedure Act, R.S. 49:950 et seq., the commissioner of financial institutions hereby adopts LAC 10:XIII.Chapter 17, a Rule to place a requirement on broker-dealers and investment advisers registered or notice filed with the commissioner to maintain such books and records as set out in §§1701 and 1703 below. The final Rule shall become effective 120 days from publication.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XIII. Investment Securities

Subpart 1. Securities

Chapter 17. Dealer and Investment Adviser Recordkeeping Requirements

§1701. Broker-Dealer Requirements

A. Unless otherwise provided by order of the Securities and Exchange Commission (hereinafter "SEC"), each broker-dealer registered or required to be registered pursuant to R.S. 51:703(A)(1) shall make, maintain and preserve books and records in compliance with SEC Rules 17a-3 (17 CFR 240.17a-3), 17a-4 (17 CFR 240.17a-4), and 15c2-11 (17 CFR 240.15c2-11), which are adopted and incorporated herein by reference.

B. To the extent that the SEC promulgates changes to the above referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the commissioner for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(I).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:1611 (June 2011), effective October 19, 2011, repromulgated LR 37:2149 (July 2011).

§1703. Investment Adviser Requirements

A. Except as provided in Subsection C of this Section, unless otherwise provided by order of the SEC, each investment adviser registered or required to be registered pursuant to R.S. 51:703(A)(2) or notice filed pursuant to R.S. 51:703(D)(2) shall make, maintain and preserve books and records in compliance with SEC rule 204-2 (17 CFR 275.204-2), which is adopted and incorporated by reference, notwithstanding the fact that such investment adviser is not registered or required to be registered under section 203 of the Investment Advisers Act of 1940.

B. To the extent that the SEC promulgates changes to the above-referenced rules, investment advisers in compliance with such rules as amended shall not be subject to enforcement action by the commissioner for violation of this rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.

C. Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of Subsection A of this Section, provided the investment adviser is licensed or registered in such state and is in compliance with such state's recordkeeping requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(I).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:1611 (June 2011), effective October 19, 2011, repromulgated LR 37:2149 (July 2011).

§1705. Cessation of Business

A. Before ceasing to conduct or discontinuing business, each broker-dealer and investment adviser shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved by this Rule for the remainder of the period specified.

B. Each broker-dealer and investment adviser shall notify the commissioner in writing of the exact address

where such books and records will be maintained during such period. The filing with the Central Registration Depository of a Form BD-W by a broker-dealer or a Form ADV-W by an investment adviser shall satisfy this notice requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(I).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:1612 (June 2011), effective October 19, 2011, repromulgated LR 37:2149 (July 2011).

John Ducrest
Commissioner

1107#079

RULE

Office of the Governor Office of Financial Institutions

Supervision of Salesmen and Investment Adviser
Representatives (LAC 10:XIII.1901)

In accordance with the Louisiana Securities Law, R.S. 51:701 et seq., and particularly R.S. 51:704(A)(9), and the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Financial Institutions adopts LAC 10:XIII.1901, a Rule to provide guidelines for the supervision of salesmen and investment adviser representatives.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XIII. Investment Securities

Subpart 1. Securities

Chapter 19. Supervision of Salesmen and Investment Adviser Representatives

§1901. Supervision of Salesmen and Investment Adviser Representatives

A. Every dealer registered or required to be registered pursuant to R.S. 51:703(A)(1), every investment adviser registered or required to be registered pursuant to R.S. 51:703(A)(2), every investment adviser notice filed pursuant to R.S. 51:703(D)(2), and officers, directors, and partners thereof, shall exercise diligent supervision over all the securities activities of its salesmen and investment adviser representatives.

B. As part of their responsibility under this Rule, every dealer or investment adviser shall establish, maintain, and enforce written supervisory procedures that may be reasonably expected to prevent and detect any violations of the Louisiana Securities Law and rules promulgated thereunder. A copy of these supervisory procedures shall be kept at all times, in each business office. At a minimum, these procedures shall address the following areas:

1. the supervision of every salesman and investment adviser representative by a designated supervisor possessing sufficient training and experience to carry out their assigned supervisory responsibilities;

2. the prior review and written approval by the designated supervisor of the opening of each new customer account;

3. the frequent examination by the designated supervisor of all customer accounts to detect and prevent irregularities or abuses;

4. the prompt review and written approval by the designated supervisor of all securities transactions and all correspondence pertaining to the solicitation or execution of all securities transactions;

5. the prior review and written approval by the designated supervisor of the delegation by any customer of discretionary authority with respect to his account, and the prompt written approval of each discretionary order on behalf of that account; and

6. the prompt review and written approval by the designated supervisor of the handling of all customer complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:704(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:2149 (July 2011).

John Ducrest
Commissioner

1107#041

RULE

Department of Health and Hospitals Board of Dentistry

Advertising; License Renewal Fees; Anesthesia/
Analgesia Administration; Continuing Education; and
Dental Hygienists Examination (LAC 46:XXXIII.301,
415, 419, 1509, 1611, 1709, and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.301, 415, 419, 1509, 1611, 1709, and 1711. No preamble has been prepared. There will be no family impact in regard to issues set forth in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - E.7. ...

F. Advertising through or with Referral Services. Any dentist who advertises by, through or with a referral service shall be held responsible for the contents of such advertising, and all advertisements shall comply with this rule.

G. Disclosure of Area of Practice

1. Specialists must disclose their specialties in print larger than and/or bolder and noticeably more prominent than any service offered in their specialty or related area of dentistry.

2. Those dentists who have not completed a post-doctoral training program in an approved specialty of dentistry listed in §301.C must advertise their areas of practice in such a way that the public is not misled into

believing that the dentist has met the educational requirements for the specialties listed.

3. Anyone not qualified for the specialties listed in §301.C must disclose "General Dentistry" or "Family Dentistry" in print larger and/or bolder and noticeably more prominent than any area of practice or service advertised.

4. Those group practices which include general dentists and specialists must list the phrase "General Dentistry and Specialty Practice" or "Family Dentistry and Specialty Practice" larger and/or bolder and noticeably more prominent than any service offered. All dentists associated with the group and their area of practice shall be listed.

H. Prohibition on Advertising Names of Persons Not Involved in Practice. Advertising which includes the name of a person who is neither actually involved in the practice of dentistry at the advertised location nor an owner of the practice being advertised is not permitted. However, to facilitate the smooth transition of a practice after its sale from one licensee to another, it is permissible to identify the previous owner in advertising by the new owner for a reasonable period of time not to exceed a period of 24 months. If a practice is being managed in transition following the death or disablement of a dentist, it is permissible to identify the deceased or disabled dentist in advertising for a period not to exceed 24 months following the death or disability of said dentist. This rule does not provide authority to use a previous owner's name in any advertising without first obtaining that licensee's or his legal representative's written permission to do so.

I. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not misled. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. Any advertisement containing fee information shall contain a disclaimer statement that the fee is a minimum fee, and that the charges may increase depending on the treatment required, if any.

3. Any advertised fee for a dental service shall state a specified period during which the fee is in effect or that service shall remain available at or below the advertised fee for at least 90 days following the final advertisement for that service.

J. Appendages. In addition to those appendages required by law pertaining to one's business entity such as Professional Dental Corporation (P.C.) or Dental Limited Liability Company (L.L.C.), dentists may only use those abbreviations or appendages as specified under R.S. 37:771 or other degrees earned from accredited colleges or universities after their names. Fellowships, awards, membership in academies, or non-degreed boards may be spelled out in their entirety under one's name, but not appended to the name so as to avoid confusion to the consumer. However, fellowships, awards, memberships in academies and non-degreed boards may be appended to names in newsletters which are not intended for publication or dissemination to the public but which remain peculiar to dentists or dental hygienists. An example is the "Pelican Pouch" which is a newsletter which goes out to members of

the Academy of General Dentistry. It is permissible for persons to append "F.A.G.D." after their names in newsletters such as this.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006), LR 37:2150 (July 2011).

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. - A.3. ...

4. Biennial renewal fee for dental license—\$540.

5. - 23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:591 (February 2011), LR 37:2150 (July 2011).

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examinations (Dental Hygienists)

A. - A.2. ...

3. Biennial renewal fee for dental hygienists—\$220.

4. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:590 (February 2011), LR:37:2151 (July 2011).

Chapter 15. Anesthesia/Analgesia Administration

§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral Drugs and General Anesthesia/Deep Sedation

A. Nitrous Oxide Inhalation Analgesia

1. To be permitted, the applicant must have successfully completed courses prescribed by the faculty of a dental school which would demonstrate mastery of scientific knowledge pertaining to use thereof and have documented a minimum of six successful cases of induction and recovery; or

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006), LR 37:590 (February 2011), LR 37:2151 (July 2011).

Chapter 16. Continuing Education Requirements

§1611. Continuing Education Requirements for Relicensure of Dentists

A. - K. ...

L. Dentists who contribute no less than six hours per biennial renewal period to donated dental services shall receive six hours of clinical continuing education credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006), LR 35:1237 (July 2009), LR 36:2038 (September 2010), LR 37:2151 (July 2011).

Chapter 17. Licensure Examinations

§1709. Examination of Dentists

A. - F. ...

G. Notwithstanding any other law to the contrary or any examination manual of any of the testing agencies listed in Subsection C of this Section, no candidate for licensure in the state of Louisiana will be granted same if said candidate has failed any clinical licensing examination for a total of four times. This number includes the accumulation of all examinations taken at whatever testing agency. A make-up examination counts as an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:2151 (July 2011).

§1711. Examination of Dental Hygienists

A. - C.4. ...

5. Notwithstanding any other law to the contrary or any examination manual of any of the testing agencies, no candidate for licensure in the state of Louisiana will be granted same if said candidate has failed any clinical licensing examination for a total of four times. This number includes the accumulation of all examinations taken at whatever testing agency. A make-up examination counts as an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:2151 (July 2011).

C. Barry Ogden
Executive Director

1107#027

RULE

Department of Health and Hospital Board of Examiners in Dietetics and Nutrition

Registered Dietitians (LAC 46:LXIX.Chapters 1-13)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085(4), that the Louisiana Board of Examiners in Dietetics and Nutrition has amended the rules and regulations to reflect current requirements set forth by the Commission on Accreditation for Dietetics Education (CADE), so that applicants for a license are being held to national standards. Additionally, the board has added an Impaired Professional Program for licensees struggling with impairments such as, but not limited to, medical, mental, and substance abuse. Lastly, the board has added other "housekeeping" type amendments to revise language, not intent, of the Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIX. Registered Dietitians

Chapter 1. Dietitians/Nutritionists

§101. Definitions

A. As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act, and R.S. 36:259(Q) and R.S. 37:3081-3094, shall have the meanings specified.

* * *

Applicant—any person who has applied to the board for a license or permit to engage in the practice of dietetics/nutrition in the state of Louisiana.

* * *

Direct Supervision—a licensed dietitian/nutritionist providing sufficient guidance and direction to enable a provisional licensed dietitian/nutritionist to perform competently.

* * *

Nutrition Counseling—the provision of individualized guidance on appropriate food and nutrient intake for those with special needs, taking into consideration health, cultural, socioeconomic, functional and psychological facts from the nutrition assessment. Nutrition counseling may include advice to increase or decrease nutrients in the diet; to change the timing, size or composition of meals; to modify food textures; and in extreme instances, to change the route of administration.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1094 (June 1999), LR 37:2152 (July 2011).

§103. Qualifications for Licensure

A. - A.1. ...

2.a. Other persons applying for licensure must have earned a baccalaureate or post-baccalaureate degree, from the fields of human nutrition, food and nutrition, dietetics or

food systems management, as well as receipt of the verification statement from a Commission on Accreditation for Dietetics Education (CADE) accredited program; or

b. Applicants who are not registered by CDR, but have a verification statement from a Commission on Accreditation for Dietetics Education (CADE) accredited program dated no later than five years.

3. Applicants who hold a doctorate degree granted prior to July 1, 1988, in addition to a baccalaureate or higher degree from a regionally accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, food systems management or biochemistry.

4. Repealed.

B. Professional Experience

1. Applicants who are currently registered by CDR are deemed to meet the academic requirements.

2. An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice component in dietetic practice of not less than 1200 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The experience must be completed in the United States or its territories. Supervised dietetic practice accredited by CADE of the American Dietetic Association will be accepted in lieu of the board-approved plan.

C. Examination for Licensure

1. An applicant for licensure shall pass an examination administered by the Commission on Dietetic Registration.

2. Waiver of Examination

a. Persons who provide evidence of current registration with the Commission on Dietetic Registration as registered dietitians may be considered to have met the requirements for licensure.

b. Repealed.

D. Continuing Education Requirement

1. Requirements are considered to be met if a current CDR card is provided to the board annually.

2. The board has established a minimum requirement of 15 continuing education hours that must be completed annually in order to renew the dietitian/nutritionist license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011).

§105. Qualifications for Reciprocity

A. The board may grant a license by endorsement to any person who presents proof of current licensure as a dietitian or nutritionist in another state, District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure as prescribed in this Chapter.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011).

§109. Application for Licensure

A. - D. ...

E. The board will not consider an application complete until all information is received.

F. The board will send a notice to an applicant who does not complete the application in a timely manner, listing the additional materials required.

G. The application for a license shall contain such information as the board may reasonably require.

H. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other sources as required.

I. An application who meets all the requirements of R.S. 41:37:3086 or 3087 and who has worked more than 30 days as a dietitian/nutritionist in the state of Louisiana and who has not otherwise violated any part of R.S. 41:3081-3094 or its rules and regulations, may be offered the following options in the form of a consent order and agreement to resolve the situation:

1. applicant is reprimanded for practicing as a Licensed Dietitian/Nutritionist in Louisiana without a license;

2. within 90 days of the date of the Consent Agreement and Order, applicant shall take and pass an open book examination covering the Louisiana Dietetic/Nutrition Practice Act and the board's rules and regulations to include Rules for Professional Conduct;

3. applicant must make a minimum score of 80 percent on the open book examination and will be allowed three hours to complete the examination at the board office. Applicant must pay applicable examination fee;

4. the consent agreement and order shall not be considered disciplinary action, but will be published by LBEDN.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2153 (July 2011).

§111. Issuance and Renewal of Licensure

The board recognizes two distinct types of licensure. Applicants may be issued a regular license or a provisional license based on compliance with requirements stated in the Dietetic/Nutritionists Practice Act and these regulations. The board shall issue a license to any person who meets the requirements upon payment of the license fee prescribed.

A. Regular License. The board may issue a regular license to any dietitian/nutritionist who qualified in accordance with the requirements of R.S. 37:3086(A), (B) or (C), and who practices in Louisiana, whether resident or nonresident, unless otherwise exempted as stated in R.S. 37:3093 of the Dietetic/Nutritionist Practice Act of 1987 and these regulations. The board will send each applicant whose credentials have been approved a license.

B. - B.1.b. ...

2. The board may issue a provisional license to a person before he has taken the exam prescribed by the board. A provisional license may be issued for a period not

exceeding one year and may be renewed from year to year for a period not to exceed five consecutive years upon payment of an annual fee and presentation of evidence satisfactory to the board that applicant is meeting the supervision requirements and continuing education requirement of at least 15 hours or continuing education per license year.

C. - C.2. ...

D. Upgrading a Provisional License

1. The provisionally licensed dietitian/nutritionist shall submit to the board a written request, proof of successful completion of passage of the examination by CDR, as well as the upgrade fee.

2. When the upgrade occurs, the licensee shall be subject to the renewal requirements for a regular licensed dietitian/nutritionist.

E. - G.4. ...

5. has deliberately presented false information on application documents required by the board to verify the applicant's qualifications for licensure;

G.6. - H.1. ...

2. Licensee's application for renewal must be postmarked on or prior to the expiration date in order to avoid the late renewal fee. Failure to receive renewal notice shall not be justification for late renewal.

3. ...

4. Licensed Dietitian/Nutritionist

a. Licenses will expire annually on June 30, of every year.

b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) are not required to renew or provide proof of continuing education until the following licensing period.

5. Provisional License

a. Licenses will expire annually on June 30, of every year.

b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) will not be required to renew or provide proof of continuing education until the following one year licensing period.

6. Continuing Education Requirement for Renewing License

a. For renewal of a regular licensed dietitian/nutritionist license, licensees must submit proof of holding current CDR registration.

b. ...

c. Licensees shall complete 15 hours of continuing education per year or an accumulation of 75 hours over a 5 year period.

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January, 1984); amended by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:436 (July, 1988), LR 26:2613 (November 2000), LR 37:2153 (July 2011).

§112. Gratuitous Service during a Declared Public Health Emergency

A. In a public health emergency lawfully declared as such by the Governor of Louisiana, the requirement for a Louisiana license as a licensed dietitian/nutritionist or

provisional licensed dietitian/nutritionist may be suspended by the board at that time to those out of state licensed dietitians/nutritionists or provisional licensed dietitian/nutritionists, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this rule.

B. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

C. A licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide dietetic/nutrition services if:

1. the licensed dietitian/nutritionist or provisional dietitian/nutritionist has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing dietetic/nutrition services in Louisiana as follows:

a. the dietitian/nutritionist or provisional dietitian/nutritionist is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous dietetic/nutrition services;

b. the dietitian/nutritionist or provisional dietitian/nutritionist shall comply with the Louisiana Dietetic/Nutrition Practice Act, board rules and regulations, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

c. the dietitian/nutritionist or provisional dietitian/nutritionist renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

D. The authority provided for in the emergency rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

E. All interested licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners in Dietetics and Nutrition for registration with this agency prior to gratuitously providing dietetic/nutrition services in Louisiana.

H. Should a qualified licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist registered with the board thereafter fail to comply with any requirement or condition established by this rule, the board may terminate his registration upon notice and hearing.

G. In the event a licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist fails to register with the board, but practices dietetics and/or nutrition, whether gratuitously or otherwise, then such conduct will be

considered unlawful practice of dietetics and nutrition and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2153 (July 2011).

§115. Denial, Suspension or Revocation of License

A. Certificate denial, suspension or revocation shall be accomplished in accordance with section 3090(A) of R.S. 37:3081-3093, the state Administrative Procedure Act, and the procedural rules provided in Chapter 5 hereof.

B. The board may refuse to issue a license or provisional license, or suspend, revoke or impose probationary conditions and restrictions on the license or provisional license of a person on a finding of any of the causes provided by Section 3090(A) and (B) of the Dietitian/Nutritionist Practice Act.

C. A suspended license shall be subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until he is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order of judgment by which the license was suspended. If a license is revoked on disciplinary grounds and is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any late fee that may be applicable.

D. - D.6. ...

7. Restitution. Requirement imposed upon the licensee that he make financial or other restitution to a client, the board, or other injured party.

E. Publication of Disciplinary Action. The board will notify the professional community within 30 days of any disciplinary action, including the disciplined licensee's name, location, offense and sanction imposed. A notice of disciplinary action will also be published by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:438 (July 1988), amended LR 25:1095 (June 1999), LR 37:2154 (July 2011).

§119. General

A. In accordance with the provisions of the Act, the following fees, where applicable, are payable to the board. All fees are nonrefundable.

| | |
|-------------------------|------|
| Application Fee | \$45 |
| Initial License Fee | 45 |
| Provisional License Fee | 50 |
| License Renewal Fee | 60 |
| Late Renewal Fee | 25 |
| Duplicate License Fee | 25 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), LR 26:2613 (November 2000), LR 37:2154 (July 2011).

Chapter 3. Board Members

§301. Board Members

A. Officers. The board shall elect annually at the last meeting of the calendar year, a chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the policy manual.

B. Meetings

1. The board shall schedule meetings for the following calendar year at the last meeting of the current year.

2. A schedule of meeting dates shall be published.

3. Any board member who misses two board meetings, barring extenuating circumstances approved by the board, during the course of one calendar year shall resign from the board.

4. Special travel requests, other than regularly monthly meetings, must be approved by the board.

C. Expense Reimbursement

1. Expenses charged to the board must be consistent with the time frame and mission of board meetings and other functions. Expenses which are exceptions to this policy may be paid with justification and approval by the board.

2. Board members shall be reimbursed for actual traveling, incidental, and clerical expenses incurred while engaged in official duties.

a. Mileage expenses shall be reimbursed at the official state rate.

b. Airfare expenses must be at the state contract rate or economy class rate when contract rates are not available.

c. Lodging and meals shall be reimbursed at actual cost if receipts are submitted. Without receipts, lodging and meals shall be reimbursed at the appropriate state rate.

d. Incidental expenses are defined as telephone calls, fees for storage and handling of equipment, tips for baggage handling, parking fees, ferry fees, and road and bridge tolls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2155 (July 2011).

Chapter 5. Procedural Rules

§503. Investigation of Complaints

A. - C. ...

D. The board's CIO shall have authority to investigate the nature of the complaint through conference and correspondence directed to those parties or witnesses involved. The officer shall send the involved licensee notice of the investigation, containing a short summary of the complaint. All letters to the involved licensee, the complainant, or any other witness, shall be sent by certified mail, with the designation "Personal and Confidential" clearly marked on the outside of the envelope.

E. ...

F. The CIO shall make a recommendation to the board for disposition by informal hearing, formal hearing or dismissal of the complaint. When the CIO's recommended action might lead to denial, suspension, or revocation of the certificate, the board shall immediately convene a formal adjudication hearing, pursuant to R.S. 37:3090(B). The CIO may determine that the licensee's explanation satisfactorily

answers the complaint and may recommend to the Board that the matter be dismissed. The recommended remedial action or dismissal of the complaint shall be forwarded to the involved complainant and licensee.

G. The CIO may also recommend to resolve the complaint through a consent order entered into by the licensee and the complainant. If the order contains any agreement by the licensee to some remedial course of action, the agreement must be signed by the complainant, the licensee and the board. The CIO will make note of any settlement arrived at between the complainant and the licensee, but such a settlement does not necessarily preclude further disciplinary action by the board.

H. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 25:1096 (June 1999), amended LR 37:2155 (July 2011).

Chapter 7. Impaired Practitioner Program

§701. Purpose and Scope

A. Upon voluntary disclosure or proof that an applicant or licensee has provided professional services while under the influence of alcohol or has used narcotic or controlled dangerous substances or other drugs in excess of therapeutic amounts or without valid medical indication, the board may offer the applicant or licensee the Impaired Practitioner Program in order to receive or renew the professional license. Participation in the program may be required as a prerequisite to initial application for licensure or continued practice in accordance with the conditions of any consent order, compliance hearing, or adjudication hearing.

B. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the Impaired Practitioner Program may consist of all or part of the following components:

1. a substance abuse assessment performed by a qualified, licensed health care professional within a prescribed period of time;

2. monitoring, including drug/alcohol screenings, with results submitted to the board, for a specified period of time. The frequency of screening and a deadline for submission of the screening results will also be specified. The name of the monitoring agency shall be submitted as requested by the board. Monitoring shall continue for a period of up to 36 months, as specified by the board;

3. suspension of the license or other action specified by the board upon receipt of any positive, unexplained screening results during the monitoring period;

4. mandatory weekly attendance at a self-help group such as Alcoholics Anonymous for a specified period of time. Submission of a monthly log which meets the board's specifications will be required:

a. a monthly log must be submitted to and received by the board before the final business day of the month following completion of the required meetings. It is the licensee's responsibility to ensure that these logs are

properly completed and received by the board by the designated date;

b. the monthly log requires documentation of the first name and first initial of the last name of the sponsor, and meeting dates and times;

5. therapy for substance abuse by a licensed, health care professional;

6. supervision of the licensee by a supervisor approved by the board;

7. penalties for noncompliance as determined by the board.

C. The licensee will be responsible for executing all required releases of information and authorizations required for the board to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. The applicant or licensee will bear the financial burden for all costs incurred in complying with the terms of assessments, supervision, drug/alcohol screens, and reproduction of treatment or other records.

E. The licensee shall notify the board office by telephone within 48 hours and in writing within five days of any changes of licensee's home address, telephone number, employment status, employer, supervisor, and/or change in practice at a facility.

F. In the event that a licensee relocates to another jurisdiction, the licensee will within five days of relocating be required to either enroll in the other jurisdiction's impaired practitioner program and have the reports required under the agreement sent to the board, or if the other jurisdiction has no impaired practitioner program, the licensee will notify the licensing board of that jurisdiction that the licensee is impaired and enrolled in the Louisiana program. In the event the licensee fails to do so, the license will be suspended.

G. Violation of the terms or conditions of the program may result in the immediate suspension of the individual's license to practice or other penalties for noncompliance.

H. The board will, to the full extent permissible, maintain an agreement or consent order relating to the licensee's participation in the Impaired Practitioner's Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2155 (July 2011).

§703. Minimum Academic Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:13 (January 1984), repealed LR 37:2156 (July 2011).

Chapter 9. Dietitian Requirements

§901. Dietitian Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:14 (January 1984), repealed LR 37:2156 (July 2011).

Chapter 11. Louisiana Dietetic Association

§1101. Executive Board

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:14 (January 1984), repealed LR 37:2156 (July 2011).

Chapter 13. Enforcement

§1301. Enforcement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:14 (January 1984), repealed LR 37:2156 (July 2011).

Emily Efferson
Administrator

1107#038

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Family Planning Waiver—Reimbursement Rate Reduction (LAC 50:XXII.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXII.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 27. Reimbursement

§2701. Reimbursement Methodology

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement rates for services provided in the Family Planning Waiver shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2280 (October 2010), LR 37:2156 (July 2011).

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.

Bruce D. Greenstein
Secretary

1107#107

RULE

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

Home and Community-Based Services Waivers
Adult Day Health Care—Reimbursement Rate Reduction
(LAC 50:XXI.2915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

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

Subpart 3. Adult Day Health Care

Chapter 29. Reimbursement

§2915. Provider Reimbursement

A. - D.2. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement rates for ADHC services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

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 Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2157 (July 2011).

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.

Bruce D. Greenstein
Secretary

1107#108

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice, Service Cap and
Reimbursement Rate Reduction
(LAC 50:XXI.11301 and 12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.11301 and §12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 seq.

Title 50

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

Subpart 9. Children's Choice

Chapter 113. Services

§11301. Service Cap

A. - B. ...

C. Effective September 1, 2010, Children's Choice Waiver services are capped at \$16,660 per individual per plan of care year.

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 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:2157 (July 2011).

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - C.1. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for Children's Choice Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following items shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. family training services; and
- c. support coordination services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR

34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), amended LR 36:2280 (October 2010), LR 37:2157 (July 2011).

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.

Bruce D. Greenstein
Secretary

1107#109

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

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

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

A. - I. ...

J. Effective for dates of service on or after August 1, 2010, the reimbursement rates for New Opportunity Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. specialized medical equipment and supplies;
- c. personal emergency response systems;
- d. one time transitional expenses; and
- e. individualized and family support services-night and shared night.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens

with Developmental Disabilities, LR 35:1851 (September 2009), amended LR 36:1247 (June 2010), LR 37:2158 (July 2011).

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.

Bruce D. Greenstein
Secretary

1107#110

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction
(LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

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

Subpart 5. Supports Waiver

Chapter 61. Reimbursement Methodology

§6101. Reimbursement Methodology

A. - K.1. ...

L. Effective for dates of service on or after August 1, 2010, the reimbursement rates for Supports Waiver services shall be reduced by 2 percent of the rates on file as of July 31, 2010.

1. Support coordination services and personal emergency response system services shall be excluded from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), amended LR 37:2158 (July 2011).

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.

Bruce D. Greenstein
Secretary

1107#111

RULE

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

Home Health Program—Durable Medical
Equipment—Provider Accreditation (LAC 50:XIII.8501)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIII.8501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 85. Provider Participation

§8501. Accreditation Requirements

A. Effective for dates of service on or after August 1, 2011, all providers seeking reimbursement for medical equipment, supplies and appliances must be accredited by one of the following Medicare deemed accreditation organizations:

1. The Joint Commission (JC);
2. National Association of Boards of Pharmacy (NABP);
3. Board of Certification/Accreditation International;
4. The Compliance Team, Inc.;
5. American Board for Certification in Orthotics and Prosthetics, Inc. (ABC);
6. The National Board of Accreditation for Orthotic Suppliers (NBAOS);
7. Commission on Accreditation of Rehabilitation Facilities (CARF);
8. Community Health Accreditation Program (CHAP);
9. HealthCare Quality Association on Accreditation (HQAA); or
10. Accreditation Commission for Health Care, Inc. (ACHC).

B. Verification of accreditation must be received by the department on or before July 31, 2011. A provider's prior authorization privileges will be revoked on August 1, 2011 if this verification is not received.

C. Pharmacies. These accreditation requirements shall not apply to pharmacies that have been deemed exempt by the Centers for Medicare and Medicaid Services (CMS). Verification of the CMS exemption must be received by the department on or before December 1, 2011. Pharmacies that do not have a CMS exemption must submit verification of accreditation to the department on or before December 1, 2011.

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 36:512 (March 2010), amended LR 37:2159 (April 2011).

Bruce D. Greenstein
Secretary

1107#114

RULE

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

Home Health Program—Extended Nursing Services
Reimbursement Rate Reduction (LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - B.3. ...

C. Effective for dates of service on or after January 1, 2011, the reimbursement rates for extended nursing services shall be reduced by 2 percent of the rates in effect on December 31, 2010.

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 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), amended LR 37:2159 (July 2011).

Bruce D. Greenstein
Secretary

1107#112

RULE

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

Inpatient Hospital Services—Reimbursement Methodology
(LAC 50:V.Chapters 7 and 9)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.Chapter 7 and has amended §§953, 955, 959 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 Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 7. Prospective Reimbursement

Subchapter A. Appeals Procedure

§701. Request for Administrative Review

A. Any hospital seeking an adjustment to its rate, shall submit a written request for administrative review to the Medicaid director (hereafter referred to as director) within

30 days after receipt of the letter notifying the hospital of its rates.

1. The receipt of the letter notifying the hospital of its rates shall be deemed to be five days from the date of the letter.

2. The time period for requesting an administrative review may be extended upon written agreement between the department and the hospital.

B. The department will acknowledge receipt of the written request within 30 days after actual receipt. Additional documentation may be requested from the hospital as may be necessary for the director to render a decision. The director shall issue a written decision upon the hospital's request for a rate adjustment within 90 days after receipt of all additional documentation or information requested.

C. Any hospital seeking an adjustment to its rate, must specify all of the following:

1. the nature of the adjustment sought;
2. the amount of the adjustment sought; and
3. the reasons or factors that the hospital believes justify an adjustment.

D. Any request for an adjustment must include an analysis demonstrating the extent to which the hospital is incurring or expects to incur a qualifying loss in providing covered services to Medicaid and indigent patients.

1. For purposes of these provisions, qualifying loss shall mean that amount by which the hospital's allowable costs (excluding disproportionate share payment adjustments) exceed the Medicaid reimbursement implemented pursuant to these provisions.

2. "Cost" when used in the context of allowable shall mean a hospital's costs incurred in providing covered inpatient services to Medicaid and indigent patients, as calculated in the relevant definitions governing cost reporting.

E. The hospital will not be required to present an analysis of its qualifying loss where the basis for its appeal is limited to a claim that:

1. the rate-setting methodology or criteria for classifying hospitals or hospital claims under the state plan were incorrectly applied;

2. that incorrect or incomplete data or erroneous calculations were used in establishment of the hospital rates; or

3. the hospital had incurred additional costs because of a catastrophe that meets certain conditions.

F. Except in cases where the basis for the hospital's appeal is limited to a claim that rate-setting methodologies or principles of reimbursement established under the reimbursement plan were incorrectly applied, or that the incorrect or incomplete data or erroneous calculations were in the establishment of the hospital's rate, the department will not award additional reimbursement to a hospital, unless the hospital demonstrates that the reimbursement it receives based on its prospective rate is 70 percent or less of the allowable costs it incurs in providing Medicaid patients care and services that conform to the applicable state and federal laws of quality and safety standards.

1. The department will not increase a provider's rate to more than 105 percent of the peer group rate.

G. In cases where the rate appeal relates to an unresolved dispute between the hospital and its Medicare fiscal intermediary as to any cost reported in the hospital's base year cost report, the director will resolve such disputes for purposes of deciding the request for administrative review.

H. The following matters will not be subject to appeal:

1. the use of peer grouped rates;
2. the use of teaching, non-teaching and bed-size as criteria for hospital peer groups;

3. the use of approved graduate medical education and intern and resident full time equivalents as criteria for major teaching status;

4. the use of fiscal year 1991 medical education costs to establish a hospital-specific medical education component of each teaching hospital's prospective rate;

5. the application of inflationary adjustments contingent on funding appropriated by the legislature;

6. the criteria used to establish the levels of neonatal intensive care;

7. the criteria used to establish the levels of pediatric intensive care;

8. the methodology used to calculate the boarder baby rates for nursery;

9. the use of hospital specific costs for transplant per diem limits;

10. the criteria used to identify specialty hospital peer groups; and

11. the criteria used to establish the level of burn care.

I. The hospital shall bear the burden of proof in establishing facts and circumstances necessary to support a rate adjustment. Any costs that the provider cites as a basis for relief under this provision must be calculable and auditable.

J. The department may award additional reimbursement to a hospital that demonstrates by clear and convincing evidence that:

1. a qualifying loss has occurred and the hospitals current prospective rate jeopardized the hospital's long-term financial viability; and

2. the Medicaid population served by the hospital has no reasonable access to other inpatient hospitals for the services that the hospital provides and that the hospital contends are under reimbursed; or

3. alternatively, demonstrates that its uninsured care hospital costs exceeds 5 percent of its total hospital costs, and a minimum of \$9,000,000 in uninsured care hospital cost in the preceding 12 month time period and the hospital's uninsured care costs has increased at least 35 percent during a consecutive six month time period during the hospital's latest cost reporting period.

a. For purposes of these provisions, an uninsured patient is defined as a patient that is not eligible for Medicare or Medicaid and does not have insurance.

b. For purposes of these provisions, uninsured care costs are defined as uninsured care charges multiplied by the cost to charge ratios by revenue code per the last filed cost report, net of payments received from uninsured patients.

i. The increase in uninsured care costs must be a direct result of a permanent or long term (no less than six months) documented change in services that occurred at a

state owned and operated hospital located less than eight miles from the impacted hospital.

ii. For the purpose of this Rule, if a hospital has multiple locations of service, each location shall measure uninsured care costs separately and qualify each location as an individual hospital. Rate adjustments awarded under this provision will be determined by the secretary of the department and shall not exceed 5 percent of the applicable per diem rate.

K. In determining whether to award additional reimbursement to a hospital that has made the showing required, the director shall consider one or more of the following factors and may take any of these actions.

1. The director shall consider whether the hospital has demonstrated that its unreimbursed costs are generated by factors generally not shared by other hospitals in the hospital's peer group. Such factors may include, but are not limited to extraordinary circumstances beyond the control of the hospital and improvements required to comply with licensing or accrediting standards. Where it appears from the evidence presented that the hospital's costs are controllable through good management practices or cost containment measures or that the hospital has through advertisement to the general public promoted the use of high costs services that could be provided in a more cost effective manner, the director may deny the request for rate adjustment.

2. The director may consider, and may require the hospital to provide financial data, including but not limited to financial ratio data indicative of the hospital's performance quality in particular areas of hospital operation.

3. The director shall consider whether the hospital has taken every reasonable action to contain costs on a hospital-wide basis. In making such a determination, the director may require the hospital to provide audited cost data or other quantitative data including, but not limited to:

- a. occupancy statistics;
- b. average hourly wages paid;
- c. nursing salaries per adjusted patient day;
- d. average length of stay;
- e. cost per ancillary procedure;
- f. average cost per meal served;
- g. average cost per pound of laundry;
- h. average cost per pharmacy prescription;
- i. housekeeping costs per square foot;
- j. medical records costs per admission;
- k. full-time equivalent employees per occupied bed;
- l. age of receivables;
- m. bad debt percentage;
- n. inventory turnover rate; and
- o. information about actions that the hospital has taken to contain costs.

4. The director may also require that an onsite operational review/audit of the hospital be conducted by the department or its designee.

L. In awarding relief under this provision, the director shall:

1. make any necessary adjustments so as to correctly apply the rate-setting methodology, to the hospital submitting the appeal, or to correct calculations, data errors or omissions; or

2. increase one or more of the hospital's rates by an amount that can reasonably be expected to ensure continuing

access to sufficient inpatient hospital services of adequate quality for Medicaid patients served by the hospital.

M. The following decisions by the director shall not result in any change in the peer group rates:

1. the decision to:
 - a. recognize omitted, additional or increased costs incurred by any hospital;
 - b. adjust the hospital rates; or
 - c. otherwise award additional reimbursement to any hospital.

N. Hospitals that qualify under this provision must document their continuing eligibility at the beginning of each subsequent state fiscal year. Rate adjustments granted under this provision shall be effective from the first day of the rate period to which the hospital's appeal relates. However, no retroactive adjustments will be made to the rate or rates that were paid during any prior rate 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 37:2159 (July 2011).

§703. Administrative Appeal and Judicial Review

A. If the director's decision is adverse to the hospital, the hospital may appeal the director's decision to the Bureau of Appeals or its successor. The appeal must be lodged within 30 days of receipt of the written decision of the director. The receipt of the decision of the director shall be deemed to be five days from the date of the decision. The administrative appeal shall be conducted in accordance with the Louisiana Administrative Procedure Act (APA). The Bureau of Appeals shall submit a recommended decision to the secretary of the department. The secretary will issue the final decision of the department.

B. Judicial review of the secretary's decision shall be in accordance with the APA and shall be filed in the Nineteenth Judicial District Court.

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 37:2161 (July 2011).

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - O.I. ...

P. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

Q. Effective for dates of service on or after January 1 2011, the inpatient per diem rate paid to acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of December 31, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

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 37:2161 (July 2011).

§955. Long Term Hospitals

A. - F. ...

G. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

H. Effective for dates of service on or after January 1, 2011, the inpatient per diem rate paid to long term hospitals shall be reduced by 2 percent of the per diem rate on file as of December 31, 2010.

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 by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011).

§959. Inpatient Psychiatric Hospital Services

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

J. Effective for dates of service on or after January 1, 2011, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of December 31, 2010.

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 by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011).

§967. Children's Specialty Hospitals

A. - E. ...

1. Medicaid supplemental payments related to high cost Medicaid and graduate medical education supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

F. Effective for dates of service on or after February 3, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 5 percent. Effective for dates of service on or after January 1, 2011, final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 95 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

G. Effective for dates of service on or after August 1, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 4.6 percent. Effective for dates of service

on or after January 1, 2011, final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 90.63 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

H. Effective for dates of service on or after January 1, 2011, the per diem rates as calculated per §967.A-C above shall be reduced by 2 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 88.82 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the 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 36:2562 (November 2010), amended LR 37:2162 (July 2011).

Bruce D. Greenstein
Secretary

1107#113

RULE

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

License of Title for Marriage and Family Therapy
(LAC 46:LX. 3303, 3305, 3309 and 3311)

Editor's Note: This Rule is being reprinted to correct a typographical error. The original Rule may be viewed in its entirety on pages 1601-1603 of the June 20, 2011, edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, as well as R.S. 37:1101 and 37:1122, the Licensed Professional Counselors Board of Examiners has amended its existing rules and regulations, by revising LAC 46:LX.Chapter 31, relative to the License of Title for Marriage and Family Therapy. These revisions are necessary to implement Act 613 of the 2010 Regular Session of the Louisiana Legislature.

Specifically, the Licensed Professional Counselors Board of Examiners has revised Sections 3303, 3305, 3309 and 3311, relative to this Chapter, to prescribe academic requirements for marriage and family therapist license of title.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists

Chapter 33. Requirements for Licensure

§3303. Definitions

* * *

Supervision—the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of marriage and family therapy. In addition to

monitoring the student's supervised face-to-face therapy with individuals, couples, families, and/or groups from a systemic/relational perspective, the supervisor provides regular, face-to-face guidance and instruction. *Supervision* may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation. *Supervision* will be distinguishable from psychotherapy and teaching.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2784 (December 2003), LR 35:1113 (June 2009), LR 37:1601 (June 2011), repromulgated LR 37:2162 (July 2011).

§3305. General Licensing Requirements

A. Each person desiring to obtain a license as a practicing marriage and family therapist shall make application to the board upon such forms and completed in such manner as the board prescribes, accompanied by such fee prescribed. An applicant shall furnish evidence satisfactory to the board and the advisory committee that such person:

1. is of good moral character;
2. is not engaged or has not engaged in any practice or conduct that would be grounds for refusing to issue a license;
3. is qualified for licensure pursuant to the requirements provided for in this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 37:1601 (June 2011), repromulgated LR 37:2163 (July 2011).

§3309. Academic Requirements for MFT Licensure [Formerly §3311]

A. The advisory committee and board have determined that “meets the standards” as provided in R.S. 37:1101(12) means:

1. a master’s or doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) in a regionally accredited educational institution or a certificate in marriage and family therapy from a post-graduate training institute accredited by COAMFTE; or

2. a master’s or doctoral degree in marriage and family therapy or marriage and family counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in a regionally accredited educational institution with a minimum of 6 graduate courses in marriage and family therapy including coursework on the AAMFT Code of Ethics and a minimum of 500 supervised direct client contact hours, with a minimum of 250 hours with couples and families, and a minimum of 100 hours of face-to-face supervision. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

B. The board upon recommendation of the advisory committee shall register a person for MFT Internship who applies on the required application forms, completed as the

board prescribes and accompanied by the required fee. Additionally, applicants must meet one of the following academic options:

1. Option 1—a master's degree or a doctoral degree in marriage and family therapy from a program in a regionally accredited educational institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or a certificate from a postgraduate training institute in marriage and family therapy accredited by COAMFTE; or

2. Option 2—a master's or doctoral degree in marriage and family therapy or a related clinical mental health field from a regionally accredited institution of higher education with coursework that includes practicum and internship in marriage and family therapy determined by the advisory committee to be substantially equivalent to a graduate degree in marriage and family therapy from a program accredited by COAMFTE. To be considered substantially equivalent, qualifying degrees must include a minimum of 60 semester hours of coursework; or

3. Option 3—a certificate from a postgraduate training institute in marriage and family therapy with coursework that includes practicum and internship in marriage and family therapy determined by the advisory committee to be substantially equivalent to a graduate certificate from a program accredited by COAMFTE. To be considered substantially equivalent, qualifying certificates must include the equivalent of 60 semester hours of coursework; or

4. Option 4—a masters degree or a doctoral degree in marriage and family therapy from a regionally accredited institution of higher education whose program and curriculum was approved by the board through the advisory committee at anytime prior to July 1, 2010, and the applicant for licensure has at least five hundred hours of face-to-face client contact, and the client contact shall include both of the following:

- (a). 250 hours of relational therapy. As used herein, “relational therapy” shall mean therapy with couples or families present in the therapy room;

- (b). 100 hours in which the applicant has been subjected to qualified supervision as is defined in R.S. 37:1103(11);

5. Required coursework for Options 2 and 4 may be completed during the qualifying master's or doctoral degree programs, or may be taken as post-graduate work at a regionally accredited college, university, or postgraduate marriage and family therapy training institute.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 35:1113 (June 2009), LR 37:1602 (June 2011), repromulgated LR 37:2163 (July 2011).

§3311. Coursework and Academic Supervision Requirements, for Options 2, 3, and 4

A. General Requirements for Qualifying Coursework and Academic Supervision

1. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

2. Only coursework taken for credit and receiving a passing grade will be accepted. Coursework taken outside of a program of study for which a degree was granted must receive an "A," "B," or "pass."

3. One course is defined as three semester credits, four quarter credits, or 45 didactic contact hours in a postgraduate training program.

4. An applicant may not use a course for more than one of the seven coursework areas described in Subsection B of this Section.

5. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

6. The burden is on the applicant to prove by a preponderance of the evidence that the coursework is equivalent to the requirements in Subsections A and B of this Section.

7. Degrees and coursework obtained at foreign universities shall be acceptable only if determined to be equivalent as defined in Subsections A and B of this Section as determined by the advisory committee.

B. Specific Coursework Requirements—Options 2 and 3

1. The applicant must document as determined by the advisory committee that all required graduate and postgraduate coursework was presented from a family systems perspective. Coursework will specify how marriage and family therapists apply psychotherapeutic and family systems theories and techniques in the delivery of professional psychotherapeutic services to individuals, couples, families, and groups for the purpose of assessment, treatment planning, and treatment of mental, intellectual, emotional, or behavioral disorders and apply family systems theories, assessment, and techniques in their professional consultation work with organizations.

2. Academic Course Content. An applicant with a master's or doctoral degree in marriage and family therapy or a related clinical mental health field from programs not accredited by the COAMFTE or with a certificate from a postgraduate training institute in marriage and family therapy not accredited by the COAMFTE must have the specified coursework in each of the following areas (one course equals three semester hours or its equivalent as defined in Paragraph A.3 of this Section).

a. Theoretical Knowledge of Marriage and Family Therapy—minimum of two courses. Courses in this area shall provide academic instruction in the historical development, empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy. Coursework shall provide a comprehensive survey and substantive understanding of the systems paradigm, family therapy theory, and the major models of marriage, couple, and family therapy practice. Overview courses in which systems theory is surveyed equally as one of several theories do not qualify for this area.

b. Clinical Knowledge of Marriage and Family Therapy—minimum of four courses. Courses in this area shall provide academic instruction in clinical intervention as it relates to family systems theory. Coursework shall

highlight clinical practice in couples and family therapy in relation to cultural and racial diversity, gender, sexual functioning/orientation, violence, addiction, abuse and other relevant issues. Coursework shall focus on the treatment of individuals, couples, and families from a systemic/relational perspective and in response to a wide variety of presenting problems.

c. Assessment and Treatment in Marriage and Family Therapy—minimum of two courses. One course must be in psychopathology. Courses in this area shall provide academic instruction from a systemic/relational perspective in psychopharmacology, physical health and illness, traditional psycho diagnostic categories including the use of the Diagnostic and Statistical Manual of Mental Disorders and the assessment and treatment planning for the treatment of mental, intellectual, emotional, or behavioral disorders within the context of marriage and family systems.

d. Individual, Couple, and Family Development—minimum of one course. Courses in this area shall provide academic instruction in individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics—minimum of one course. Courses in this area shall provide academic instruction in the development of professional identity, ethical and legal issues, scope of practice, professional membership, certification, and licensure. Coursework shall focus on ethical and legal issues related to the practice of marriage and family therapy, including but not limited to the AAMFT Code of Ethics, confidentiality, legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, the business aspects of practice, and familiarity with regional and federal laws as they relate to the practice of individual, couple and family therapy. Generic courses in ethics do not meet this standard.

f. Research—minimum of one course. Courses in this area shall provide academic instruction in the understanding and performance of research. Coursework shall focus on content such as research methodology, data analysis, research evaluation, and quantitative and qualitative research.

g. Additional Learning—minimum of one course. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Academic Supervision—as part of their degree program, an applicant must have completed 500 supervised face-to face direct client contact hours with individuals, couples, families, and/or groups from a systemic/relational perspective with 100 hours of face-to-face supervision. At least 250 of these hours must be with couples or families present in the therapy room. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1122.

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

Gloria Bockrath
Board Chair

1107#045

RULE

Department of Health and Hospitals Office of Public Health

Public Buildings, Schools and Other Institutions (LAC 51:XVII.Chapters 1 and 3)

Under the authority of R.S. 40:4 and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), amends Part XVII (Public Buildings, Schools, and Other Institutions) of the Louisiana State Sanitary Code (LAC 51). Besides the need to generally update the existing rule, the major impetus behind this Rule is to incorporate changes to the existing lighting requirements for schools (and other institutions with classrooms) such that the new lighting standards comport with the U.S. Energy Policy Act of 1992. This Act required states to establish minimum commercial building energy codes. This gave impetus to the creation and modification of ASHRAE 90.1/1999, 2001, 2004, ASHRAE 90.2, the Model Energy Code, etc. In Louisiana, a commercial building energy conservation code is adopted under R.S. 40:1730.41, et seq. This law essentially adopted the ANSI/ASHRAE/IESNA 90.1—2004 standard as the commercial building energy conservation code for Louisiana. This document was developed by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) along with the Illuminating Engineering Society of North America (IESNA) and the development process was sanctioned by the American National Standards Institute (ANSI). With the exception of state-owned facilities, the Office of the State Fire Marshal, Code Enforcement and Building Safety has statewide responsibility to enforce the commercial building energy code, including when doing plans reviews for nonstate-owned public buildings, schools and other institutions. The Facility Planning and Control Section of the Division of Administration has statewide responsibility to enforce it for state-owned facilities, including when doing plans reviews for state-owned public buildings, schools and other institutions. This commercial building energy conservation code enacted a limitation (based upon so many watts per square foot) for school lighting as a means to conserve energy to assist in meeting the national energy policy goals set out in the Act. The footcandle requirements for school and classroom lighting in the existing sanitary code make compliance with the commercial energy code difficult, if not impossible. Conflicts have arisen when office of public health sanitarians inspecting new schools have found that the sanitary code minimum footcandle requirements are not being met. This Rule intends to lower the footcandle requirements in schools and classrooms because of the commercial building energy policy code while attempting to

still ensure that adequate lighting is provided for the students under the provisions of the Sanitary Code.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XVII. Public Buildings, Schools, and Other Institutions

Chapter 1. General Requirements for Public Buildings

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Institution or *Institutional Building*—a building or buildings housing an organization, foundation, or other entity dedicated to education, culture, or other public service [e.g., public or private schools (nursery schools, trade schools, colleges, or universities), hospitals, nursing homes, jails, and mortuaries].

Public Building—any structure that is owned, leased, or principally used by a government agency for public business, meetings, or other group gatherings, or other building to which the general public has reasonably free access [e.g., including, but not limited to, every public and government building, school (kindergarten, nursery school, trade school, college, or university), office building, store, commercial building, enclosed shopping center, theater, lecture hall, auditorium, hotel, restaurant, boarding house, nursing home, hospital, airport building, bus depot, railroad depot, and other places where people congregate, etc.].

Readily Accessible—having direct access without the need of removing any panel, door or similar covering of the item described and without requiring the use of portable ladders, chairs, etc.

State Health Officer—see definition in Part I, Section 101.B of this Code and apply it in this Part.

Substantial Renovation—see definition in Part I, Section 101.B of this Code and apply it in this Part.

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 37:2165 (July 2011).

§103. Lighting, Heating, and Ventilation Requirements for Public Buildings [Formerly §101]

A. Every public and government building in this state, including, but not limited to every school (kindergarten, nursery school, trade school, college or university), office building, store, commercial building, enclosed shopping center, theater, lecture hall, auditorium, hotel, restaurant, boarding house, nursing home, hospital, airport building, bus depot, railroad depot, and other places where people congregate, shall be adequately lighted, heated, and ventilated, in accordance with the requirements of this Chapter, and shall otherwise conform to all other requirements of this Part.

B. Every indoor area traversed by people, including halls, stairways, and toilet rooms, shall a minimum of 10

foot-candles of illumination measured at a level 3 feet above the floor.

C. The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), amended LR 37:2165 (July 2011).

§105. Plans and Specifications [Formerly §103]

A. No person shall construct any new facilities for any state agency, or construct any new institutional buildings, or make additions or substantial renovations to such existing facilities until plans and specifications therefore have been submitted to, and approved in writing by, the state health officer. Institutions include, but are not limited to the following (whether public or private):

1. schools (nursery schools, trade schools, colleges, or universities);
2. hospitals;
3. nursing homes;
4. jails; and
5. mortuaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), amended LR 37:2166 (July 2011).

§107. Drinking Water Provisions [Formerly §105]

A. Drinking water, processed in accordance with Part XII of this Code, shall be made available to all occupants of all public buildings.

B. Drinking fountains shall be provided in public buildings and institutions in the quantities shown in table 407 of the Louisiana State Plumbing Code (LSPC) as published October 2000. Said drinking fountains shall be constructed and installed in accordance with the requirements of 409.2 of the LSPC.

C. The use of receptacles for handling and storing drinking water other than bottled water approved by the state health officer is prohibited, except in emergencies, as approved by the state health officer.

D. Drinking Utensils. The use of a drinking cup in common is prohibited. Two types of drinking utensils are acceptable: single-service and multi-use. Single-service utensils are preferable, but multi-use utensils are acceptable so long as they are washed, rinsed and sanitized between uses in accordance with Part XXIII of this Code. Single-service utensils shall meet the requirements of §§2115, 2503, and 2517 of Part XXIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), amended LR 37:2166 (July 2011).

§109. Plumbing and Sewage Disposal Requirements [Formerly §107]

A. All public buildings shall be provided with sewage disposal facilities and plumbing in compliance with the provisions of Parts XIII and XIV of this Code.

B. Toilet rooms shall be provided in all public buildings for use by the general public. Facilities for hand-washing and cleaning purposes shall be located in these places and shall be provided with soap, mechanical hand-drying devices or disposable paper towels, and toilet paper. In addition, said toilet rooms shall meet the requirements of the following Sections, and those of Part XIV of this Code. Showers, if provided, shall meet the requirements of Part XIV of this Code.

C. The site of all public buildings shall be well drained, such that no water will collect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002), repromulgated LR 29:1099 (July 2003), amended LR 37:2166 (July 2011).

§111. Housekeeping Requirements [Formerly §109]

A. Public buildings shall be kept clean. Sweeping, vacuuming and mopping should be done when the building is free of occupants, if possible. Sweeping shall be done in such a manner as to minimize the spread of dust. Mops shall be cleaned after use and before storage in a well ventilated area. Vacuum cleaners should be equipped with a High Efficiency Particulate Air (HEPA) filter that is maintained per manufacturer's specifications.

B. No absorbent floor covering shall be used in assembly halls, dining rooms, halls and stairways. Any carpeting installed in such areas shall be made of non-absorbent fibers.

C. Garbage and trash shall not be allowed to accumulate anywhere on the premises except in containers designed and maintained in accordance with Part XXVII of this Code. Garbage and other discarded putrid materials shall be stored in impervious cans with tight fitting covers. Oily rags and other materials subject to spontaneous combustion shall be stored in tightly covered metal containers. Other trash shall be stored in non-combustible containers.

D. Garbage cans shall be washed weekly or more often if residues accumulate or odors become offensive. Said washing shall be done on a concrete or other impervious surface sloping toward a drain so that none of the wash water escapes the controlled area. Any liquid wastes from compacting garbage or trash shall be disposed of as sewage. Said drain shall be equipped with a strainer and shall be connected to a sanitary sewage treatment system which meets the requirements of Part XIII of this Code. If this area is located outdoors, methods shall be used to prevent rainwater and surface water runoff from entering the sewerage system, such as elevating the cleaning pad/compacting area, curbing the cleaning pad/compacting area, enclosing and/or covering the cleaning pad/compacting area such that the surrounding parking lot, street, or ground area, etc., is not allowed to drain into the sewerage system. If the discharge of cleaning or compacting contains fats, oils, or grease, such drain shall first discharge into a grease trap

or oil interceptor (designed in accord with Part XIV of this Code), as appropriate, before connecting to the sewerage system.

E. Spitting in or about any public building is prohibited.
 AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), repromulgated LR 29:1099 (July 2003), amended LR 37:2166 (July 2011).

Chapter 3. Special Sanitary Requirements for Schools and Other Institutions

§301. Toilet Rooms in Schools and Other Institutions [formerly paragraph 17:021]

A. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Part XIV of this Code for the classroom population of that floor.

B. The state health officer may require additional or alternate facilities as necessary to serve persons with special needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), amended LR 37:2167 (July 2011).

§303. School Lunchrooms and Concession Stands [formerly paragraph 17:022]

A. All school lunch rooms and school concession stands shall comply with the general sanitary requirements for public eating places as specified in Part XXIII of this Code.

B. [Formerly paragraph 17:023] Single-service utensils, made of paper or approved plastic, shall be used in school lunchrooms whenever equipment is deemed inadequate by the state health officer to provide proper sanitization for multiple-use utensils.

C. [Formerly paragraph 17:024] In all schools and in other special types of institutions with classrooms, hand-washing facilities (for student and staff use before eating) shall be readily accessible in a common area and shall not be further than 50 feet from the lunch room, dining area or cafeteria. Said facility shall be provided with hot and cold running water delivered via a mixing faucet(s) or a mixing valve at a water temperature not to exceed 120°F, soap, and disposable paper towels or mechanical hand-drying devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), amended LR 37:2167 (July 2011).

§305. Space and Lighting Requirements for Classrooms [formerly paragraph 17:025]

A. ...

B. [Formerly paragraph 17:026] In all schools, and in other special types of institutions with classrooms, artificial lighting shall be provided in all classrooms and other rooms with the minimum level of illumination as listed in Table 305.B below.

| Table 305.B—School/Classroom Lighting | | | | | | |
|---------------------------------------|--|---------|---------|---|---------|---------|
| Room Type Classification | Direct Lighting Footcandle Levels ⁽¹⁾ | | | Indirect Footcandle Levels ⁽²⁾ | | |
| | Maximum | Average | Minimum | Maximum | Average | Minimum |
| Administrative Areas | | | | | | |
| Offices/Receptionist | 75 | 50 | 25 | 60 | 40 | 20 |
| Storage Rooms | 38 | 25 | 13 | 38 | 25 | 13 |
| Restrooms | 38 | 25 | 13 | 38 | 25 | 13 |
| Conference/Resource Rooms | 75 | 50 | 25 | 60 | 40 | 20 |
| Healthcare Area | 75 | 50 | 25 | 60 | 40 | 20 |
| Teacher Prep/Work Area | 75 | 50 | 25 | 60 | 40 | 20 |
| Classrooms | | | | | | |
| General Classrooms | 75 | 50 | 25 | 60 | 40 | 20 |
| Visual Arts Rooms | 75 | 50 | 25 | 60 | 40 | 20 |
| Modular Technology Labs | 75 | 50 | 25 | 60 | 40 | 20 |
| Computer Aided/Drafting Labs | 45 | 30 | 15 | 45 | 30 | 15 |
| Industrial Arts Rooms | 90 | 60 | 30 | 90 | 60 | 30 |
| Computer Labs | 60 | 40 | 20 | 60 | 40 | 20 |
| Graphics Labs | 75 | 50 | 25 | 60 | 40 | 20 |
| Life Skills Labs | 75 | 50 | 25 | 75 | 50 | 25 |
| Science Rooms/Labs | 75 | 50 | 25 | 75 | 50 | 25 |
| Laundry Rooms | 38 | 25 | 13 | 38 | 25 | 13 |
| Music Rooms | 75 | 50 | 25 | 60 | 40 | 20 |
| Large Group Instruction Rooms | 75 | 50 | 25 | 60 | 40 | 20 |
| Media Center | | | | | | |
| Active Areas | 75 | 50 | 25 | 60 | 40 | 20 |
| Inactive Areas | 60 | 40 | 20 | 60 | 40 | 20 |
| Student Dining/Auditoriums | | | | | | |
| Assembly | 30 | 20 | 10 | N/A | | |
| Stage/Work Lights | 30 | 20 | 10 | N/A | | |
| Makeup/Dressing Rooms | 75 | 50 | 25 | 75 | 50 | 25 |
| Theatrical Control Room | 45 | 30 | 15 | 45 | 30 | 15 |
| Kitchen | 60 | 40 | 20 | N/A | | |
| Dining Areas | 60 | 40 | 20 | 60 | 40 | 20 |

| Table 305.B—School/Classroom Lighting | | | | | | |
|---------------------------------------|--|---------|---------|---|---------|---------|
| Room Type Classification | Direct Lighting Footcandle Levels ⁽¹⁾ | | | Indirect Footcandle Levels ⁽²⁾ | | |
| | Maximum | Average | Minimum | Maximum | Average | Minimum |
| Athletic Areas | | | | | | |
| Gymnasium-Elementary School | 75 | 50 | 25 | N/A | | |
| Gymnasium-Middle School | 75 | 50 | 25 | N/A | | |
| Gymnasium-High School | 90 | 60 | 30 | N/A | | |
| Multi-use Physical Education Rooms | 75 | 50 | 25 | N/A | | |
| Locker Rooms | 38 | 25 | 13 | 38 | 25 | 13 |
| Circulation | | | | | | |
| Hallways | 30 | 20 | 10 | 30 | 20 | 10 |
| Stairwells | 30 | 20 | 10 | 30 | 20 | 10 |
| Maintenance Areas | | | | | | |
| Custodial Closets | 45 | 30 | 15 | 45 | 30 | 15 |
| Mechanical Rooms | 45 | 30 | 15 | 45 | 30 | 15 |

Footnotes to Table 305.B

(1) Direct lighting refers to light that is being directed in a downward direction towards the surface being illuminated.

(2) Indirect lighting refers to light that is directed at least partially in an upward direction or is reflected in some manner towards the surface being illuminated.

1. General Notes on Lighting System Design and Enforcement of Table 305.B

a. For design in new and significantly renovated schools, the designer shall utilize the Illuminating Engineering Society of North America (IESNA) Lighting Handbook; however, the standards contained in Table 305B of this Part shall control if there is a conflict.

b. Enforcement of the lighting standards is based upon the average illumination level in each room or area.

c. For instructional spaces utilizing digital “smart boards” or outfitted for audio-visual presentations, the designer should consider the installation of lighting controls readily accessible to the instructor having capability to reduce the illumination on the screen to seven footcandles or less, while maintaining an average of 20 footcandles within the remaining functional areas of the room or area.

d. For instructional spaces utilizing dry-erase whiteboards, the designer should consider the installation of separately controlled, dedicated luminaries mounted parallel to the whiteboard, providing 30 footcandles average on the vertical plane of the whiteboard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002), amended LR 37:2167 (July 2011).

§307. Outdoor Play Areas

A. For elementary schools and other schools with children under 12 years of age, all pieces of playground equipment with play surfaces four feet or higher from the ground shall have an appropriate energy absorptive surface such as wood chips at a depth of 8-10 inches or rubber mats, manufactured for such use meeting A.S.T.M. Standard F355-10a, under the fall zone of the equipment. A swing with the seat four feet above the ground when at a 90 degree arc shall meet this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(4)(5)(16)(17)(19)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 37:2168 (July 2011).

Bruce D. Greenstein
Secretary

1107#054

RULE

Department of Insurance Office of the Commissioner

Rule Number 9—Prelicensing Education (LAC 37:XI.Chapter 5)

Under the authority of the Louisiana Insurance Code, R.S. 22:11 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby adopts this updated version of its Rule Number 9, Pre-licensing Education. The changes were needed to implement revisions found in Act 485 of the 2009 Regular Legislative Session and to clarify current language. Rule Number 9 governs the pre-licensing educational program for insurance producers. It establishes the criteria to be met in order to be certified as a pre-licensing educational provider and as an instructor. It also sets forth the educational requirements which must be met by a person prior to applying to be license as an insurance producer.

Title 37 INSURANCE Part XI. Rules

Chapter 5. Rule Number 9—Prelicensing Education §501. Authority

A. This Rule is promulgated in accordance with R.S. 22:1571.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011).

§503. Purpose

A. The purpose of this Rule is to implement the provisions of R.S. 22:1546(A)(4) and R.S. 22:1571 by

establishing curricula for programs of instruction required to be completed by applicants seeking an insurance license in the state of Louisiana; to establish criteria for approval of preclicensing program providers of the programs of instruction; and to establish a mechanism of examination and review of the performance and quality of the instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011).

§505. Applicability and Scope

A. This Rule shall apply to all applicants seeking a license as an insurance producer who are required by statute to take an insurance examination. Further, this Rule shall apply to the providers of the preclicensing program and the instructors for said programs.

B. This Rule shall not apply to any applicant seeking a license as an insurance producer solely for surety or industrial fire lines of authority.

C. The following shall be exempt from any preclicensing education requirements.

1. A person applying for a license as an insurance producer for authorization to write life insurance and having any of the following designations:

- a. certified employee benefit specialist (CEBS);
- b. chartered financial consultant (ChFC);
- c. certified insurance counselor (CIC);
- d. certified financial planner (CFP);
- e. chartered life underwriter (CLU);
- f. the fellow;
- g. Life Management Institute (FLMI); or
- h. the LUTC fellow designation (LUTCF).

2. A person applying for a license as an insurance producer for authorization to write health and accident insurance and having any of the following designations:

- a. registered health underwriter (RHU);
- b. certified employee benefit specialist (CEBS);
- c. registered employee benefits consultant (REBC);

or

- d. health insurance associate (HIA).

3. A person applying for a license as an insurance producer for authorization to write property or casualty insurance and having any of the following designations:

- a. accredited advisor in insurance program (AAI);
- b. associate in risk management (ARM);
- c. certified insurance counselor (CIC); or
- d. chartered property and casualty underwriter (CPCU).

4. A person applying for a license as an insurance producer to write any line of insurance and having a bachelor's degree or higher from an accredited college or university where the degree obtained includes major course work in insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2169 (July 2011).

§507. Effective Date

A. This Rule shall become effective August 1, 2011 after publication in the July 2011 *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2169 (July 2011).

§509. Definitions

A. In this Rule, unless the context otherwise requires, the following definitions shall be applicable.

Commissioner—the commissioner of insurance of Louisiana.

Department—the Louisiana Department of Insurance.

Producer License Candidate—a natural person who is seeking a license as an insurance producer who is required by statute to take an insurance examination.

Provider—the entity presenting a preclicensing program.

Supervised Instruction—instruction that is conducted in a structured setting under direct supervision of an instructor at a facility compliant with the provisions of this Rule during scheduled program presentations.

Verifiable Self-Study—an internet, CD-ROM, DVD, or other computer based presentation that has an interactive electronic component that:

a. provides inquiry periods at regular and relatively evenly spaced intervals during the program which shall cover material presented in that section of the program;

b. requires the candidate to demonstrate mastery of the current Section before the candidate is allowed by the program to proceed to the next Section or complete the program;

c. identifies all incorrect responses during the inquiry periods and informs the candidate of the correct response with an explanation of the correct answer;

d. is capable of generating a sufficient number of inquiries to illustrate that the candidate has mastered the information for each inquiry period;

e. provides for a method to directly transmit the final program completion results to the provider or a printed program completion receipt to be sent to the provider for issuance of a completion certificate; and

f. has a means to reasonably authenticate the candidate's identity during the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:

§511. Program Requirements

A. Life, Health and Accident

1. All producer license candidates seeking licensure for one of the lines of life or health and accident shall complete a program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of life and health and accident, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of life and health and accident.

2. The curricula for the life instruction shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. life insurance basics;

- d. life insurance policies;
- e. life insurance policy provisions, options and riders;
- f. annuities;
- g. federal tax considerations for life insurance and annuities;
- h. qualified plans.

3. The curricula for the health and accident instruction shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. health insurance basics;
- d. individual health insurance policy general provisions;
- e. disability income and related insurance;
- f. medical expense plans;
- g. group health insurance;
- h. dental insurance;
- i. insurance for senior citizens and special needs individuals;
- j. federal tax considerations.

B. Property and Casualty

1. All producer license candidates seeking licensure for one of the lines of property or casualty shall complete a program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of property and casualty, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of property and casualty.

2. The curricula for property and casualty shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. property and casualty insurance basics;
- d. dwelling insurance policy provisions, including a discussion of the most current ISO form approved for use in Louisiana;
- e. homeowners insurance policy provisions, including a discussion of the most current ISO form approved for use in Louisiana;
- f. auto insurance policy provisions;
- g. commercial insurance policy provisions, including a discussion of the most current ISO form approved for use in Louisiana;
- h. business owners insurance policy provisions, including a discussion of the most current ISO form approved for use in Louisiana;
- i. workers' compensation insurance;
- j. other coverage and options.

C. Personal Lines

1. All producer license candidates seeking licensure for the line of personal lines shall complete a program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the subject of personal lines.

2. The curricula for personal lines shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. personal lines insurance basics;

d. dwelling insurance policy provisions, including a discussion of the most current ISO form approved for use in Louisiana;

e. homeowners insurance policy provisions, including a discussion of the most current ISO form approved for use in Louisiana;

f. auto insurance policy provisions.

D. Bail Bond

1. All producer license candidates seeking licensure for the line of bail bond shall complete a program of instruction with a minimum of eight hours of supervised instruction in the subject of bail bonds. The candidate may not utilize verifiable self-study to satisfy this requirement.

2. The curricula for bail bond shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. underwriting principles;
- d. state laws and regulations;
- e. contract provisions;
- f. ethical practices.

E. Upon completion of the program, the producer license candidate shall be tested by the provider of the program. A producer license candidate shall not be deemed to have successfully completed the program unless he has correctly answered a minimum of 70 percent of test questions.

F. When concurrent programs for the subjects of life, health and accident, property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum required hours of instructional training set forth by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2169 (July 2011).

§513. Program Certification Requirements

A. Applications for certification of prelicensing programs shall be submitted to the commissioner not less than 30 days prior to the expected use of the program. Each application shall be on the forms and in the format required by the commissioner and shall include:

1. the full legal name and federal employer identification number (FEIN) of the provider of the prelicensing program;

2. an outline of the program including a list of resource material to be used, a copy of the textbook to be used, a description of the training aids to be used, a detailed description of the program, and the cost of the program to each participant;

3. if the program is not a verifiable self-study program, a schedule of times and dates when and where the program will be offered. Any change in the locations, dates or times of classes shall be filed with the commissioner no less than three days prior to the scheduled beginning date of the program presentation;

4. if the program is not a verifiable self-study program, information regarding the supervising instructor on the form required by the commissioner and a resume for that instructor that clearly illustrates the instructor meets the minimum requirements of §517 of this Rule;

5. if the program is not a self-study program, information regarding all proposed instructors of the preclicensing program on the form required by the commissioner and a resume for those instructors that clearly illustrates the instructors meet the minimum requirements of §517 of this Rule. The information submitted must include:

a. disclosure of any disciplinary action for insurance related practices by the department, the insurance department of any other state or any similar state or federal regulatory body against any proposed instructor of the preclicensing program;

b. disclosure of any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption of any proposed instructor of the preclicensing program;

6. if the program is not a verifiable self-study program, the physical address, including room or suite number and a description of the facilities where the program will be presented. All facilities shall meet the requirements of §519 of this Rule.

B. A provider may request that any course materials that are proprietary or that contain trade secrets be maintained as confidential by the commissioner. All such requests must be made in strict compliance with the provisions of R.S. 44:3.2.

C. The provider shall maintain detailed attendance records for all program presentations for three years following completion of the presentation. The records shall be made available for review by the commissioner upon request.

D. The provider shall not allow credit for hours for any program work which is not supervised instruction or completed by verifiable self-study.

E. No provider shall advertise or conduct a preclicensing program prior to receiving written confirmation of the certification of the program from the commissioner.

F. Any material changes to information submitted to the commissioner in association with an application for certification of a preclicensing program which has been approved by the commissioner must be submitted to the commissioner no less than 30 days prior to the scheduled beginning date of the program presentation. A material change shall include:

1. changes to the instructors of the preclicensing program;

2. changes to facilities where the preclicensing program will be presented;

3. changes to the text books, resource material or training materials to be used in the preclicensing program.

G. A provider shall notify the commissioner of the date, time and physical location of any presentation of an approved course no less than three days before the beginning of that presentation. This notification shall be in the format and on such forms as the commissioner may require.

H. If a provider utilizes published course materials, including text books, outlines or other similar materials, each attendee must be provided with a complete original text of the material as part of the fee for the course. This text shall be retained by the attendee and shall not be returned or resold to the provider. No substitute texts, outlines, summaries or copyright infringement is permitted.

I. Certification of a preclicensing program shall expire three years from the date of certification. A provider may request renewal of the certification by submitting all information required by this section to the commissioner no less than 60 days prior to the expiration of the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2170 (July 2011).

§515. Measurement of Credit Hours

A. Credit hours for preclicensing programs shall be determined by the commissioner in compliance with the provisions of this Rule.

B. Programs shall be credited in full hours only. The number of hours shall be equivalent to the actual number of hours in instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is approximately eight hours and the total time of instruction is at least 400 minutes.

C. The number of preclicensing credit hours will be limited to a maximum of eight hours per day of instruction. The maximum number of pre-licensing credit hours which will be approved for any single program will be 40 credit hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2171 (July 2011).

§517. Instructor Qualifications

A. Every provider of preclicensing programs shall submit to the commissioner on the forms and in the format required by the commissioner the name and qualifications of all instructors for the preclicensing program. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the instructional program. Every supervisory instructor shall have a minimum of five years of insurance experience and/or graduate level or professional education satisfactory to the commissioner.

B. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted where it is determined by the commissioner that the specific background of the instructor warrants such consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2171 (July 2011).

§519. Training Facilities Requirements

A. For every program other than a verifiable self-study program, the provider shall furnish training facility descriptions when making application for certification of a preclicensing program. At a minimum all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting, and proper furnishing;

2. be easily accessible and secure for the safety of the attendees;

3. be for the exclusive use of the program presentation while in session;

4. provide ready access to rest rooms and other facilities of human needs to the attendees; and

5. provide a proper layout to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all attendees of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2171 (July 2011).

§521. Authority of the Commissioner to Conduct On-Site Review of Prelicensing Programs

A. The commissioner or his designee shall have the authority to visit a training facility at any time. Said visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011).

§523. Course Completion

A. All producer license candidates shall complete the required instructional program prior to taking the insurance licensing examination administered by the department or contracted testing vendor. The producer license candidate shall successfully complete the instructional program no more than 12 months prior to taking the examination.

B. The provider shall maintain a list of all individuals who have successfully completed a prelicensing program presented by that provider for a period of not less than five years from the date of completion of a course. The list shall contain the name, resident address and such distinct information as necessary to clearly identify all individuals who successfully completed the program. Every prelicensing program provider shall submit a copy of the list to the commissioner within 15 working days of the end of a program presentation.

C. The provider shall also maintain electronic records of course completion in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the commissioner.

D. The provider shall present a certificate of successful completion to each producer license candidate who successfully completes the prelicensing program. This certificate shall be in a form acceptable to the commissioner and shall include the name of the producer license candidate and the identification number assigned to the prelicensing program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011).

§525. Fees

A. All applications submitted to the commissioner seeking certification of a prelicensing program shall be accompanied by the fee set forth in RS 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011).

§527. Complaints

A. The commissioner shall review all complaints lodged against a provider or instructor of a program. Every provider shall respond to an inquiry from the commissioner regarding a complaint within 30 days of receipt of such inquiry. The commissioner may take any necessary action to resolve the complaint. Any disciplinary action required shall be taken by the commissioner in accordance with the Louisiana Insurance Code, specifically R.S. 22:2191-2208.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011).

§529. Violations

A. The commissioner may deny, suspend, or rescind the certification of a prelicensing program should he find the program, the instructors or the provider of the program have violated any provision of this Rule or any applicable provisions of the Louisiana Insurance Code or should he find that continued operation of the prelicensing program is not in the best interest of the citizens of this state or the insurance buying public.

B. Any denial, suspension, or rescission of the certification of a prelicensing program shall comply with the provisions of R.S. 49:961.

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1571 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011).

James J. Donelon
Commissioner

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RULE

**Department of Insurance
Office of the Commissioner**

Rule Number 10—Continuing Education
(LAC 37:XI.Chapter 7)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Insurance for the Louisiana Department of Insurance hereby adopts its replacement Rule 10 entitled "Continuing Education." Rule 10 governs the continuing education program for insurance producers and adjusters. It establishes the criteria to be met in order to be certified as a continuing education provider and as an instructor. It also sets forth the educational requirements which must be met by a producer or adjuster as part of the bi-annual licensing renewal process.

Title 37
INSURANCE
Part XI. Rules

Chapter 7. Rule Number 10—Continuing Education
§701. Authority

A. This Rule is promulgated in accordance with R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, and R.S. 22:1708.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011).

§703. Purpose

A. The purpose of this Rule is to protect the public, maintain high standards of professional competency in the insurance industry, and maintain and improve the insurance skills and knowledge of producers and adjusters licensed by the department. This shall be accomplished by prescribing the following:

1. minimum standards of continuing education in approved subjects that a licensee must periodically complete;
2. procedures and standards for the approval of such education; and
3. a procedure for establishing to the department that continuing education requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011).

§705. Applicability and Scope

A. This Rule applies to all natural persons who are licensed by the department as producers for the lines of life, health and accident, property, casualty, bail bonds, personal lines or title and all adjusters licensed by the department. This Rule shall also apply to the providers of continuing education programs and instructors for such programs.

B. The requirement for the completion of continuing education shall not apply to the following:

1. nonresident licensees who have met the continuing education requirements in their home state. If a producer or adjuster is not required to take continuing education in his home state that producer or adjuster is not required to submit continuing education credits to renew his Louisiana license;
2. an individual renewing a resident producer license for the first time after initial issuance. Thereafter the licensee shall be subject to all applicable continuing education requirements;
3. an individual licensed as an adjuster who has been licensed for more than one full year on his renewal date. However, such exemption shall be applicable only to the first license renewal for that license. Thereafter the licensee shall be subject to all applicable continuing education requirements;
4. an individual who attains the age of 65 years on or before January 1, 2012 and who either:
 - a. is no longer actively engaged in the insurance business as a producer and who is receiving social security benefits, if eligible; or

b. is actively engaged in the insurance business as a producer and who represents or operates through a licensed Louisiana insurer.

C. Any person seeking an exemption to the continuing education requirements pursuant to the provisions of Paragraph B.4 above shall attest to his eligibility for the exemption on a form provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011).

§707. Effective Date

A. This Rule shall become effective on August 1, 2011 after final publication in the July 2011 *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011).

§709. Definitions

A. As used in this Rule, unless the context otherwise requires, the following definitions shall be applicable.

Adjuster—an individual who is licensed by the department as a claims adjuster pursuant to the provisions of R.S. 22:1661-1678 or as a public adjuster pursuant to the provisions R.S. 22:1663-1678.

Commissioner—the commissioner of insurance of Louisiana.

Department—the Louisiana Department of Insurance.

Licensee—an individual licensed as an insurance producer for the lines of life, health and accident, property, casualty, bail bonds, personal lines or title or as a claims adjuster or a public adjuster by the department.

Producer—an individual who is licensed by the department as a producer pursuant to the provisions of R.S. 22:1541-1566.

Provider—the entity presenting a continuing education program.

Renewal Period—the two years immediately preceding expiration of a producer or adjuster license. For the purposes of a newly issued license “renewal period” shall mean the time between the issuance of the license and the next scheduled expiration of the license.

Self-Study—an internet, CD-ROM, DVD, or other computer based presentation or a correspondence course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:

§711. Continuing Education Requirements

A. As a condition for the renewal of a license, the continuing education provider or licensee must furnish the department, prior to the license expiration date, proof of satisfactory completion of approved programs having the required minimum hours of continuing education credit.

1. Producers licensed for one or more of the lines of life, health and accident, property, casualty or personal lines—24 hours.

2. Producers licensed for the line of bail bonds—12 hours.

3. Producers licensed for the line of title—6 hours.

4. Adjuster license—24 hours.

B. The 24 hours of continuing education required for producers licensed for one or more of the lines of life, health and accident, property, casualty or personal lines shall include a minimum of three hours dedicated to the subject of ethics.

C. The 24 hours of continuing education required for producers licensed for one or more of the lines of property, casualty or personal lines shall include a minimum of three hours dedicated to the subject of flood insurance.

D. The 24 hours of continuing education required for adjusters shall include a minimum of three hours dedicated to the subject of ethics.

E. A producer licensed for one or more of the lines of life or health and accident and licensed for one or more of the lines of property, casualty or personal lines is required to comply with the continuing education requirements for the renewal period of only one of the license types.

F. An individual shall not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for one or more of the lines of life or health and accident and has completed an initial one-time training course of no less than eight hours and an ongoing training of no less than four hours every renewal period.

G. Failure to fulfill the continuing education requirements prior to the filing date for license renewal shall cause the license to lapse.

H. A license which has lapsed may not be reinstated until the licensee has complied with all continuing education requirements which would have applied had the license continued uninterrupted.

I. Each program applied toward satisfaction of the continuing education requirement for a license shall be completed within the renewal period for which the credit is claimed except that a producer licensed for one or more of the lines of life, health and accident, property, casualty, or personal lines may apply up to ten hours of approved instructions or self-study accumulated during one renewal period to the continuing education requirements for the next renewal period. Continuing education credits dedicated to the subject of flood or ethics may be applied toward the next renewal period as general continuing education credit but may not be used to satisfy the minimum requirement for those subjects.

J. No licensee may be granted credit for a program more than once during a single renewal period.

K. Subject to the provisions of Subsection J above, one hour of continuing education credit shall be awarded to a licensee for each hour completed by that licensee as an instructor or discussion leader for any program approved for continuing education credit by the commissioner.

L. Licensees who successfully complete all prerequisites of a qualified graduate level national designation program and receive the designation shall earn 24 continuing education credit hours.

M.1. Members of state or national professional associations may be granted up to four continuing education credits each renewal period for actively participating in a

state or national insurance association in one of the following methods:

a. attend a formal meeting of a state or national association where a formal business program is presented and attendance is verified in a manner consistent with the provisions of this Rule;

b. serve on the board of directors or a formal committee of a state or national chapter of the association, and actively participate in the activities of the board or committee;

c. participate in industry, regulatory, or legislative meetings held by or on behalf of a state or national chapter of the association; or

d. participate in other formal insurance business activities of a state or national chapter of the association.

2. In order to qualify for continuing education credit under this provision, members must attend at least four hours of qualified activities. Continuing education credit shall be given as one 4 hour increment each year from the association in a manner consistent with the provisions of this Rule. The association shall be responsible for verifying attendance or participation of members for all events where continuing education credit is given under the terms of this provision. Attendance at meetings which are otherwise approved for continuing education credit do not qualify under the terms of this provision. The association shall submit a formal request to the commissioner for approval of continuing education credits issued under the terms of this provision and shall issue a certificate to any licensee to whom such credit is given. This certificate shall meet the requirements of §723.C of this Rule.

3. Continuing education credit for membership in a bail bond association may only be applied towards renewal or reinstatement of a producer license for the line of bail bonds. Continuing education credit for membership in a life, health and accident, property, or casualty type association may only be applied towards renewal or reinstatement of a similar producer license unless the producer is licensed for one or more of the lines of life or health and accident and licensed for one or more of the lines of property, casualty, or personal lines.

4. Regardless of the number of state or national insurance associations in which a licensee actively participates, under no circumstances shall a producer or adjuster receive more than four credit hours per renewal period for such participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22: 1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011).

§713. Waiver of Continuing Education Requirements

A. A licensee who is unable to comply with continuing education requirements due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those requirements. Such request shall be submitted to the commissioner on the form required by the commissioner and shall include such documentation to verify the request as the commissioner may reasonably require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702,

R.S. 22: 1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2174 (July 2011).

§715. Program Certification Requirements

A. An application for certification of a continuing education program shall be submitted to the commissioner not less than 30 days prior to the expected use of the program. Each application shall be on the form and in the format required by the commissioner and shall include:

1. the full legal name and federal employer identification number (FEIN) of the provider of the continuing education program;

2. an outline of the program including a list of resource material to be used, a copy of the textbook to be used, description of the training aids to be used, a detailed description of the program, a schedule of the program which clearly indicates the time spent on each subject for which credit is being requested and the cost of the program to each participant;

3. a statement of the method used to determine whether there has been a positive achievement of education on the part of the producer or adjuster taking the program. Such method may be a written examination, a written report by the licensee, certification by the organization providing the program of the attendance or completion of the program by licensee, or any other method approved by the commissioner as appropriate for the subject;

4. if the program is not a self-study program, a schedule of locations where the instructional program will be offered, and a schedule of times and dates when the program will be offered. Any change in the schedule of locations, dates or times of program presentation shall be filed with the commissioner no less than three days prior to the scheduled beginning date of the program presentation;

5. if the program is not a self-study program, information regarding the supervising instructor on the form required by the commissioner and a resume for that instructor that clearly illustrates the individual meets the minimum requirements of §719 of this Rule;

6. if the program is not a self-study program, information regarding all proposed instructors of the continuing education program on the form required by the commissioner and a resume for those instructors that clearly illustrates the instructors meet the minimum requirements of §717 of this Rule. The information submitted must include:

a. disclosure of any disciplinary action for insurance related practices by the department, the insurance department of any other state or any similar state or federal regulatory body against any proposed instructor of the continuing education program;

b. disclosure of any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption of any proposed instructor of the continuing education program.

7. if the program is not a self-study program, the physical address, including room or suite number and a description of the facilities where the program will be presented. All facilities shall meet the requirement of §721 of this Rule.

B. A provider may request that any program materials deemed proprietary or which contain trade secrets be maintained as confidential by the commissioner. All such requests must be made in strict compliance with the provisions of R.S. 44:3.2.

C. The provider shall not allow credit for hours for any program work that is not conducted under the direct supervision of the program instructor at the approved facility during scheduled program presentation or completed by self-study.

D. Any material changes to information submitted to the commissioner in association with an application for certification of a continuing education program that has been approved by the commissioner must be submitted to the commissioner no less than 30 days prior to the scheduled beginning date of the program presentation. A material change shall include any of the following:

1. change(s) to the instructors of the continuing education program;

2. change(s) to the facility where the continuing education program will be presented;

3. change(s) to the text books, resource material or training materials to be used in the continuing education program.

E. The following general subjects are acceptable for certification as continuing education programs as long as they contribute to the knowledge and professional competence of a licensee and demonstrate a direct and specific application to insurance:

1. insurance and risk management;

2. insurance laws, regulations and ethics;

3. programs in economics, business, management, computers, finance, taxes and laws which relate specifically to the insurance business;

4. claims management and damage assessment;

5. any other such subjects which may be related or that have a direct and specific application to the insurance industry and which contribute to the professional competence of a licensee. This may include but is not limited to subjects such as securities and finance.

F. The following general subjects are not acceptable for certification as continuing education programs:

1. any program used to prepare for taking an insurance or securities licensing examination;

2. general computer programs not specifically related to the business of insurance or adjusting;

3. motivational, psychology, communications, or sales training programs;

4. general business programs not specifically related to the business of insurance or adjusting;

5. any program not directly and specifically applicable to the insurance or adjusting business.

G. The commissioner shall not certify a continuing education program unless the program meets the following standards.

1. The program must have significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants.

2. The program must be developed by persons who are qualified in the subject matter and instructional design.

3. The program content must be current and up to date.

4. The program includes a means for evaluating the quality of the education provided.

5. The instructors of the program are qualified in respect to the content of the program and the teaching method employed to present the program.

H. If a provider utilizes published program materials, including text books, outlines or other similar materials, each attendee must be provided with a complete original text of the material as part of the fee for the program. This text shall be retained by the attendee and shall not be returned or resold to the provider. No substitute texts, outlines, summaries or copyright infringement is permitted.

I. A program may be certified for one or more of the following license types and credit shall be granted only to a licensee holding the type or types of license for which the program is approved:

1. producer—life;
2. producer—health and accident;
3. producer—property;
4. producer—casualty;
5. producer—personal lines;
6. producer—bail bond;
7. producer—title;
8. adjuster.

J. Certification of a continuing education program shall expire three years from the date of certification. A provider may request renewal of the certification by submitting all information required by this section to the commissioner no less than 60 days prior to the expiration of the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2175 (July 2011).

§717. Measurement of Credit Hours

A. Credit hours for continuing education programs shall be determined by the commissioner in compliance with the provisions of this Rule.

B. Professional education programs shall be credited for continuing education purposes in full hours only. The number of hours shall be equivalent to the actual number of hours in the classroom in instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is approximately eight hours and the total time of instruction is at least 400 minutes.

C. University or college upper division credit or noncredit programs shall be evaluated as follows.

1. Each semester system credit hour shall not exceed eight hours toward the requirement.
2. Each quarter system credit hour shall not exceed four hours.

D. The number of continuing education credit hours will be limited to a maximum of eight hours per day of instruction. The maximum number of continuing education credit hours that will be approved for any single program will be 24 credit hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011).

§719. Instructor Qualifications

A. Every provider of a continuing education program shall submit to the commissioner on the forms and in the format required by the commissioner the name and qualifications of all instructors for the continuing education program. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the instructional program. Every supervisory instructor shall have a minimum of five years of insurance experience and/or graduate level or professional education satisfactory to the commissioner.

B. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor warrants such consideration

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011).

§721. Training Facilities Requirements

A. For every program other than a self-study program, the provider shall furnish training facility descriptions when applying to become an approved provider of continuing education program. At a minimum, all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting and proper furnishing;
2. be easily accessible and secure for the safety of the attendees;
3. be dedicated for the exclusive use of the instructional program while in session;
4. provide ready access to rest rooms and other facilities of human needs to the attendees;
5. provide a proper layout to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all attendees of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011);

§723. Authority of the Commissioner to Conduct On-Site Review of Continuing Education Programs

A. The commissioner or his designee shall have the authority to visit a training facility and review the provider's program at any time. Said visits may include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:000 (July 2011).

§725. Program Completion

A. Every provider shall maintain a list of all individuals who have successfully completed a continuing education program presented by that provider for a period of not less than five years from the date of course completion. The list shall contain the identification number assigned to the program by the commissioner and the name, and such distinct information as necessary to clearly identify all individuals who successfully completed the program and the date of completion of the course. Every provider shall submit a copy of the list to the commissioner within 30 calendar days of program completion.

B. Every provider shall also maintain electronic records of program completion in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the commissioner.

C. Every provider shall present a certificate of successful completion to each licensee who successfully completes the continuing education program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the licensee and the identification number assigned to the program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011).

§727. Fees

A. All applications submitted to the commissioner seeking certification of a continuing education program of instruction shall be accompanied by the fee set forth in R.S. 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011).

§729. Complaints

A. The commissioner shall review all complaints lodged against a provider or instructor of a program. Every provider shall respond to an inquiry from the commissioner regarding a complaint within 30 days of receipt of such inquiry. Any disciplinary action required shall be taken by the commissioner in accordance with the Louisiana Insurance Code, specifically R.S. 22: 2191-2208.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22: 1673, R.S. 22:1678, R.S. 22:1702, R.S. 22: 1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011).

§731. Violations

A. The commissioner may deny, suspend, or rescind the certification of a continuing education program should he find the program, the instructors or the provider of the program have violated any provision of this Rule or any applicable provisions of the Louisiana Insurance Code or should he find that continued operation of the continuing education program is not in the best interest of the citizens of this state or the insurance buying public.

B. Any denial, suspension, or rescission of the certification of a continuing education program

shall comply with the provisions of R.S. 49:961.

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22: 2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011).

James J. Donelon
Commissioner

1104#065

RULE

**Department of Public Safety and Corrections
Corrections Services**

Offender Visitation (LAC 22:I.316)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 316, Offender Visitation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§316. Offender Visitation

A. Purpose. To state the secretary's policy regarding offender visitation and to set forth the process through which offenders may receive visits from persons outside the department in order to maintain contact and relationships in the community.

B. Applicability. Deputy secretary, chief of operations, regional wardens and wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its content to all offenders, affected employees and visitors.

C. Policy. The department understands the importance of visitation in the maintenance of an offender's family ties; visitation is an integral component of institutional management. The department recognizes that the majority of offenders will be released into the community and that the offender's eventual reintegration will be more effective if a visitation program permits the maintenance of social relationships. Visiting can improve public safety and encourage offender accountability. Authorized visitation is permitted by the department to facilitate an offender's institutional adjustment in accordance with the department's goals and mission. The visiting process shall be conducted in an atmosphere that is conducive for the safe, secure and orderly management and operation of the institution. Thus, the visiting process will not overly tax the institution's resources or its ability to maintain adequate control and

supervision. In this matter, as in all others affecting institutional operations, safety and security are primary considerations.

1. The department shall provide as much uniformity and consistency in visiting as possible, while considering the physical limitations and security needs of each facility.

D. Definitions

Attorney Visit—visit by an attorney or authorized representative, such as a paralegal, legal assistant, law clerk and investigator whose credentials have been verified.

Contact Visit—a visit in which the offender and visitor(s) are not physically separated.

Disrespect—hostile, sexual, abusive, threatening language or gestures, verbal or written, towards or about another person by a visitor.

Disturbance—conduct or activity which unnecessarily interferes with visitation operations, and/or which advocates, encourages, promotes or otherwise creates or poses a threat to the safety, security, health and good order of the institution, and/or the safety and security of offenders, staff or visitors. A visitor commits a disturbance if the visitor advocates, creates, engages in, maintains or promotes an annoying condition or disorder characterized by unruly, noisy or violent conduct.

Employee—any person employed full-time, part-time or on temporary appointment by the department.

Excessive Contact—prolonged or frequent physical contact between a visitor and an offender that exceeds the brief embrace and kiss upon meeting and leaving and hand-holding. Excessive is not casual contact, but rather a pattern of contact beyond rule limits.

Immediate Family Member—includes the offender's father, mother, siblings, legal spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a "step," "half" or adoptive relationship and those persons with the same relationship of the offender's legal spouse and any others indicated on the offender's master record as having raised the offender.

Intake Status—the 30-day period of time following delivery of an offender to the custody of the department. During this time, staff conducts intake processing of the offender including, but not limited to, medical and mental health assessments, custody classification and identification of programming needs and assignments.

Minor Child—anyone under the legal age of majority (18 years).

Non-Contact Visit—a type of visitation whereby an offender and an approved visitor on the offender's visiting list are not permitted to be in physical contact during visitation and are generally separated by a physical barrier. Non-contact visit may also include video visitation (see *video visitation* definition below).

Picnic Visit—a type of visitation in an area of the institution set aside for picnicking.

Regular Visit—visitation whereby an offender and an approved visitor on the offender's visiting list are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with limited physical contact, consisting of a brief embrace and kiss upon meeting and leaving, hand-holding and holding of children.

Sex Crime Involving a Minor Child—any conviction of a sexual crime committed, attempted or conspired in which a minor child was involved, victimized or was the intended victim.

Special Visits—

a. a visit that is permitted at an hour and/or place at which visits are not normally permitted;

b. an extra visit by an offender and a person who is on the offender's approved visiting list that is permitted beyond the limits of the number of visits established by this regulation and institutional policy and procedures;

c. a visit with a person who is not on the offender's approved visiting list, such as out-of-state family members or friends;

d. a visit that is authorized for hospitalized or terminally ill offenders.

Suspension of Visiting Privileges—the refusal to permit a visitor to visit any department facility for a determinate period of time (e.g., taking away a visitor's visiting privileges for 30 days for a visitation rule violation).

Video Visitation—a method of visitation which allows offenders to visit through electronic media.

E. Treatment of Visitors

1. There shall be no discrimination in visiting. All visitors and offenders shall be provided equal opportunities in visiting in accordance with the offender's security classification and housing assignment.

2. Visitors shall be treated with courtesy at all times and shall not be subjected to unnecessary delay or inconvenience in accomplishing a visit.

3. All visitors with disabilities shall have readily accessible facilities and shall be reasonably accommodated as appropriate and to the extent possible within the context of the department's fundamental mission to preserve the safety of the public, staff and offenders. Advance notice of the accommodation requested shall be necessary to ensure its availability at the time of the visit.

F. Designated Visiting Areas

1. Visiting Room

a. Each facility, except reception centers (for offenders in intake status (see Subparagraph H.1.b of this Section), shall designate at least one location that shall be used for offender visitation. This area(s) shall be in a location(s) that ensures the safety and security of the facility and the persons involved.

2. Visiting Children's Area

a. Wardens shall take into consideration the impact that visits with parents or grandparents in a correctional setting may have on young children, especially pre-school age children. When possible and taking into consideration the physical environment and space capabilities, the visiting area(s) shall make special accommodations to entertain and occupy the minds of these children. These accommodations may include a separate room adjoining the main visiting area which is bright, inviting and comfortable or a similar space within the main visiting room. Appropriate age books, games and toys may be available in these areas. At all times, children must be supervised by the offender who is being visited or the adult visitor who brought the children. The use of this type of area shall be accomplished without the need for additional staff to supervise the area.

3. Contact or Non-contact Visiting Areas

a. Unit-specific operational procedures shall designate the location(s) for offender visitation and whether the areas shall permit "contact" or "non-contact" visits.

G. Application for Visitation

1. Application Process

a. In order for family members and friends to visit offenders, they must complete an application for visiting privileges. Offenders shall be responsible for sending applications to family members and friends they want to visit. It is the offender's responsibility to provide the correct name, address, date of birth, race and sex of all prospective visitors. Each warden shall designate a staff person to receive and process these applications.

b. All prospective visitors must complete the application and mail it to the facility the visitor wishes to visit. Parents/legal guardians shall be required to complete the application for minor children (under the age of 18) and shall sign the application on behalf of the minor child. Faxes of the application are not acceptable. It is important that the application be completed fully and all questions answered honestly. Failure to provide all requested information may result in a delay in the processing of the application or a denial of visiting privileges.

2. Criminal History Screening

a. A criminal history background check shall be conducted on each adult applying to visit an offender. In addition, approved adult visitors shall be re-screened for criminal history every two years in accordance with the provisions of this Section. Screening may be conducted through one of the following methods:

- i. criminal history background questionnaire to local law enforcement;
- ii. CAJUN 2 inquiry;
- iii. National Crime Information Center (NCIC); or
- iv. Louisiana Computerized Criminal History (LACCH).

b. The warden retains the option of choosing the method of obtaining the criminal history that best meets the needs of the institution.

c. When an active criminal warrant is found, the application shall be reviewed and local law enforcement shall be notified of the information provided. The information on the applicant's criminal history is treated as confidential and shall not be released to the offender.

3. Notification of Approval/Denial

a. Once a decision is made either approving or denying the application, the offender shall be notified. The offender is responsible for advising applicants that their applications have been approved or denied. The applicant's approved application must be on file prior to visiting.

H. Eligibility for Visitation Privileges

1. Offenders

a. All offenders, (except those offenders in intake status see Subparagraph H.1.b of this Section) or as specifically provided herein, are eligible to apply for visits while confined in a departmental facility.

b. Offenders in Intake Status

i. Visitation will not be allowed while an offender is in intake status. If the intake process exceeds 30 days, the offender may request a special visit with immediate family members in accordance with the reception center's

visiting procedures. Once an offender is removed from intake status, visitation with immediate family members may be authorized by the receiving facility at the request of an offender.

c. Offenders with no Established Visiting Record

i. Offenders entering an institution with no established visiting record should be granted tentative approval to visit immediate family members upon the request of the offender. Verification of relationship may be required. Exceptions must be approved by the warden or designee and be based upon legitimate security considerations.

d. Offenders Transferred to another Facility

i. Offenders transferring to another institution should be authorized to visit with their approved visitors at the receiving institution, unless it is demonstrated that the requirements/restrictions of this regulation were not previously adhered to in the approval process or unless the warden or designee at the receiving institution identifies the need to apply restrictions based upon current security considerations. (An offender shall be allowed to request a change in his visiting list when he first arrives at the receiving institution and at four-month intervals thereafter.)

2. Prospective Visitors

a. All persons, except as specifically prohibited in accordance with this regulation, are eligible to be considered for approval to visit an offender confined in a departmental facility upon application and request by the offender.

b. Visitation by Individuals with Criminal Conviction/Pending Criminal Charges

i. A person is ineligible to visit if the individual has been convicted of, and/or has criminal charges pending against him for the following crimes/criminal activities:

(a). introduction and/or supplying, attempting or conspiring to introduce or supply contraband;

(b). possession, control or delivery of an explosive device or substance, including attempt or conspiracy to do the same; or

(c). assisting an offender in an escape or unlawful departure from a correctional facility, including an attempt or conspiracy.

c. Visitation by Victims

i. Visits from the offender's direct victim(s) are prohibited except in accordance with established policy. At the warden's discretion, this policy may be waived on a case-by-case basis.

d. Visitation by Ex-offenders/Parolees/Probationers

i. A person who has been convicted of a felony, who has not been finally discharged from an institution or from probation or parole supervision for more than two years without an intervening criminal record shall be denied approval to be placed on an offender's visiting list. In addition, any person who in the previous five years had three or more felony charges (regardless of disposition) shall be considered ineligible to visit or, if already an approved visitor, shall have visiting privileges revoked.

e. Visitation by Staff/Ex-employees

i. Visitation by employees of the department is reserved for immediate family members only. Requests to visit an incarcerated family member shall be submitted to the requesting employee's warden or designee for consideration. A departmental employee or an ex-employee may be denied

approval to visit if such denial is deemed by the warden or designee to be in the best interest of the institution.

f. Exceptions

i. Exceptions to the provisions of this Section, including the approval of former offenders as visitors, may be specifically authorized by the warden or designee.

3. Restriction on Visits with Minors

a. Offenders who have a current or prior conviction for a sex crime involving a minor child family member, or who have a documented history of sex abuse with a minor child family member, are ineligible to visit with any minor child, including their own biological or step-child (see Subparagraph H.3.d of this Section for possible exception).

b. Offenders who have a current or prior conviction for a sex crime involving a minor child who is not a family member are ineligible to visit with any minor child. However, at the warden's discretion, such offenders may be authorized to visit with their own biological child. The legal guardian shall submit a written request and shall accompany the minor child during the visit. If approved by the warden, the visit may be contact or non-contact at the warden's discretion. The legal guardian may be permitted to name another individual (other than the legal guardian) who is on the offender's visiting list to accompany the minor child for a visit. The legal guardian shall provide a written, notarized statement authorizing a specific individual to accompany the minor child. If approved by the warden, the visit may be contact or non-contact at the warden's discretion (see Subparagraph H.3.d of this Section for possible exception).

c. Special visits for offenders who have successfully completed or are participating satisfactorily in sex offender treatment may be considered by the warden. (Treatment staff who teach the sex offender class shall be involved in the decision-making process for this type of special visit.) The legal guardian shall submit a written request and shall accompany the minor child during the visit. The legal guardian may be permitted to name another individual (other than the legal guardian) who is on the offender's visiting list to accompany the minor child for a visit. The legal guardian shall provide a written, notarized statement authorizing a specific individual to accompany the minor child. If approved by the warden, the visit may be contact or non-contact at the warden's discretion.

d. Minor children may be prohibited from participating in non-contact visits at the discretion of the warden.

e. Each visit with a minor child shall be documented in the offender's visiting record.

I. Establishing and Maintaining Visiting Lists

1. Approved Visitors

a. Offenders may be permitted a maximum of 10 approved visitors on their respective visiting lists. The initial request for visitors shall be used by offenders to request visitors.

b. At the discretion of the warden or designee, an offender participating in a special recognition program may be allowed to have up to a maximum of 15 approved visitors placed on his visiting list.

c. The name of each approved visitor shall appear on the offender's visiting list; however, legal advisors, one approved religious advisor and minor children shall not be counted toward the maximum number of approved visitors,

although the names of the legal advisors and one approved religious advisor shall still appear on the list. The names of the minor children need not appear on the list.

d. Except as noted in Subparagraph H.3.d of this Section relative to offenders who have a current or prior conviction for a sex crime, minor children may visit on any of the regular visiting days when accompanied by an adult visitor on the offender's approved visiting list. Both visitors must be visiting the same offender at the same time. Exceptions to being accompanied by an adult may be specifically authorized by the warden or designee, including, but not limited to, the following:

i. minor spouse;

ii. emancipated minors (Judgment of Emancipation required as proof); or

iii. minors visiting as part of approved institutional programs such as school groups, church groups, parenting groups, etc.

2. Changing the Visiting List

a. Each offender shall be allowed to request changes (additions, deletions, substitutions) to his approved visiting list every four months.

b. A request for changes to approved visiting list shall be made available to offenders to request changes to their approved visiting list.

J. Visiting Rules

1. Visiting Privileges

a. Visitation is a privilege and not a right. Violation of rules may result in termination of the visit, loss of the offender's visiting privileges, banning of the visitor from entering the institution or its grounds and/or criminal charges as circumstances warrant.

2. Unit-Specific Visiting Procedures

a. This regulation and the department's standard guidelines for visitors are available on the department's website at www.doc.louisiana.gov. Information specific to each facility is also posted on the department's website (i.e., driving directions, visiting days/hours, special visits, etc.).

b. Each warden shall be responsible for ensuring written information regarding unit specific visiting procedures is made available to offenders within 24 hours following the offender's arrival at the institution. At a minimum, the information shall include, but is not limited to, the following:

i. address and phone number of the institution;

ii. directions to the institution;

iii. information regarding local transportation;

iv. days and hours of visitation;

v. approved dress code;

vi. authorized items;

vii. rules for children and special visits.

3. Visitor Identification Requirements

a. All visitors age 18 years and older shall be required to produce valid picture identification before entering the visiting area each time they visit. The only forms of identification accepted by the department are:

i. a valid driver's license from the state of residence;

ii. a valid state photo identification card from the state of residence;

iii. a valid military photo identification card (active duty only);

iv. a valid passport.

4. Refusal/Requests for Removal

a. Offender Refusal to Visit

i. An offender may refuse to see a visitor; however, the offender shall be required to sign a statement to that effect and the statement shall be filed in the offender's master record. Should the offender refuse to sign a statement, documentation of the refusal shall be placed in the offender's master record.

b. Requests for Removal

i. A person may be removed from the offender's approved visiting list at his own request or at the request of the offender. If a visitor requests such removal, the visitor must wait six months before applying to visit the same or another offender. Exceptions may be made for immediate family members.

5. Visitors may only be on one offender's visiting list.

a. A visitor can be on only one offender's visiting list per institution unless that visitor is a family member of more than one offender. The burden of proof and documentation shall be the responsibility of the offender and his family. Visitors may request that they be removed from one offender's visitor's list and placed on another offender's list in accordance with this regulation.

6. Number, Duration and Conditions of Visits

a. Approved visitors should be allowed to visit the offender at least two times per month.

b. While a two-hour visit is optimum, each warden or designee retains the discretion to determine the duration of visits, as well as the days and hours on which they may occur. Available space and staff shall determine visiting lengths.

c. Each warden or designee retains the discretion to determine the number of visitors who may visit an offender at one time. Family visiting and contact visits are to be permitted to the extent possible.

d. All visitors are to be informed in writing of the rules governing visiting. Visiting guidelines shall be conspicuously posted in the visiting areas and are made available to prospective visitors on the department's website at www.doc.louisiana.gov.

e. Visitors are allowed to bring only enough cash money for vending machines and/or concessions into the visiting area. Any financial transactions including cash money, money orders (bank or postal) or cashier's checks for deposit into an offender's account shall only be accepted at the visiting processing area.

Exception: Deposits into an offender's account at the Louisiana State Penitentiary may be accepted in the visiting room.

f. Any visit may be terminated if the offender or visitor violates the rules governing visiting.

g. Non-Contact Visits

i. The warden or designee may place a visitor on a non-contact visitation status for the safe and secure operation of the institution. Visitors placed on non-contact visitation status shall have their status reviewed every six months.

ii. Offenders who are housed in segregation or disciplinary units shall be placed on non-contact visitation status.

iii. Any offender who pleads guilty or has been found guilty of a disciplinary rule for one or more of the following reasons shall be subject to non-contact visits for a minimum of six months:

(a). possession of any drug or drug paraphernalia;

(b). producing a positive or adulterated urine sample;

(c). refusal or substantial delay to provide a urine sample;

(d). introduction of contraband into the institution;

(e). positive breathalyzer test;

(f). repeated (defined as more than two in a two year time period) violations of disciplinary rule no. 21; or

(g). any major rule violation that occurs in the visitation area.

iv. Such restriction must be formally reviewed, at a minimum, every six months. Restriction of contact visiting is not a disciplinary penalty.

h. Where available, picnic visits are authorized as approved by the warden or designee. The warden or designee shall authorize foods that will be allowed for picnics.

7. Special Visits

a. Special visits may be granted, with the prior approval of the warden or designee, on a case-by-case basis. Unit operational procedures shall specify the parameters for such approval, with consideration given to sources of transportation, accessibility to the facility by visitors, the distance a visitor must travel and any special circumstances.

8. Dress Code for Visitors

a. Visitors shall be made aware that visiting areas are designed to cultivate a family atmosphere for family and friends of all ages. Visitors shall dress and act accordingly. Visitors shall wear clothing that poses no threat to the safety, security, good order and administrative manageability of the facility.

9. Suspension of Visiting Privileges

a. Any person may be refused approval to visit an offender and removed from an approved visiting list if the visitor does not comply with the rules of the institution. (Such removal may be temporary or permanent, depending upon the severity of the violation.)

b. Any person causing or participating in a disturbance or one that is disrespectful may be refused approval to visit an offender. If an offense is such that it is the warden or designee's desire to remove the visitor from the visitor list (either indefinitely or for a fixed period of time), the following procedures shall be followed.

i. The warden or designee shall notify the visitor in writing that he has been removed from all applicable visiting lists, the reason why and that the removal will be reviewed after a specified amount of time. The visitor shall also be notified in writing that he may appeal the warden's decision to the secretary by sending a letter within 15 days of the date of the notice.

ii. If the visitor exercises this appeal right, the secretary or designee shall review the appeal and investigate, as appropriate, within 30 days of notice. If necessary, a

hearing shall be scheduled and the visitor shall be notified of the time, date and location of the hearing.

iii. The warden or designee may submit a report to the secretary setting forth any information that he feels may assist in making the decision. If a hearing is held, the secretary or designee may determine that the warden or designee should attend this hearing; in this case, the Warden shall be so advised. Otherwise, the hearing shall consist of a meeting between the visitor and the secretary or designee and shall be preserved by minutes.

iv. The secretary shall render a written decision granting or denying the appeal and shall notify the visitor and the warden of the decision without undue delay. Brief reasons for the decision shall be given.

K. Video Visitation

1. Video visitation is considered a special visit and shall be requested and approved in accordance with Subparagraph J.7.a of this Section and shall be in conformance with all other rules/regulations that pertain to visiting.

2. When transportation is provided during emergencies and extreme circumstances, offenders may be allowed to visit via video connection capabilities.

3. The warden or designee shall ensure that all laptops, laptop connection cards or wireless internet connection cards are maintained in a secure location that is not accessible to offenders and other unauthorized or untrained persons when not in use.

4. The warden or designee may approve the set-up and use of video visitation and shall ensure that a staff member or approved volunteer is assigned to monitor the visit at an appropriate, conducive visitation area.

5. The warden or designee shall be responsible for ensuring that staff and/or volunteers are present at the remote location. Staff and/or volunteers at the remote location shall document that they and the approved visitor(s) are the only individuals present for the video visitation.

6. Any other person present is required to have written permission from the warden or designee to participate in the video visitation process.

7. Violations occurring during video visitation are subject to disciplinary action, suspension of visiting privileges and/or possible civil or criminal prosecution, depending on the nature of the offense.

8. This form of visiting involves open internet capability requiring on-site supervision at both locations when in use and does not involve or allow connection to the department's network.

L. Visitation Records

1. Each facility shall maintain a record for each offender documenting all of the offender's visits. All visiting records/information obtained on an offender by institutional staff shall be transferred with the offender when the offender is reassigned to another institution within the department. This includes transfers to transitional work programs. The offender's current visiting information shall be utilized by the transitional work program to allow for visitation.

M. Visitor Searches

1. Without warning, visitors are subject to a search of their vehicles, possessions and persons. This is necessary to preclude the introduction of weapons, ammunition, explosives, cell phones, alcohol, escape devices, drugs, drug

paraphernalia or other prohibited items or contraband into the prison environment. All searches of visitors shall be conducted in accordance with established procedures.

2. Signs shall be posted in the area(s) where visitors are initially processed and in the visiting rooms/areas that advises visitors that drug detection dogs (K-9's) may be in use at the facility and visitors shall be subject to search by these dogs. The sign shall state:

NOTICE: Drug detection dogs (K-9's) may be in use today in the visiting room. These dogs are non-aggressive. All visitors will be searched prior to entering the visiting room and/or during the visit. If you do not wish to be searched, you may choose not to visit today.

N. Supervision of Visiting Areas

1. Facilities shall provide direct visual supervision of the entire visitation area at all times. Staff shall position themselves throughout the visitation area to maintain a direct line of sight on interactions between offenders and visitors. While mirrors and cameras can augment direct supervision and compensate for blind spots, staff shall position themselves with a direct line of sight on interactions between offenders and visitors.

2. Staff shall immediately intervene on inappropriate behavior, which may include behavior outside the bounds of permitted intimacy or involve any violation of visiting regulations that may prove uncomfortable, disruptive, or offensive to other offenders and visitors.

3. Notices shall be posted informing visitors of the potential for monitoring anywhere in the visiting area. Staff of the same gender as the visitor shall monitor the restrooms during visits if there is reasonable suspicion that a visitor or offender may engage or be engaging in some form of prohibited behavior.

O. Visitation at Special Offender Organization Functions/Events

1. The warden may authorize offender organizations to hold special functions or events when those programs can be adequately supervised by staff. When such a special function is approved by the warden, visitors to the event shall be subject to the normal security processing as would occur during normal hours of visitation. Special guests (speakers/presenters) invited to the special function shall be processed at the direction of the warden.

P. Emergency Situations

1. When the warden or designee determines that an emergency situation exists at the facility, any or all visits shall be suspended. Any visits in progress shall be terminated and the visitors escorted from the facility. Any person may be denied permission to visit during the time of a disturbance at the institution. All visiting shall be suspended during an emergency.

Q. Guidelines for Visitors. Visitation with offenders committed to the Louisiana Department of Public Safety and Corrections (DPSC) is a privilege. Visitation may be restricted, denied or suspended if an offender and/or visitor does not follow the department's visitation rules. Prospective visitors may refer to www.doc.louisiana.gov for the department's regulation governing offender visitation. The regulation may also be obtained by requesting a copy from the facility. Items considered to be contraband, including any type of weapon, firearm or any other item detrimental to the security of the facility are not allowed. Prohibited items and other personal possessions (wallet, purse, cash, etc.) must be

left in the visitor's locked vehicle for the duration of the visit. The following are rules that a visitor must follow in order to be allowed to visit with an offender.

1. Visiting List. In order to visit an offender, the visitor must be on the offender's approved visiting list. The offender has been given information on how to put someone on their visiting list. If you are uncertain as to whether you are on the offender's approved visiting list, please contact the offender you wish to visit. Do not call the facility for this information; it will not be provided over the phone.

2. Searches. All visitors, including minors, are subject to searches of their property, automobile and person. These searches shall be conducted by trained staff in a professional manner that minimizes indignity to the visitor while still accomplishing the objective of the search. Additionally, visitors shall be subject to additional searches using metal detectors and ion scanning equipment. Specially trained search dogs (K-9's) may be used as a part of the search process both prior to a visitor entering the visiting area and in the actual visiting room during visits. Any person refusing to be searched at any time shall not be permitted to enter the facility and a visit may be terminated if a visitor refuses to be searched, or if contraband or other prohibited property or items are found on the visitor or in the visitor's property. If a visitor does not wish to be searched either by hand nor by using other means, the visitor should not attempt to enter a DPSC facility.

3. Registration. Visitors must register with staff prior to entering the visiting area.

4. Identification. All visitors who are 18 years old or older shall be required to show a picture identification each time they visit. The forms of identification accepted by the DPSC are:

- a. valid driver's license from the state of residence;
- b. valid state photo identification card from the state of residence;
- c. valid military photo identification card (active duty only);
- d. valid passport.

5. Children. Visitors under the age of 18 years of age must be accompanied by their parent or legal guardian at all times while on facility grounds. Children shall not be left alone at any time while on facility grounds. Parents or legal guardians shall be responsible for the behavior of their children and a visit may be terminated if the children become disruptive.

6. Dress Standards. Visitors shall wear clothing that poses no threat to the security or maintenance of order at the facility. The following standards are to be met.

- a. Clothing that is similar in appearance to the clothing worn by the prison's offender population is prohibited.
- b. Clothing that is similar in appearance to the clothing worn by correctional officers, i.e. camouflage, blue BDU's, etc. is prohibited.
- c. Sheer or transparent clothing is not permitted.
- d. Swim suits are not permitted.
- e. Skirts, shorts, skorts, culottes and dresses must be no shorter than three inches above the kneecap and not have deep or revealing slits.

f. Strapless, tube and halter tops, tank tops and strapless dresses are not permitted.

g. Tops that expose the midriff are not permitted.

h. Tight fitting pants, such as stirrup, spandex, lycra or spandex-like athletic pants, aerobic/exercise tights or leotards shall not be worn.

i. Undergarments must be worn at all times and cannot be exposed.

j. Clothing with revealing holes or tears higher than one inch above the kneecap is not permitted.

k. Clothing or accessories with obscene or profane writing, images or pictures is not permitted.

l. Gang or club-related clothing or insignia indicative of gang affiliation is not permitted.

m. Shoes must be worn at all times, except for infants who are carried. house slippers or shower shoes are not allowed.

n. Hats or other head coverings are not permitted, except as required by religious beliefs.

7. Items not Permitted. Visitors shall not be permitted to possess or carry the following items into the visiting area:

- a. controlled substances;
- b. alcoholic beverages;
- c. marijuana;
- d. tobacco and tobacco related items;
- e. cameras, video and audio recording equipment and electronic devices, including but not limited to cellular telephones, pagers, BlackBerries, radios, tape recorders, etc.

8. Medication. Only prescribed medication that is life-saving or life-sustaining (such as nitroglycerine pills, inhalers, oxygen, etc.) shall be permitted. Medication shall be limited in quantity to no more than that required for the duration of the visit. Visitors must advise the staff at the visiting desk that they are in possession of such medication.

9. Infants. If the visitor has an infant child, the following items shall be permitted: four diapers; two jars vacuum sealed baby food; two plastic bottles milk or juice; one change of clothing; one baby blanket (maximum width and length not to exceed 48 inches) and one clear plastic bag of baby wipes. These items (except the baby blanket) must be stored in a single clear plastic container (i.e., gallon size zip-lock bag.). All items are subject to search.

10. Money. See www.doc.louisiana.gov for facility-specific limitations on the amount a visitor is permitted for vending machines and/or concessions. Visitors shall not give any money to an offender. Visitors may bring cash, check, money order (postal or bank) or cashier's check to be deposited in the account of the offender being visited.

11. Contact between Offenders and Visitors. Offenders who have "contact" visits may embrace (hug) and exchange a brief kiss (briefly to indicate fondness, not a lingering kiss) with their visitor at beginning and end of the visit. During the visit, the only contact permitted is holding hands. Excessive displays of affection or sexual misconduct between offenders and visitors is strictly prohibited. Small children may be permitted to sit on the lap of the visitor or offender. Any improper contact between an offender and visitor shall be grounds for stopping the visit immediately. Some offenders are restricted to "non-contact" visits. In

these cases, there shall be no physical contact (touching) between the offender and the visitors. Restroom breaks may be authorized; however, visitors will be subject to the entire search process.

12. Restrictions on Visits with Minors. Offenders who have a current or prior conviction for a sex crime involving a minor child family member, or who have a documented history of sex abuse with a minor child family member, are ineligible to visit with any minor child, including their own biological or step-child. Offenders who have a current or prior conviction for a sex crime involving a minor child who is not a family member are ineligible to visit with any minor child. The offenders affected by these restrictions have been informed of possible exceptions that may only be approved by the warden. See www.doc.louisiana.gov for additional information on restriction of visits with minors.

13. Generally Prohibited. The giving or receiving of any item(s) to/from an offender without the prior approval of staff is prohibited. Violators are subject to arrest and criminal prosecution and suspension of visiting privileges. The only exception is that the visitor may purchase soft drinks, snacks or concessions in the visiting area and share them with the offender. The offender is not permitted to take anything out of the visiting area when the visit is finished, other than with approval as noted above.

14. Visiting Hours. See www.doc.louisiana.gov for visiting hours at a specific facility.

15. Public Transportation. Some DPSC facilities have public transportation available to the facility. Information is provided at the facility to the offender population if public transportation is available. There may be a cost for use of this transportation and the DPSC does not endorse or claim any liability for the use of the transportation provider. The visitor may contact the offender they wish to visit to obtain specific information regarding any types of transportation that may be available to the facility where the offender is housed.

16. Directions. Driving directions may be found under the name of the facility the visitor wishes to visit at www.doc.louisiana.gov.

17. Termination of Visits. The warden of the facility or staff designated by the warden may terminate a visit at any time if they believe that ending the visit is in the best interest of the safety and security of the facility or the persons involved.

18. Other Specific Information Provided by the Offender or Facility. Other permissible items, special visit procedures and availability of picnic visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:2 (January 1979), amended LR 11:1096 (November 1985), repromulgated LR 29:2851(December 2003), amended by the Department of Public Safety and Corrections, Corrections Services, LR 32:406 (March 2006), LR 35:1248 (July 2009), LR 37:2177 (July 2011).

James M. Le Blanc
Secretary

1107#051

RULE

Department of Public Safety and Corrections Corrections Services

Special Agents (LAC 22:I.323)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby changes the title and amends the contents of Section 323 Weapons—Authorization to Carry.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§323. Special Agents

A. Purpose—to state the procedures governing special agent appointments and the duties of special agents.

B. Applicability—deputy secretary, assistant secretary, chief of operations, regional wardens, wardens, director of probation and parole, director of prison enterprises and those employees authorized as special agents. Each unit head shall ensure that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy—it is the secretary's policy that special agent appointments shall be issued to institutional employees whose duties include the carrying of a firearm off institutional grounds. Special agent appointments may also be issued to other departmental staff, headquarters staff, probation and parole officers and prison enterprises staff in accordance with R.S. 15:825.2 to enable them to safely perform their required duties.

1. A special agent's duties can encompass providing assistance to other law enforcement agencies to improve public safety, to include but not be limited to:

- a. execution of warrants;
- b. emergency aid and other assistance as requested;
- c. patrol duties; and
- d. detention and transportation of arrestees.

2. It is further the secretary's policy that all private prison employees whose duties include the carrying of a firearm on or off institutional grounds shall be certified to do so pursuant to R.S. 39:1800.4(D)5 and in accordance with the provisions of this regulation.

D. Definitions

1. *Departmental Employee*—a corrections services' full-time, permanent status employee or full-time employee who has attained the rank of sergeant or probation and parole officer I.

2. *Private Prison Employee*—an employee of a private prison contractor that operates under the department's rules and regulations.

E. Procedures for Special Agent Appointment

1. Departmental Employees

a. Applications shall be submitted to the chief of operations:

i. Applications may be submitted by the undersecretary, director of prison enterprises or warden to the chief of operations for screening and processing.

ii. Applications shall include the following:

(a). the applicant's name and social security number;

(b). a current rap sheet for the applicant;

(c). a completed domestic violence questionnaire;

(d). a precise statement regarding the applicant's need to carry a weapon and the circumstances in which the applicant will be authorized to carry a weapon; and

(e). certification by the undersecretary, director of prison enterprises or warden that the applicant has been trained to use the weapon he will carry and has achieved the necessary qualifying score on the firing range.

b. Applications to be submitted to the Director of Probation and Parole

i. Applications shall be submitted by the district manager to the director of probation and parole. Headquarters probation and parole employees may submit applications directly to the director of probation and parole for screening and processing.

ii. Applications shall include the following:

(a). the applicant's name and social security number;

(b). a current rap sheet for the applicant;

(c). a completed domestic violence questionnaire;

(d). certification by the district manager that the applicant has successfully completed all training as required by division policy.

2. Private Prison Employees

a. Applications must be submitted by the warden to the chief of operations for screening and processing.

b. Applications shall include the following:

i. the applicant's name and social security number;

ii. a current rap sheet for the applicant;

iii. a completed domestic violence questionnaire;

iv. a precise statement regarding the applicant's need to carry a weapon and the circumstances in which the applicant will be authorized to carry a weapon; and

v. certification by the warden that the applicant has been trained to use the weapon he will carry and has achieved the necessary qualifying score on the firing range.

3. The secretary will issue a commission card to departmental employees from institutions, headquarters and the division of prison enterprises as authority to carry a firearm and/or perform duties in accordance with R.S. 15:825.2. The commission card must be carried by the departmental employee at all times in the performance of his duties.

4. The unit head shall ensure that commission cards are kept current.

5. In lieu of issuing a commission card, the secretary will certify by memorandum to the director of probation and parole that qualified probation and parole officers are commissioned as "special agents."

6. In lieu of issuing a commission card, the secretary will certify by memorandum to the warden that qualified

private prison employees are commissioned as "special agents."

7. Special agents must be in compliance with the provisions of DPSC firearms training or division of probation and parole firearms training as applicable.

8. Special agents who participate in community policing activities must successfully complete training appropriate to their assignments as defined by institutional or division of probation and parole policy.

9. The unit head or designee shall be responsible for properly equipping special agents with adequate equipment for law enforcement duties as appropriate to the assignment, (i.e. bullet proof vests, service weapons, flash lights, etc.).

10. Upon an employee's termination, the commission card shall be surrendered to appropriate unit personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978), amended by the Department of Public Safety and Corrections, Corrections Services, LR 37:2184 (July 2011).

James M. Le Blanc
Secretary

1107#052

RULE

Department of Public Safety and Corrections Office of the State Fire Marshal

Commercial Building Energy Conservation Code (LAC 55:V.Chapter 26)

In accordance with the provisions of R.S.40:1730.41 et seq. and 40:1563 et seq., relative to the authority of the state fire marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Rules regarding the Commercial Building Energy Conservation Code.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 26. Commercial Building Energy Conservation Code

§2601. General Provisions

A.1. ANSI/ASHRAE/IESNA Standard 90.1-2007 is hereby adopted as the Commercial Building Energy Conservation Code for applicable buildings.

2. The International Energy Conservation Code, 2009 edition, is hereby adopted as the Commercial Building Energy Conservation Code for applicable buildings not covered by the preceding part.

3. Commercial buildings constructed, repaired, or altered on or after July 20, 2011 shall comply with the applicable standard referenced in this Part.

B. In accordance with R.S. 40:1730.45 et seq., no commercial building shall be constructed, altered, or repaired in Louisiana until energy code compliance documents have been submitted to and reviewed by the State Fire Marshal for compliance with the Commercial Building Energy Conservation Code. For state owned facilities,

statewide enforcement of the Commercial Building Energy Conservation Code shall be the responsibility of the Facility Planning and Control Section of the Division of Administration. As such, energy code compliance documents are not required as part of the submission for state owned buildings to the Office of State Fire Marshal.

C. It shall be the policy of the Office of State Fire Marshal that energy code document review will be required on any building covered by the Commercial Building Energy Conservation Code.

D. In order to expedite plan review and not delay construction or occupancy of affected buildings, the state fire marshal shall have the authority to issue a 21-day release for buildings for which the initial plan submission did not include a complete, valid submission of energy code documents. In the event that such a release is issued, parties submitting plans without a complete, valid submission of energy code documents will be notified in writing of the energy code requirements and have 21 days to submit the required energy code documentation. During this time, initial plan review may be completed, thereby allowing construction to commence. Failure to submit required energy code compliance documents within said 21 days will result in a letter of apparent noncompliance. Said letter shall be either in the form of a statement in the plan review letter or as a separate letter.

E. A complete, valid submission of energy code documents shall consist of documents as detailed in LAC 55:V.2604.

F. Parties submitting code compliance documents that appear to the state fire marshal to conform with the Louisiana Commercial Building Energy Conservation Code shall be furnished a letter of apparent compliance. Said letter shall be either in the form of a statement in the plan review letter or as a separate letter.

G. Parties submitting code compliance documents that appear to the state fire marshal not to comply with the Louisiana Commercial Building Energy Conservation Code shall be furnished a letter of apparent noncompliance. Said letter shall be either in the form of a statement in the plan review letter or as a separate letter. This letter of apparent noncompliance shall not delay the state fire marshal's normal project review process or the ability of a local building code enforcement entity to issue a building permit or use and occupancy certificate.

H. Parties receiving a letter of apparent noncompliance shall be entitled to submit revised plans, documentation or other evidence to the state fire marshal for a reevaluation of the project's compliance with the Louisiana Commercial Building Energy Conservation Code. In accordance with R.S. 40:1730.47(A), a \$10 fee shall be charged by the state fire marshal for reevaluation of energy code compliance documents.

I. The letter of apparent compliance or apparent noncompliance from the state fire marshal shall be kept at the site of the project for as long as the structure is in the process of construction, alteration or repair.

J. The owners of all structures shall retain this letter of apparent compliance or apparent noncompliance from the state fire marshal in a safe place for as long as the structure is occupied, used or both.

K. The Office of the State Fire Marshal shall not be required to retain any copy of the reviewed plans, specifications, energy code compliance documents, or letter of apparent compliance or apparent noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 31:2951 (November 2005), amended LR 37:2185 (July 2011).

§2603. Energy Code Application and Scope

A. - C. ...

D. The provisions of state adopted laws, rules, codes, or standard addressing life safety, accessibility, health, or fire protection, shall prevail where any conflicts or duplication occur.

E. Renovated Buildings. To determine applicability of the Commercial Building Energy Conservation Code to altered, repaired or renovated buildings, see R.S. 40:1574.C, D, E, F, and G. Altered, repaired or renovated buildings covered by these Sections are included in the scope of the energy code.

F. Historic Buildings. As permitted by R.S. 40:1730.44.D, the state fire marshal may modify the specific requirements of the Commercial Building Energy Conservation Code for historic buildings and require alternate requirements which will result in a reasonable degree of energy efficiency. It is the policy of the state fire marshal to encourage historic preservation and the preservation of Louisiana's architectural heritage. When applying the requirements of the energy code, the state fire marshal shall take into consideration the impact of these requirements on the historic integrity of existing facilities. Parties submitting plans for renovating historic buildings must demonstrate a good faith attempt to comply with the energy code. However, if compliance with the energy code will compromise the historic integrity of the affected building, it should be so noted on the plan submission. In such cases, the state fire marshal will accept reasonable attempts to improve the energy efficiency of the building as meeting the requirements of the energy code.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 31:2952 (November 2005), amended LR 37:2186 (July 2011).

§2605. Amendments to ANSI/ASHRAE/IESNA 90.1 for Louisiana

A. - A.2. ...

3. Delete IECC Section 103, 'Construction Documents', Section 104, 'Inspections', and Section 107, 'Fees', in their entirety.

4. Modify IECC Section 101.2, 'Scope', to read: "This code applies to Low-Rise Residential buildings."

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1730.41 et seq. and 40:1563 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 31:2952 (November 2005), amended LR 37:2186 (July 2011).

Jill P. Boudreaux
Undersecretary

1107#043

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal
State Uniform Construction Code Council**

State Uniform Construction Code
(LAC 55:VI.301)

Editor's Note: This Rule is being repromulgated to correct codification errors. The original Rule may be viewed on pages 913-914 of the March 20, 2011 edition of the *Louisiana Register*.

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Rule regarding the establishment of minimum standards.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.3.b.i.(b). ...

c. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows: Exception: a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. Furthermore, Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows: Exception: Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

ii. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings: When alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 37:913 (February 2011), repromulgated LR 37:2187 (July 2011).

Jill Boudreaux
Undersecretary

1102#054

RULE

**Department of Public Safety and Corrections
Office of State Police**

Applicability of Regulations (LAC 33:V.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 to specify that the adopted federal motor carrier regulations apply to vehicles designed to transport sixteen or more people.

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

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons or vehicles:

1. to which the federal regulations apply;
2. engaged in the transportation of hazardous materials within this state;
3. designed or used to transport 16 or more people, including the driver.

B. - 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), amended LR 36:2573 (November 2010), LR 37:2187 (July 2011).

Jill P. Boudreaux
Undersecretary

1107#042

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Deer Management Assistance Program
(LAC 76:V.111 and 119)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby amend the regulations for the Deer Management Assistance Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure

a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1.

b. Applicants will select from 1 of 4 levels of DMAP participation. Level 1 participation is limited to qualifying clubs of 1000 acres or more, and will require collection of complete harvest data, including jaw bone removal, weights, antler measurements, and checking females for lactation. Issuance of both antlered and antlerless tags will be mandatory. Level 2 participation is limited to clubs with 500 acres or more and will also require collection of complete harvest data. Antlerless tags only will be issued unless antlered tags are specifically requested and needed to meet harvest objectives. Level 3 participation will be for tracts of 40 acres or larger, and only require recording the total number of male and female deer harvested. Only antlerless tags are available. Licensed deer farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries are eligible to participate in this level. Level 4 participation will only require recording the total number of male and female deer harvested and is only available for nuisance deer issues such as crop or lawn depredation. Only antlerless tags will be issued. There is no acreage minimum for Level 4.

c. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate ecoregion field office.

d. Fee schedule:

i. Level 1—\$200 + \$50-100, dependent on acreage;

- (a). >500 but <1,500 acres, additional \$50;
- (b). >1,500 acres but <10,000 acres, additional

\$100;

- (c). >10,000 acres but <20,000 acres - \$500;
- (d). >20,000 acres but <50,000 acres - \$1,500;
- (e). >50,000 acres but <75,000 acres - \$2,500;
- (f). >75,000 acres - \$3,750 minimum, to be

negotiated;

ii. Level 2—\$100 + \$50-100, dependent on acreage;

- (a). >500 but <1,500 acres, additional \$50;
- (b). >1,500 acres but <10,000 acres, additional

\$100;

- (c). >10,000 acres but <20,000 acres - \$500;
- (d). >20,000 acres but <50,000 acres - \$1,500;
- (e). >50,000 acres but <75,000 acres - \$2,500;
- (f). >75,000 acres - \$3,750 minimum, to be

negotiated;

iii. Level 3—\$100 + \$50-100, dependent on acreage;

- (a). <500 acres, no additional cost;
- (b). >500 but <1,500 acres, additional \$50;
- (c). >1,500 acres but <10,000 acres, additional

\$100;

- (d). >10,000 acres but <20,000 acres - \$500;
- (e). >20,000 acres but <50,000 acres - \$1,500;
- (f). >50,000 acres but <75,000 acres - \$2,500;
- (g). >75,000 acres - \$3,750 minimum, to be

negotiated;

iv. Level 4—no fee.

e. DMAP fees must be paid to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

f. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate ecoregion field office for approval. This agreement must be completed and signed annually.

g. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than four inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4."

ii. Signs will be placed at 1000 foot intervals around the entire boundary of the property and at every entry point onto the property.

h. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP cooperator and the department.

i. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the enforcement division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary. However, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

j. Large acreage ownerships (>10,000 acres) may further act as cooperators and enroll additional non-contiguous tracts of land deemed sub-cooperators. Sub-cooperators shall be defined by the large acreage ownerships lease agreements. Non-contiguous sub-cooperator lands enrolled by large acreage ownerships will have the legal description and a map included for those parcels enrolled as sub-cooperators. Sub-cooperators shall be subject to the same requirements, rules and regulations as cooperators.

k. The department may grant season extensions to hunt deer with any legal weapon, up to 15 days prior to or after the established season framework for the regular Deer Area season, not to exceed a total of 30 days, if requested by the DMAP Level 1 Cooperator in order to fulfill property-specific objectives and goals if biological reasons and limitations exist that support such extensions. Additionally, the department may grant season extensions to hunt rabbits by any legal means for up to 10 days after the established rabbit season framework, if requested by the DMAP Level 1 Cooperator in order to fulfill property-specific objectives

and goals if biological reasons and limitations exist that support such extensions.

2. Tags

a. A fixed number of special tags will be provided by the department to each cooperator/sub-cooperator in DMAP to affix to deer taken as specified by the program participation level. These tags shall be used during all seasons. Tags are only authorized on DMAP lands for which the tags were issued.

b. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless deer (or antlered deer if antlered deer tags are issued). The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is enroute to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

c. DMAP tagged antlered or antlerless deer harvested on property enrolled in DMAP do not count in the daily or season bag limit.

d. All unused tags shall be returned by March 1 to the ecoregion field office which issued the tags.

3. Records

a. Cooperators/sub-cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, LDWF i.d. number and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the cooperator/sub-cooperator. Additional information may be requested depending on management goals of the cooperator/sub-cooperator.

b. Information on deer harvested shall be submitted by March 1 to the ecoregion field office handling the particular cooperator/sub-cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon request. Cooperators/sub-cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and cancellation of DMAP Cooperators/Sub-Cooperators

1. Failure of the cooperator/sub-cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of cooperator/sub-cooperator from DMAP. Suspension of the cooperator/sub-cooperator from

DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the Department for examination in a timely fashion. Suspension of the cooperator/sub-cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the cooperator/sub-cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP cooperator/sub-cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator/sub-cooperator may be allowed to continue with the program on a probational status if, in the judgment of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of cooperator/sub-cooperator from DMAP. Cancellation of a cooperator/sub-cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator/sub-cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator/sub-cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009), LR 37:2187 (July 2011).

§119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:110.1 and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2011 (September 2000), amended LR 27:1935 (November 2001), LR 30:2497 (November 2004), LR 34:1443 (July 2008), repealed LR 37:2189 (July 2011).

Robert J. Barham
Secretary

1107#115

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and Wildlife Management Area
Hunting Rules and Regulations (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area (WMA) Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of hunter orange and wear a hunter orange

cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific falconry rules.

7. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific hunting preserve rules.

8. Deer Management Assistance Program (DMAP). Refer to LAC 76:V.111 for specific DMAP Rules. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment or primitive firearms). Antlerless deer harvested on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission.

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

White-tailed Deer—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a supplemented hunting preserve.

b. Seasons

i. Farm-Raised White-tailed Deer—consult the regulations pamphlet.

ii. Exotics—year round.

c. Methods of Take

i. White-tailed Deer—same as outside.

ii. Exotics—exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only and other approved primitive firearms.

d. Shooting Hours

i. White-tailed Deer—same as outside.

ii. Exotics—one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer—same as outside.

ii. Exotics—no limit.

f. Hunting Licenses

i. White-tailed Deer—same as outside.

ii. Exotics—no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging

i. White-tailed Deer and Exotics. Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is

privately owned, state WMAs, and the Bayou des Ourses, Bodcau, Bonnet Carre, Indian Bayou, Loggy Bayou and Soda Lake tracts owned by the Corps of Engineers but does not apply to state wildlife refuges, the Kisatchie National Forest, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a hunter safety course approved by LDWF to purchase a basic hunting license, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a primitive firearm larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

d. No person shall take or kill any game bird or wild quadruped with a firearm fitted with any device to deaden or silence the sound of the discharge thereof; or fitted with an infrared sight, laser sight, or except as provided in R.S. 56:116(A)(8) any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or device specifically designed to enhance vision at night [R.S. 56:116.1(B)(3)].

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and Endangered Species—Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Outlaw Quadrupeds. Holders of a legal hunting license may take coyotes, feral hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. The method of such taking shall be limited to a shotgun no larger than a No. 10 gauge fired with buckshot or smaller or a standard .22 caliber rimfire firearm, and may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices.

10. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

11. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

12. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 7 days the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on national forest lands and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

3. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin, except in Thistlethwaite WMA, see specific Thistlethwaite WMA regulations for more information and except on Alexander State Forest WMA, Bayou Macon WMA, Big Lake WMA, Bodcau WMA, Boeuf WMA, Buckhorn WMA, Camp Beauregard WMA, Dewey Wills WMA, Jackson-Bienville WMA, Loggy Bayou WMA, Ouachita WMA, Pearl River WMA, Pomme de Terre WMA, Red River WMA, Russell Sage WMA, Sherburne WMA, Sicily Island Hills WMA, Spring Bayou WMA, Three Rivers WMA, and Union WMA during the Experimental Quality Deer Season (see the specific WMA schedule for more information). Killing antlerless deer is prohibited except where specifically allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this Paragraph shall not apply to any person who has lost one or more limbs.

9. Areas not specifically designated as open are closed.

10. Primitive Firearms Segment (special license and primitive firearms specifications apply only to the special state, WMA, national forest and preserves, and federal refuge seasons)—still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on public areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms For Special Season. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

b. Single shot, breech loading rifles, .38 caliber or larger, of a kind or type manufactured prior to 1900 and replicas, reproductions or reintroductions of that type rifle having an exposed hammer that use metallic cartridges loaded either with black powder or modern smokeless powder and may be fitted with magnified scopes.

c. Special Youth Deer Season on Private Land (either-sex). Youths 17 or younger may hunt deer with any legal weapon during the Primitive Firearms Season in each deer hunting area.

11. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a) to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b) to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(c) to hunt deer with a bow having a pull less than 30 pounds;

(d) to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1(B)(4)].

12. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of hunter orange. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and

legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed.

Warning: Deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring hunter orange.

13. Special physically challenged either-sex deer season on private land—first Saturday of October for two days. Restricted to individuals with Physically Challenged Hunter Permit.

14.a. Special Youth Deer Hunt on Private Lands (either-sex)

i. Areas 1, 4, 5 and 6—last Saturday of October for seven days;

ii. Area 2—second Saturday of October for seven days; and

iii. Areas 3, 7 and 8—fourth Saturday of September for seven days.

b. Youths 17 or Younger Only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult.

F. Description of Areas, 2011-2012

1. Area 1

a. All of the following parishes are open:

- i. Concordia;
- ii. East Baton Rouge;
- iii. East Feliciana;
- iv. Franklin;
- v. Madison;
- vi. St. Helena;
- vii. Tensas;
- viii. Washington.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line;

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison parish line;

iii. Grant—east of US 165 and south of LA 8;

iv. LaSalle - South of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line;

v. Livingston—north of I-12;

vi. Rapides—east of US 165 and north of Red River;

vii. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

viii. Tangipahoa—north of I-12;

ix. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison parish line;

iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to parish line, south of parish line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;

iv. Franklin—all;

v. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier.

vi. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

vii. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany parish line, north of the St. Tammany parish line to the

Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

viii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except—Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49;

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line;

iv. Evangeline—all except the following portions:

(a). east of I-49 to junction of LA 29;

(b). east of LA 29 south of I-49 to Ville Platte;

and

(c). north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish

line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest (see Kisatchie National Forest regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of parish line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—south of US 190 and west of LA 113;

ii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;

iii. Calcasieu—south of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line;

iv. Iberia—west of US 90 and north of LA 14;

v. Jefferson Davis—all except north of US 190;

vi. Lafayette—west of I-49 and US 90;

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon parish line;

viii. St. Landry—west of US 167;

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. Area 4

a. All of Richland parish is open.

b. Portions of the following parishes are open:

i. East Carroll—west of mainline Mississippi River Levee and north and west of LA 877 from West Carroll Parish line to LA 580, north of LA 580 to US 65, east of US 65 to Madison parish line;

ii. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake;

iii. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake.

5. Area 5
 - a. All of West Carroll Parish is open.
6. Area 6
 - a. All of the following parishes are open:
 - i. Ascension;
 - ii. Assumption;
 - iii. Iberville;
 - iv. Jefferson;
 - v. Lafourche;
 - vi. Orleans;
 - vii. Plaquemines;
 - viii. Pointe Coupee;
 - ix. St. Bernard;
 - x. St. Charles;
 - xi. St. James;
 - xii. St. John;
 - xiii. St. Martin;
 - xiv. Terrebonne;
 - xv. West Baton Rouge.
 - b. Portions of the following parishes are also open:
 - i. Avoyelles—all except that portion west of I-49;
 - ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;
 - iii. Iberia—east of US 90;
 - iv. Lafayette—east of I-49 and US 90;
 - v. Livingston—south of I-12;
 - vi. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;
 - vii. St. Landry—east of US 167;
 - viii. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;
 - ix. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;
 - x. Tangipahoa—south of I-12;
 - xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.
 - c. Still hunting only in all or portions of the following parishes:
 - i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;
 - ii. Plaquemines—east of the Mississippi River;
 - iii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;
 - iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;
 - v. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac;
 - vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103;
 - vii. high water benchmark closure—deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.
7. Area 7
 - a. Portions of the following parishes are open:
 - i. Iberia—south of LA 14 and west of US 90;
 - ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;
8. Area 8
 - a. Portions of the following parishes are open:
 - i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;
 - ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;
 - iii. Calcasieu—that portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line;
 - iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.
- G. Description of Areas, 2012-2013
 1. Area 1
 - a. All of the following parishes are open:
 - i. Concordia;
 - ii. East Baton Rouge;
 - iii. East Carroll;
 - iv. East Feliciana;
 - v. Franklin;
 - vi. Madison;
 - vii. Richland;
 - viii. St. Helena;
 - ix. Tensas;
 - x. Washington.
 - b. Portions of the following parishes are also open:
 - i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line;
 - ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll

Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line;

- iii. Grant—east of US 165 and south of LA 8;
 - iv. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line;
 - v. Livingston—north of I-12;
 - vi. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake;
 - vii. Rapides—east of US 165 and north of Red River;
 - viii. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;
 - ix. Tangipahoa—north of I-12;
 - x. West Feliciana—all except that portion known as Raccourci and Turnbull Island.
- c. Still hunting only in all or portions of the following parishes:
- i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;
 - ii. East Carroll—all;
 - iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;
 - iv. Franklin—all;
 - v. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake;
 - vi. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake;
 - vii. Richland—all;
 - viii. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier;
 - ix. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at

Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

x. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

xi. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except, Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of

LA 134 and north of LA 134 to Ouachita parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek exit, west of I-49 southward to parish line, north of parish line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—south of US 190 and west of LA 113;

ii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;

iii. Calcasieu—south of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line;

iv. Iberia—west of US 90 and north of LA 14;

v. Jefferson Davis—all except north of US 190;

vi. Lafayette—west of I-49 and US 90;

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon parish line;

viii. St. Landry—west of US 167;

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. See Area 1.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of the following parishes are open:

i. Ascension;

ii. Assumption;

iii. Iberville;

iv. Jefferson;

v. Lafourche;

vi. Orleans;

vii. Plaquemines;

viii. Pointe Coupee;

ix. St. Bernard;

x. St. Charles;

xi. St. James;

xii. St. John;

xiii. St. Martin;

xiv. Terrebonne;

xv. West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49;

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;

iii. Iberia—east of US 90;

iv. Lafayette—east of I-49 and US 90;

v. Livingston—south of I-12;

vi. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

vii. St. Landry—east of US 167;

viii. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;

ix. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

x. Tangipahoa—south of I-12;

xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;

ii. Plaquemines—east of the Mississippi River;

iii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;

v. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac;

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103;

vii. high water benchmark closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—south of LA 14 and west of US 90;

ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;

ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;

iii. Calcasieu—that portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line;

iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

H. WMA Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable

to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature Trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of two portions: check-in and check-out. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check-out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a Physically Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Physically Challenged Seasons. Pointe-aux-Chenes

will have an experimental Lottery Physically Challenged Waterfowl Hunt. Contact New Iberia Office, Coastal and Nongame Resources Division for details.

e. Turkey Lottery Hunts—hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts—hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts—consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping—consult annual trapping regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs.

i. Nighttime Experimental. All nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional LDWF Lands. The LDWF manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate LDWF Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping and except as allowed pursuant to R.S. 56:109(C) and R.S. 56:1691. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, federal law enforcement officers and holders of Louisiana concealed handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs. (Consult regulations pamphlet for specific WMA regulations.)

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and Big Game Hunting License number (or Lifetime License Number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed

from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the LDWF. LDWF not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas. Special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for PCHP wheelchair confined hunters on WMAs. Hunters must obtain PCHP permits and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF Offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of hunter orange and wear a hunter orange cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a hunter orange cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a hunter orange cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display hunter orange. Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a hunter orange cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of hunter orange above or around their blinds which is visible from 360 degrees.

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or Physically Challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms Season for Deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youth 17 or younger may use shotgun with slugs during primitive firearms season on the WMA.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Utility type vehicle (UTV, also utility terrain vehicle) is defined as any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA. Except, Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Catahoula Lake, Maurepas Swamp WMA, Pearl River WMA and Ponte-aux-Chenes WMA from April 1 until the Monday of Labor Day weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs. ATVs may then use those roads when allowed. WMA maps available at all region offices. This restriction does not apply to bicycles.

NOTE: All ATV and UTV trails are marked with signs and/or paint, but not all ATV and UTV trails appear on WMA maps.

j. Use of special ATV trails for physically challenged persons is restricted to ATV Physically Challenged permittees. Physically challenged ATV permittees are restricted to physically challenged ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special physically challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically challenged persons under the age of 60 must apply for and obtain a Physically Challenged Hunter Program Permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to physically challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine

compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 a.m., except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution. Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite and Sherburne WMAs under the following conditions.

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV.

ii. The retrieval party may consist of no more than one ATV and one helper.

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

iv. UTV's may not be used to retrieve downed deer or hogs.

10. Commercial Activities

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the Secretary of the LDWF.

c. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre

and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: first Saturday of May for nine days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Feral hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs on Attakapas, Bodcau, Boeuf, Dewey Wills, Jackson-Bienville, Pearl River, Red River, Sabine and Three Rivers WMAs (consult Bodcau, Dewey Wills, Jackson-Bienville, Pass-a-Loutre, Pearl River, Red River, Sabine and Three Rivers WMAs regulations) by permit from either the Minden, Pineville, Hammond or Opelousas Offices and all hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit, and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

17. WMAs hunting schedule and regulations:

a. Acadiana Conservation Corridor;

b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other

activity will be permitted in burn units the day of the burning. Call (318) 487-5172 or (318) 487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas;

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the LDWF at any time. ATVs, ATCs and motorcycles prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA;

i. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

d. Attakapas;

e. Bayou Macon. All night activities prohibited except as otherwise provided;

f. Bayou Pierre;

g. Bens Creek;

h. Big Colewa Bayou. All nighttime activities prohibited;

i. Big Lake;

j. Biloxi;

k. Bodcau;

l. Boeuf;

m. Buckhorn;

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. No hunting in restricted areas;

o. Clear Creek (formerly Boise-Vernon);

p. Dewey W. Wills. Crawfish—100 pounds per person per day;

q. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited;

r. Elm Hall. No ATVs allowed;

s. Floy Ward McElroy;

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. New special regulations apply to ATV users;

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area;

v. Jackson-Bienville;

w. Joyce;

i. Swamp Walk—adhere to all WMA rules and regulations. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk;

x. Lake Boeuf. Hunting allowed until 12 noon on all game. All nighttime activities prohibited;

y. Lake Ramsay. Foot traffic only. All vehicles restricted to parish roads;

z. Little River;

- aa. Loggy Bayou;
- bb. Manchac;
 - i. Crabs—no crab traps allowed. Attended lift nets are allowed;
- cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail;
- dd. Ouachita;
 - i. Waterfowl Refuge—north of LA 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season;
 - ii. Crawfish—100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight;
 - iii. Commercial Fishing—closed. All nighttime activities prohibited except as otherwise provided;
- ee. Pass-a-Loutre;
 - i. Commercial Fishing—same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA;
 - ii. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;
- ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Except, Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Pearl River Wildlife Management Area, south of U.S. 90 from April 1 until the Monday of Labor Day Weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel;
- gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users;
- hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet;
 - i. Point Farm—gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches;
 - ii. Recreational Fishing—shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and

reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF;

- iii. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

- ii. Pomme de Terre;

- i. Commercial Fishing—permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters;

- ii. Sport Fishing—same as outside except allowed only after 2 p.m. only during waterfowl season;

- iii. Crawfish—March 15-July 31, recreational only, 100 lbs. per boat or group daily;

- jj. Red River;

- i. Recreational Crawfishing—Yahey Farms only March 15-July 31. 100 pounds per vehicle or group per day. No traps or nets left overnight. No motorized watercraft allowed. Commercial crawfishing now allowed;

- kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs;

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. All vehicles including ATVs prohibited.

- ll. Sabine;

- mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east;

- nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging;

- i. Recreational Fishing—shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be

limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 h.p. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes—"Baie Des Chactas" and "Baie du Cabanage" and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area;

ii. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

oo. Sandy Hollow;

i. Bird Dog Training—consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited);

ii. Bird Dog Field Trials—permit required from Baton Rouge region office;

iii. Horseback Riding—Self-Clearing Permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited;

pp. Sherburne;

i. Crawfishing—recreational crawfishing only on the South Farm complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the region office for specific details. Vehicular traffic prohibited on Atchafalaya River levee within Sherburne WMA boundaries. Rifle and pistol range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges;

Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills;

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry;

ss. Spring Bayou;

i. Commercial Fishing—permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season;

ii. Sport Fishing—same as outside except allowed only after 2 p.m. during waterfowl season;

iii. Crawfish—recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac;

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed;

uu. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only;

vv. Three Rivers;

ww. Tunica Hills. All vehicles restricted to Parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping limited to tents only;

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011).

Robert J. Barham
Secretary

1107#062

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season (LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does has promulgated hunting seasons for resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season §101. General

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR

31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010), LR 37:2206 (July 2011).

§103. Resident Game Birds and Animals

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

| Species | Season Dates | Daily Bag Limit | Possession Limit |
|---------|---|-----------------|------------------|
| Quail | OPENS: 3 rd Saturday of November CLOSES: Last Day of February | 10 | 20 |

| Species | Season Dates | Daily Bag Limit | Possession Limit |
|---------------------|--|--|--|
| Rabbit and Squirrel | OPENS: 1 st Saturday of October CLOSES: Last Day of February | 8 | 16 |
| Squirrel * | OPENS: 1 st Saturday of May for 23 days | 3 | 6 |
| Deer | See Schedule | 1 antlered and 1 antlerless (when legal) | 6/season (3 antlered deer & 3 antlerless deer) |

*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state Wildlife Management Areas will be open, check WMA season schedule.

C. Deer Hunting Schedule, 2011-2012

| Area | Archery | Primitive Firearms (All Either Sex Except as Noted) | Still Hunt (No dogs allowed) | With or Without Dogs |
|------|---|--|--|---|
| 1 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. after 2 nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan. | OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec. OPENS: Mon. after 1 st Sat. of Jan. CLOSES: next to last Sun. of Jan. | OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Sun. after 1 st Sat. of Jan. |
| 2 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days. | OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 st Sat. of Dec. | OPENS: Wed. before the 2 nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years |
| 3 | OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15 | OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec. | OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1 st Sat. of Dec. CLOSES: After 37 days | |
| 4 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. OPENS: Mon. after 2 nd Sat. of Jan. CLOSES: Mon. after 3 rd Sat. of Jan. | OPENS: 3 rd Sat. of Nov. CLOSES: Sun. after 2 nd Sat. of Jan. | |
| 5 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 st (BUCKS ONLY) | OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2 nd Sat. of Dec. | |
| 6 | OPENS: 1 st day of Oct. CLOSES: Feb. 15 (1 st 15 days are BUCKS ONLY) | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan. | OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec. | OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Next to last Sun. of Jan. |
| 7 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: 1 st Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Nov. | OPENS: 3 rd Sat. of Oct. CLOSES: Fri. before 1 st Sat. of Nov. OPENS: 2 nd Sat. of Nov. CLOSES: Sun. after Thanksgiving Day | OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days |

| Area | Archery | Primitive Firearms (All Either Sex Except as Noted) | Still Hunt (No dogs allowed) | With or Without Dogs |
|------|---|---|--|---|
| 8 | OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15 | OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec. | OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day | OPENS: 1 st Sat. of Dec. CLOSES: After 37 days. |

D. Modern Firearm Schedule (Either Sex Seasons)

| Parish | Area | Modern Firearm Either-sex Days |
|--------------|--------|---|
| East Carroll | Area 4 | Opens 3 rd Saturday of November for 2 days and opens Friday after Thanksgiving Day for 3 days, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line. |
| West Carroll | Area 5 | Opens Friday after Thanksgiving Day for 3 days. |

E. Deer Hunting Schedule, 2012-2013

| Area | Archery | Primitive Firearms (All Either Sex Except as Noted) | Still Hunt (No dogs allowed) | With or Without Dogs |
|------|---|---|---|---|
| 1 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. after 2 nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. | OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec. OPENS: Mon. after 1 st Sat. of Jan. CLOSES: next to last Sun. of Jan. | OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Sun. after 1 st Sat. of Jan. |
| 2 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days. | OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 st Sat. of Dec. | OPENS: Wed. before the 2 nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years |
| 3 | OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15 | OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec. | OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1 st Sat. of Dec. CLOSES: After 37 days | |
| 4 | See Area 1. | | | |
| 5 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 st (BUCKS ONLY) | OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2 nd Sat. of Dec. | |
| 6 | OPENS: 1 st day of Oct. CLOSES: Feb. 15 (1 st 15 days are BUCKS ONLY) | OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. | OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec. | OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Next to last Sun. of Jan. |
| 7 | OPENS: 1 st day of Oct. CLOSES: Last day of Jan. | OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: 1 st Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Nov. | OPENS: 3 rd Sat. of Oct. CLOSES: Fri. before 1 st Sat. of Nov. OPENS: 2 nd Sat. of Nov. CLOSES: Sun. after Thanksgiving Day | OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days |

| Area | Archery | Primitive Firearms (All Either Sex Except as Noted) | Still Hunt (No dogs allowed) | With or Without Dogs |
|------|--|---|--|---|
| 8 | OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15 | OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec. | OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day | OPENS: 1 st Sat. of Dec. CLOSES: After 37 days. |

F. Modern Firearm Schedule (Either Sex Seasons)

| Parish | Area | Modern Firearm Either-Sex Days |
|--------------|--------|---|
| West Carroll | Area 5 | Opens Friday after Thanksgiving Day for 3 days. |

G. Farm Raised White-tailed Deer on Supplemented Shooting Preserves: Archery, Firearm, Primitive Firearms: October 1 - January 31 (either-sex).

H. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

I. Spring Squirrel Hunting

1. Season Dates: Opens first Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens first Saturday of May for 9 days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is 3 and possession limit is 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:2207 (July 2011).

Robert J. Barham
Secretary

1107#061

RULE

**Workforce Commission
Office of Workforce Development**

Apprenticeship Law (LAC 40:IX.Chapters 1-5)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Workforce Commission, Office of Workforce Development, pursuant to authority vested in the executive director, by R.S. 23:381 et seq., and in accordance with applicable provisions of the Administrative Procedure

Act, has amended LAC 40:IX., Chapters 1-5 of the Apprenticeship Law. The purpose of the Rule is to make changes, corrections and improvements to current regulations so as to be in compliance with the recently revised USDOL regulations 29 CFR Part 29 in order for the Louisiana Workforce Commission, Apprenticeship Division to continue to be officially recognized by the Office of Apprenticeship, Employment and Training Administration as a state apprenticeship agency. Further, this Rule reflects updates to day-to-day policies and procedures needed to reflect technological advances and economic changes.

Title 40

LABOR AND EMPLOYMENT

Part IX. Apprenticeship

Chapter 1. Apprenticeship Laws

§101. Definitions

Apprentice—a person at least 16 years of age, who has entered into a written apprenticeship agreement with an employer, an association of employers, or an organization of employees, providing for not less than 2,000 hours of reasonable continuous employment and for participation in an approved program of training through employment and through education in related and supplemental subjects. No local ordinance of any political subdivision of the state shall cause any person identified as an apprentice by such political subdivision to be recognized as an apprentice by the Louisiana Workforce Commission, Apprenticeship Division.

Apprenticeship Program/Program Sponsor—a program registered with the Louisiana Workforce Commission, Apprenticeship Division meeting the minimum standards of the state apprenticeship law, which has been approved by both the director of apprenticeship and the State Apprenticeship Council.

Commission—the Louisiana Workforce Commission.

Director—the director of apprenticeship for the Louisiana Workforce Commission.

Employer—any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization, or with some other person or organization, as an employer.

Executive Director—the executive head and chief administrative officer of the Louisiana Workforce Commission, or any person specifically designated by the executive director.

Louisiana Workforce Commission, Apprenticeship Division—the division within Louisiana state government that is recognized by the Office of Apprenticeship, United States Department of Labor as the official state apprenticeship agency of record for registration of apprenticeship programs for federal purposes.

Sponsor—any person or organization operating a state apprenticeship program, irrespective of whether such person or organization is an employer as a sponsor.

State Apprenticeship Council (SAC)—the Louisiana State Apprenticeship Council, serving as the advisory board to the Louisiana Workforce Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:428 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2209 (July 2011).

§103. Purpose of the Louisiana Apprenticeship System

A. To provide for voluntary apprenticeship under approved apprenticeship agreements and for the execution and approval of such agreements.

B. To open to the people of Louisiana the opportunity to obtain special training which will equip them for profitable employment and a high type of citizenship.

C. To set up as a means to this end a program of voluntary apprenticeship under approved standards of apprenticeship, reviewed by the State Apprenticeship Council and registered with the Louisiana Workforce Commission, Apprenticeship Division, providing facilities for apprenticeship training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and theoretical education.

D. To relate the supply of skilled workers to industry employment demands.

E. To establish standards for apprenticeship training.

F. To provide for a director of apprenticeship with the Louisiana Workforce Commission.

G. To provide for reports to the legislature and the public regarding the status of apprenticeship training in the state.

H. To establish a procedure for the hearing and adjustment of apprenticeship agreement controversies.

I. To accomplish related ends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:428 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2210 (July 2011).

§105. State Apprenticeship Council

A. The executive director of the Louisiana Workforce Commission shall appoint a State Apprenticeship Council as follows:

1. three representatives of employers who have been selected from recommendations made by employer organizations that are party to a registered apprenticeship program, and three representatives of labor organizations who are nominated by state labor federations, who are also party to a Louisiana-approved apprenticeship program;

2. two members representing the general public;

3. the state official in charge of trade and industrial education with the Louisiana Community and Technical College System shall serve in an ex-officio capacity;

4. each member shall be appointed for three years;

5. any member appointed to fill a vacancy occurring prior to the expiration of the term of their predecessor shall be appointed for the remainder of said term;

6. each member of the council not otherwise compensated by public funds, may be reimbursed for transportation and shall be paid not more than \$35 per day for each day spent in attendance at meetings of the

apprenticeship council, which shall meet at the call of the director of apprenticeship; and

7. in order to be considered for appointment to the council, members must be party to a registered apprenticeship program and well versed in the apprenticeship system and apprenticeable occupations, or have previously served on the council for ten or more years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:428 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2210 (July 2011).

§107. Duties and Responsibilities of the State Apprenticeship Council

A. The State Apprenticeship Council shall:

1. aid in formulating policies for the effective administration of the State Apprenticeship System;

2. establish standards which shall represent the minimum standards required for approval of apprenticeship program standards for any proposed apprenticeship program sponsor making application for registration of a program;

3. recommend such rules and regulations as may be necessary to carry out the purpose and intent thereof;

4. perform such other functions as the executive director may direct;

5. assure an opportunity for Louisiana citizens to obtain training that will equip them for profitable employment and promote employment opportunities for them under conditions providing adequate training and reasonable earnings as stated in section 381 of the Louisiana Apprenticeship Law;

6. when the State Apprenticeship Council determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with these rules and the Louisiana Apprenticeship Law, and voluntary corrective action has not been taken by the program sponsor, the State Apprenticeship Council shall recommend that the director of apprenticeship institute proceedings to deregister the apprenticeship program and shall request the director to make a final decision on the basis of available evidence;

7. upon receipt of proposed standards by the Louisiana Workforce Commission, Apprenticeship Division of new programs or previously approved programs, such standards shall be submitted to the State Apprenticeship Council for its review and recommendation to the director of apprenticeship, who will issue the final decision regarding approval or disapproval thereof. When an apprenticeship program has been deregistered for cause or voluntarily deregistered in accordance with the provisions set forth in §309 of this Chapter and Title 29 CFR 29.8 and 29.10, they shall not be granted another program for at least one year from the date of deregistration. A compliance review is to be conducted and the program must be in compliance with these rules, standards and the Louisiana plan for EEO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:428 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2210 (July 2011).

§109. Powers and Duties of the Director of Apprenticeship

A. The director of apprenticeship, under the supervision of the executive director of the Louisiana Workforce Commission, and with the advice and guidance of the state apprenticeship council, is authorized to administer the provisions of the Louisiana Apprenticeship Law (R.S. 23:381 et seq.). The director of apprenticeship shall perform the following functions:

1. in cooperation with the state apprenticeship council, set up conditions and training standards for apprenticeship agreements, which shall in no case be lower than those prescribed by the Louisiana Apprenticeship Law;
2. act as secretary of the state apprenticeship council;
3. approve any apprenticeship agreement which meets the standards established for an apprenticeship program properly registered with the Louisiana Workforce Commission, Apprenticeship Division;
4. terminate or cancel any apprenticeship agreement in accordance with the provisions of such agreement or the minimum standards for that approved program;
5. keep a record of apprenticeship agreements and their disposition;
6. issue certificates of completion of apprenticeship;
7. evaluate performance of registered apprenticeship programs using tools and factors that include, but are not limited to quality assurance assessments, Equal Employment Opportunity (EEO) reviews and program completion rates;
8. perform such other duties as are necessary to carry out the terms and conditions provided in the State Apprenticeship Standards; and
9. when it is the opinion of the director of apprenticeship, or in the opinion of the State Apprenticeship Council it is needed, the director of apprenticeship may request survey information to justify journeyworker wages being paid by employers. This information shall include employer's name, address and telephone number, journeyworker wage and any other information the director of apprenticeship feels is needed. Failure to submit all of such information as requested shall constitute a violation of these rules and shall subject the apprenticeship program sponsor to deregistration of its apprenticeship program;
 - a. a complete list of affiliated employers shall be updated and submitted to the director of apprenticeship on an annual basis for such purposes;
10. provide technical assistance to employers who strive to sponsor a registered apprenticeship program with the development of their proposed apprenticeship standards; review proposed standards for adherence to state and federal requirements; issue preliminary approval of new programs, pending concurrence by the State Apprenticeship Council; issue one year provisional registration of new programs and certificate of full registration pending that said program is found in compliance of its standards of apprenticeship after the first year of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:428 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2211 (July 2011).

Chapter 3. Apprenticeship Division Standards and Procedure

§301. Standards of Apprenticeship

A. An apprenticeship program, to be eligible for registration/approval by the Louisiana Workforce Commission, Apprenticeship Division shall conform to the following standards.

1. All apprenticeship programs proposed for adoption shall be required to submit standards of apprenticeship on forms supplied by the Apprenticeship Division. All standards of apprenticeship shall first be submitted to the director of apprenticeship, who, within 90 days and after careful review, shall make a recommendation to the State Apprenticeship Council for approval if all minimum standards have been met.

a. All other notifications and requests for changes and updates relating to a program sponsor's standards of apprenticeship shall be submitted to the director of apprenticeship within 45 days.

2. The program shall have an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in the apprenticeable occupation, as defined in this Part, and subscribed to by a sponsor who has undertaken to carry out the apprentice program and shall contain a statement as to whether or not the apprentice will be compensated for the required school time. The written plan shall also state the names and affiliation of each employer and employee representative and its Joint Apprenticeship Committee.

3. The program standards shall contain the state plan for implementing Title 29 CFR Part 30, Equal Employment Opportunity in Apprenticeship and Training, which plan is made a part of these rules and additional provisions concerning the following:

a. the employment and training of the apprentice in a skilled trade;

b. the term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach), as defined in 29 CFR 29.5;

i. the determination of the appropriate approach for the program standards is made by the program sponsor, subject to approval by the registration agency of the determination as appropriate to the apprenticeable occupation for which the program standards are registered;

c. an outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

d. provision for organized, related and supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of instruction for each year of the apprenticeship shall be required. This instruction in technical subjects may be accomplished through media such as classroom, occupational or industry courses, electronic media, or other instruction approved by the Workforce Commission, Apprenticeship Division. Also a statement

showing where and when the related instruction will be administered shall be contained in the standards;

e. a progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired. The entry wage shall not be less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable federal law, state law, respective regulations, or by collective bargaining agreements. The journeyworker wage rate upon which the apprentices' wages are to be based shall be set by the program sponsor and approved by the director of apprenticeship and State Apprenticeship Council in accordance with the following criteria listed in priority order:

i. the journeyworker wage rate set by the applicable collective bargaining agreement pertinent to an existing registered apprenticeship program in the same area and for the same trade as the proposed apprenticeship program;

ii. the higher of the prevailing wage for the craft for the area as set by the U.S. Department of Labor pursuant to the Davis-Bacon Act and published in the *Federal Register*;

iii. in the event that an apprenticeship program is proposed for a craft in an area where there is no pertinent collective bargaining agreement, Davis-Bacon prevailing wage rate, or local prevailing wage rate, the Apprenticeship Division, based on information gathered by its staff through annual wage surveys, may set a journeyworker wage rate for the specific area and craft, to be incorporated into the proposed standards;

f. periodic review and evaluation of the apprentice's progress in job performance and related instruction; and the maintenance of appropriate progress reports. All programs registered with Louisiana Workforce Commission, Apprenticeship Division shall maintain records on each apprentice in their program as to the hours of employment, work experience and related supplemental instruction;

g. the numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreements. The ratio language shall be specific and clear as to application in terms of jobsite, work force, department or plant; and in no instance shall such ratio provide for more than one apprentice for each journeyworker employed per jobsite;

h. a probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship, and where the probationary period does not exceed 25 percent of the length of the program, or 1 year, whichever is shorter;

i. adequate and safe equipment and facilities for training, and supervision, and safety training for apprentices on the job and in related instruction;

j. the minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age not less than 16 years;

k. the placement of an apprentice under a written apprenticeship agreement as required by the state apprenticeship law and regulations. The agreement shall

directly, or by reference, incorporate the standards of the program as part of the agreement;

l. the granting of credit for previously acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted;

m. transfer of program sponsor's training obligation when the program sponsor is unable to fulfill its obligation under the apprenticeship agreement to another program sponsor, within the same trade, with the written consent of the apprentice and both program sponsors, subject to the approval of the director of apprenticeship;

n. assurance of qualified training personnel and adequate supervision on the job;

o. recognition for successful completion of apprenticeship is evidence by an appropriate certificate of completion;

p. identification of the registration agency;

q. provision for the registration, cancellation and deregistration of the program; and requirement for the prompt submission of any proposed modification or amendment thereto;

r. provision for registration of apprenticeship agreements, modifications, and amendments; notice to the registration office of persons who have successfully completed apprenticeship programs; and notice of cancellations, suspensions and terminations of apprenticeship agreements and causes therefor;

s. authority for the termination of an apprenticeship agreement during the probationary period by either party without stated cause;

t. name and address of the appropriate person authorized by the program sponsor to receive, process and make disposition of complaints; and

u. recording and maintenance of all records concerning apprenticeship as may be required by Louisiana Workforce Commission, Apprenticeship Division and other applicable laws;

v. any trade having been previously approved for training for a particular apprenticeship training program sponsor which has had no activity for a period of two years, may be canceled from the list of approved trades contained in the apprenticeship standards for such program sponsor.

4. Apprenticeship instructors must meet the state Department of Education's requirements for a vocational-technical instructor, or be a subject matter expert, which is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation. In order to be considered a subject matter expert in a particular trade, an instructor must hold a registered apprenticeship certificate of completion, or a similar trade specific credential recognized industry-wide, and have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.

B. Reciprocity. The Louisiana Workforce Commission, Apprenticeship Division shall accord reciprocal approval for federal purposes to apprentices, apprenticeship programs and standards that are registered in other states by the Office of Apprenticeship or another state registration agency if such reciprocity is requested by the apprenticeship program sponsor. Program sponsors seeking reciprocal approval must

meet the wage and hour provisions and apprentice ratio standards of the reciprocal state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:429 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2211 (July 2011).

§303. Apprenticeship Agreements

A. The apprenticeship agreement form will be supplied by the director of apprenticeship to apprenticeship committees and to individual establishments interested in apprenticeship.

B. Pre-Apprentices. For the purposes of apprenticeship, the Louisiana Workforce Commission, Apprenticeship Division will not indenture pre-apprentices. However, if an organization wishes to establish a bona fide pre-apprenticeship training program, it must make written request to the Apprenticeship Division and demonstrate strong linkages between it and a registered apprenticeship program(s) within Louisiana. If appropriate, the director of apprenticeship may issue a letter of recognition.

C. The date of an apprenticeship agreement will be the actual date the apprentice entered employment as an apprentice as agreed to by the employer, the apprentice, and approved by the Louisiana Workforce Commission, Apprenticeship Division.

D. Apprenticeship agreements to be submitted and processed as follows:

1. program sponsor and apprentice both complete and sign the agreement;

2. program sponsor retains original on file and enters apprentice agreement into the Registered Apprenticeship Partners Information Data System (RAPIDS) to submit electronic request for approval by the director of apprenticeship within 45 days of the apprentice's first day of employment;

3. a copy for the apprentice shall be provided; and

4. director of apprenticeship shall approve or deny, as appropriate, apprentice registration related requests through RAPIDS within 45 days of receipt, and the program sponsor will be notified of any action taken in RAPIDS via email immediately thereafter.

D. Every apprenticeship agreement entered into shall be signed by the contracting parties (apprentice, and the program sponsor or employer), and the signature of a parent or guardian if the apprentice is a minor employer.

E. Where a trade is covered by a city, parish or state license law or ordinance requiring the journeyworker or skilled worker to produce a license to follow the trade, it will be necessary that this provision of the law be observed before an apprentice employed in such establishment can be registered.

F. Every apprenticeship agreement entered into under the provisions of the Louisiana Apprenticeship Law shall contain:

1. the names of the contacting parties;

2. the date of birth of the apprentice;

3. social security number, on a voluntary basis;

4. a statement of the trade or craft in which the apprentice is to be taught, and the time at which the apprenticeship will begin and end;

5. the number of hours to be spent by the apprentice in work on the job in a time-based program; or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component; or the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of hybrid program; and

6. a statement setting forth a schedule of the work processes in the trade or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process;

7. the number of hours to be spent in related instruction in technical subjects related to the occupation, which shall not be not less than 144 hours per year;

8. a statement of the graduated scale of wages to be paid the apprentice;

9. a statement providing for a period of probation of not more than 25 percent of the term of apprenticeship or one year, whichever is shorter in duration, during which time the apprenticeship agreement may be terminated, without adverse impact on the program sponsor, by the director of apprenticeship at the request, through RAPIDS, by the program sponsor, or in writing by the apprentice, providing that after such probationary period the apprenticeship agreement may be terminated by the director of apprenticeship by mutual agreement of all parties thereto, or canceled by the director of apprenticeship for good and sufficient reason;

10. a provision that all controversies or differences concerning the apprenticeship agreement which cannot be adjusted locally in accordance with R.S. 23:385 shall be submitted to the director or apprenticeship for determination, as provided in R.S. 23:390;

11. a statement providing after the probationary period, the agreement may be:

a. cancelled at the request of the apprentice; or

b. suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the registration agency within 45 days of the final action taken;

12. such additional terms and conditions as may be prescribed or approved by the director, not inconsistent with the provisions of this Chapter and those established by the Office of Apprenticeship, United States Department of Labor;

13. a reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended during the period of the agreement; and

14. a statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin or sex;

15. any proposed change in the terms of a registered apprenticeship agreement must be submitted to the Apprenticeship Division for approval by the director of apprenticeship;

16. wages of the apprentice will vary with the occupation and locality. The agreement shall contain a statement of the graduated scale of wages to be paid the apprentice (and whether or not the required school time shall

be compensated). When the graduated wage rate of the apprenticeship is set on a six month basis, in no instance shall the increase each six months be less than 5 percent. When the wage increase is set on a yearly basis, in no instance shall the increase be less than 10 percent each year. Provided, however, that a program that has at least a minimum starting wage rate of 45 percent of the journeyworker hourly wage rate and has reached 75 percent of the journeyworker hourly wage rate in the final period will be acceptable. The starting wage rate of an apprentice shall not be less than 45 percent of the journeyworker hourly wage or less than the applicable state/federal minimum wage. In no case shall the final period of apprenticeship be less than 75 percent of the journeyworker hourly wage in a four-year trade classification.

G. Such additional terms and conditions as may be prescribed or approved by the director, not inconsistent with the provisions of this Chapter and those established by the Office of Apprenticeship, United States Department of Labor in accordance with 29 CFR Part 29/30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:430 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2213 (July 2011).

§305. Procedure for Approval of Apprenticeship Agreements

A. The director of apprenticeship shall approve an apprenticeship agreement within 15 days if:

1. it meets the standards established under the Louisiana Apprenticeship Law and these rules for an apprenticeship program which has been properly registered with the Louisiana Workforce Commission, Apprenticeship Division;

2. the agreement contains all the requisites provided in §303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:431 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2214 (July 2011).

§307. Procedure for the Cancellation or Termination of Apprenticeship Agreements and Issuance of Interim Credentials and Certificates of Completion

A. The director of apprenticeship may terminate or cancel any apprenticeship agreement in accordance with the provisions of that agreement.

B. In the event that an agreement is terminated by mutual consent of all parties thereto, no opportunity for a hearing prior to such termination is required.

C. Prior to the cancellation or termination of an agreement for reasons other than mutual agreement of all parties, the parties to such agreement shall be afforded an opportunity for hearing after reasonable notice. Such notice and hearing shall conform to the requirements of the Administrative Procedure Act, R.S. 49:955.

D. Programs that adopt competency or hybrid structured standards of apprenticeship may request interim credentials

for certification of competency attainments made by an apprentice from the Office of Apprenticeship, United States Department of Labor.

E. Upon the satisfactory completion of apprenticeship, the director of apprenticeship shall issue a certificate of completion of apprenticeship showing the trade in which apprenticeship was served, the date of completion and the name of the program sponsor. A completion certificate shall be issued only after the director of apprenticeship has received an electronic request through the Registered Apprenticeship Partners Information Data System (RAPIDS) for such completion certificate, signed by a representative of the pertinent program sponsor, which signature shall certify that the required training and related instruction has been completed, or after the apprentice has furnished to the director of apprenticeship documented evidence which proves that the required training and related instruction has been completed. If there exists extenuating circumstances in which the program sponsor is unable to access RAPIDS, a written request will be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:431 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2214 (July 2011).

§309. Settlement of Controversies or Complaints, Deregistration Proceedings

A. The director of apprenticeship is empowered to investigate possible violations of the terms of an apprenticeship agreement and the standards of apprenticeship that govern such agreements. Such investigation may be based upon the complaint of an interested person, reasonable cause, a request from the state apprenticeship council upon a majority vote, or upon the initiative of the director of apprenticeship. The director of apprenticeship is further empowered to hold hearings, inquiries and other proceedings necessary to such investigations and determinations. Prior to any determination concerning a possible violation of the terms of an apprenticeship agreement or the governing standards of apprenticeship, the director of apprenticeship shall conduct a fact finding.

B. Subsequent to a determination, the director of apprenticeship shall make notification to the state apprenticeship council, and file a fact finding including recommended penalties not resulting in deregistration, with the executive director. If no appeal therefrom is filed with the executive director within 10 days after the date thereof, such determination shall become the order of the director of apprenticeship.

C. Any person aggrieved by a determination or action of the director of apprenticeship may appeal such action to the executive director who shall hold a hearing thereon, after due notice to the interested parties. Such hearing shall conform to the requirements of the Administrative Procedure Act, R.S. 49:955.

D. Deregistration

1. Deregistration of a program may be effected upon the voluntary action of the sponsor by submitting a request for cancellation in writing to the director of apprenticeship, or upon reasonable cause, by the director of apprenticeship

instituting formal deregistration proceedings in accordance with this Section.

2. Deregistration at the Request of the Sponsor. The director of apprenticeship may cancel the registration of an apprenticeship program by written acknowledgment of such request stating the following:

a. the registration is cancelled at the sponsor's request, and the effective date thereof;

b. that, within 15 days of the date of the acknowledgment, the sponsor will notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration of the program removes the apprentice from coverage for federal purposes which require the secretary of Labor's approval of an apprenticeship program, and that all apprentices are referred to the Louisiana Workforce Commission, Apprenticeship Division for information about potential transfer to other registered apprenticeship programs.

3. Deregistration upon Reasonable Cause

a. Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or with the requirements of this part, including but not limited to: failure to provide on-the-job learning; failure to provide related instruction; failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentices skills acquired; or persistent and significant failure to perform successfully. Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under 29 CFR Part 30 and Title 40, Chapter 5.

b. For purposes of this Section, persistent and significant failure to perform successfully occurs when a program sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years, or shows no indication of improvement in the areas identified by the Apprenticeship Division during a review process as requiring corrective action.

c. Where it appears the program is not being operated in accordance with the registered standards or with requirements of this Part, the Apprenticeship Division must notify the program sponsor in writing.

d. The notice sent to the program sponsor's contact person must:

i. be sent by registered or certified mail, with return receipt requested;

ii. state the shortcoming(s) and the remedy required; and

iii. state that a determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

e. Upon request by the sponsor for good cause, the 30-day term may be extended for another 30 days. During the period for corrective action, the Apprenticeship Division shall assist the sponsor in every reasonable way to achieve conformity.

f. If the required correction is not effected within the allotted time, the Apprenticeship Division must send a

notice to the sponsor, by registered or certified mail, return receipt requested, stating the following:

i. the notice is sent under this Paragraph;

ii. certain deficiencies were called to the sponsor's attention (enumerating them and the remedial measures requested, with the dates of such occasions and letters), and that the sponsor has failed or refused to effect correction;

iii. based upon the stated deficiencies and failure to remedy them, a determination has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within 15 days of the receipt of this notice, the sponsor requests a hearing with the applicable Apprenticeship Division; and

iv. if the sponsor does not request a hearing, the entire matter will be submitted to the Administrator, Office of Apprenticeship, for a decision on the record with respect to deregistration.

g. If the sponsor does not request a hearing, the Apprenticeship Division will transmit to the administrator a report containing all pertinent facts and circumstances concerning the non-conformity, including the findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings and conferences will include the time, date, place, and persons present. The administrator will make a final order on the basis of the record presented.

h. If the sponsor requests a hearing, the Apprenticeship Division will follow the grievance procedures outlined in Subsection C of this Section and refer the matter to the executive director.

i. If, based upon the evidence and testimony presented, the executive director upholds the determination of the director of apprenticeship, the decision shall be conclusive if no appeal there from is filed within 30 days after the date of the order or decision. The sponsor has the right to further appeal the decision to the administrator, Office of Apprenticeship. The Apprenticeship Division will transmit to the administrator a report containing all the data listed in Subparagraph D.3.g of this Section, and the administrator will refer the matter to the Office of Administrative Law Judges. An administrative law judge will convene a hearing in accordance with 29 CFR §29.10, and issue a decision as required in 29 CFR §29.10(c).

4. Every order of deregistration must contain a provision that the sponsor must, within 15 days of the effective date of the order, notify all registered apprentices of the deregistration of the program; the effective date thereof; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration removes the apprentice from coverage for state and federal purposes which require the director of apprenticeship's approval of an apprenticeship program; and that all apprentices are referred to the Apprenticeship Division for information about potential transfer to other registered apprenticeship programs.

5. Reinstatement of Program Registration. Any apprenticeship program deregistered under this Section and 29 CFR §29.8 may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with this Part. Such evidence must

be presented to the Louisiana Workforce Commission, Apprenticeship Division for consideration.

6. No person shall institute any action for the enforcement of any apprenticeship agreement, or for damages for the breach thereof unless all administrative remedies provided in these rules have first been exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:431 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2214 (July 2011).

§311. Civil Penalties

A. Provisions

1. Any person, including but not limited to, any apprenticeship program sponsor or employer of a registered apprentice, shall be subject to a civil penalty of up to five hundred dollars per violation of the provisions of any of the following:

- a. Title 40, Part IX;
- b. approved program standards;
- c. an approved apprenticeship agreement;
- d. any rules or regulations governing apprenticeship

adopted pursuant to the authority contained within Title 40, Part IX of the Louisiana Administrative Code.

2. Reasonable litigation expenses may be awarded to the prevailing party of the adjudicatory hearing. *Reasonable litigation expenses* means any expenses, not exceeding \$7,500, reasonably incurred in prosecuting, opposing, or contesting an agency action, including but not limited to attorney fees, stenographer fees, investigative fees and expenses, witness fees and expenses, and administrative costs.

B. Civil penalties may be imposed only by a ruling of the executive director or his designee, in accordance with §309 of this Part.

C. Out of the civil penalties collected for violations, expenses incurred in enforcing any provisions may be paid by the commission.

D. The executive director may institute civil proceedings in the appropriate district court for the principal place of business of the employer to enforce his rulings or seek injunctive relief to restrain and prevent violations of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter. The court shall award attorney fees and court costs to the prevailing party. In the event judgment is rendered in said court affirming the civil penalties assessed, the court shall also award to the Louisiana Workforce Commission, Apprenticeship Division judicial interest on said penalties from the date of such judgment until paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Louisiana Workforce Commission, Office of Workforce Development, LR 37:2216 (July 2011).

§313. Cooperation with Other Organizations

A. Louisiana Workforce Commission Business and Career Solution Centers shall:

1. assist in the recruiting and placement of apprentices as appropriate ; and

2. advise job seekers of the registered apprenticeship opportunities in their region and their minimum entrance requirements.

B. Louisiana Community and Technical College System shall:

1. supply related training to apprentice classes, and shall furnish classrooms, aids, technical equipment, and other such training materials necessary to the proper training of the apprentices;

2. supervise the related training of apprentices;

3. advise youth as to the entrance requirements of apprenticeship training; and

4. advise employers as to the advantages of apprentice training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:432 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2216 (July 2011).

§315. Limitations

A. In accordance with Act 364 of 1938, Section 391, nothing in this Chapter or in any apprentice agreement approved under this Chapter shall operate to invalidate any apprenticeship provision in any collective agreement between employers and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:432 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2216 (July 2011).

§317. Criteria for Apprenticeable Occupations

A. An apprenticeable occupation is a skilled trade which possesses all of the following characteristics.

1. It is customarily learned in a practical way through a structured, systematic program of on-the-job supervised training.

2. It is clearly identified and commonly recognized throughout an industry.

3. It involves manual, mechanical or technical skills and knowledge which require a minimum of 2,000 hours of on-the-job work experience.

4. It requires related instruction to supplement the on-the-job training.

5. It has been approved by the United States Department of Labor as an apprenticeable occupation.

6. In instances when an employer proposes the development of an apprenticeship program for an occupation that is not found on the federal apprenticeable occupations list, the employer shall provide evidence that:

a. the occupation is considered "high demand" according to Louisiana labor market information;

b. the occupation represents an emerging demand industry-wide;

c. the occupation meets all other criteria for an apprenticeable occupation;

d. an application has been submitted to the United States Department of Labor for the occupation to be recognized as apprenticeable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:432 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2216 (July 2011).

Chapter 5. Louisiana State Plan for Equal Opportunity in Apprenticeship

§501. Scope and Purpose

A. This plan sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the Louisiana Workforce Commission, Apprenticeship Division. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. The procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints and for deregistering non-complying apprenticeship programs.

B. The purpose of this plan is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religion, national origin, or sex in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this plan with other equal opportunity programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:433 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2217 (July 2011).

§503. Definitions

Commission—the Louisiana Workforce Commission.

Employer—any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization or with some other person or organization as an employer.

Executive Director—the executive head and chief administrative officer of the Louisiana Workforce Commission, or any person specifically designated by the executive director.

Louisiana Workforce Commission, Apprenticeship Division—the division within Louisiana state government that is recognized by the Office of Apprenticeship, United States Department of Labor as the official state apprenticeship agency of record for registration of apprenticeship programs for federal purposes.

Sponsor—any person or organization operating a state apprenticeship program, irrespective of whether such person or organization is an employer as a sponsor.

State Apprenticeship Council (SAC)—the Louisiana State Apprenticeship Council, serving as the advisory board to the Louisiana Workforce Commission.

State Apprenticeship Program—a program registered with the Louisiana Workforce Commission, Apprenticeship Division and meeting the minimum standards of the applicable federal and state apprenticeship laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:433 (July 1986), amended LR

17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2217 (July 2011).

§505. Authority

A. Under the authority vested in the Louisiana Workforce Commission, Apprenticeship Division and set out in Louisiana Revised Statutes, 1950, (annotated) as amended, R.S. 23:381 through R.S. 23:391, a policy is hereby formulated for non-discrimination in apprenticeship and training by the Louisiana Workforce Commission, Apprenticeship Division.

B. On May 12, 1978, a revised Title 29 CFR Part 30 was established at the request of the Office of the Secretary of Labor, U.S. Department of Labor. Section 30.15, "State Agencies," of Title 29, Part 30, encourages all state apprenticeship agencies to adopt and implement the standards of the U.S. Department of Labor policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:433 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2217 (July 2011).

§507. Equal Opportunity Standards

A. Obligation of Sponsor. Each sponsor of an apprenticeship program shall:

1. recruit, select, employ and train apprentices during their term of apprenticeship without discrimination because of race, color, religion, national origin, or sex;

2. uniformly apply rules and regulations concerning apprentices, including but not limited to equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor; and

3. take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this state plan.

B. Equal Opportunity Pledge. Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge:

"The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of Code of Federal Regulations, Part 30, and the Louisiana State Plan."

C. Programs Presently Registered. Each sponsor of a program registered with the council as of the effective date of this Part shall within 90 days of that effective date take the following action:

1. include in the standards of its apprenticeship program the equal opportunity pledge prescribed by §507.B;

2. adopt an affirmative action plan as required by §509; and

3. adopt a selection procedure as required by §511 of this plan. A sponsor adopting a selection method as described under §511.B.2, 3, or 4 shall prepare, and have available for submission upon request copies of its amended standards, affirmative action plans, and selection procedure. A sponsor adopting a selection method as described under §511.B.5 shall submit to the council copies of its standards,

affirmative action plan, and selection procedure in accordance with the requirements of §511.B.5.

D. Sponsors Seeking New Registration. A sponsor of a program seeking new registration with the apprenticeship division shall submit copies of its proposed standards, affirmative action plan, selection procedures, and such other information as may be required. The program shall be registered if such standards, affirmative action plan, and selection procedure meet the requirements of this plan.

E. Programs Subject to the Approved Equal Employment Opportunity Plans. A sponsor shall not be required to adopt an affirmative action plan described under §509 of this plan or a selection procedure described under §511 if it submits to the Apprenticeship Division and State Apprenticeship Council satisfactory evidence that it is in compliance with an equivalent equal employment opportunity program. This program must provide for affirmative action in apprenticeship including goals and timetables for women and minorities and must be approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) and its implementing regulations published in Title 29 of the Code of Federal Regulations, Chapter, XIV, or Executive Order 11246, as amended and its implementing regulations at Title 41 of the Code of Federal Regulations, Chapter 60 provided, that programs approved, modified, or renewed subsequent to the effective date of this amendment will qualify for this exception only if the goals and timetables for the selection of minority and female apprentices provided for in such programs are equal to or greater than the goals required under this Subsection.

F. Program with Fewer than Five Apprentices. A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under §509 of this plan or a selection procedure under §511, provided that such program was not adopted to circumvent the requirements of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:433 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2217 (July 2011).

§509. Affirmative Action Plans

A. Adoption of Affirmative Action Plans. A sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

B. Definition of Affirmative Action. Affirmative action is not merely passive nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and nonminority) apprentices, including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the nation's labor force.

C. Outreach and Positive Recruitment. An acceptable affirmative action plan must also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minorities and women to become eligible for apprentice selection. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below in order to achieve these objectives.

1. Disseminate Information Concerning the Nature of Apprenticeship, Availability of Apprenticeship Opportunities, Source of Apprenticeship Applicants, and the Equal Opportunity Policy of the Sponsor. For programs accepting applications only at specified intervals, such information shall be disseminated at least 30 days in advance of the earliest date for applications at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semi-annually. Such information shall be given to the apprenticeship division, U.S. Department of Labor, local schools, employment service offices, women's centers, outreach programs, and community organizations which can effectively reach minority groups and women, and published in newspapers which are circulated in the minority community and among women, as well as the general areas in which the program sponsor operates.

2. Participate in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service, and other appropriate personnel with the apprenticeship system and current opportunities therein.

3. Cooperate with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

4. Provide internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members, and to encourage such persons to take necessary action to aid the sponsor in meeting its obligations under this plan.

5. Engage in programs such as Outreach for the positive recruitment and preparation of potential applicants for apprenticeship; where appropriate and feasible, such programs shall provide for pre-testing experience and training. If no such programs are in existence, the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the U.S. Department of Labor. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor also shall initiate programs to prepare women to enter traditionally male programs.

6. Encourage establishment and use of programs of preapprenticeship, preparatory trade training, or other programs designed to afford related work experience or to prepare candidates for apprenticeship. A sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.

7. Utilize journeypersons to assist in the implementation of the sponsor's affirmative action program.

8. Grant advanced standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.

9. Admit to apprenticeship persons whose age exceeds the maximum age for admission to the program, where such action assists the sponsor in achieving its affirmative action obligations.

10. Take any other action necessary to ensure that recruitment, selection, employment, and training of apprentices during apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex, such as general publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority and female apprentices and journeypersons as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between sponsors and employers of apprentices to ensure that equal employment opportunity is being granted including reporting systems, on-site reviews, briefing sessions, etc.

D. Goals and Timetables

1. A sponsor adopting a selection method under §511.B.2 or 3 of this plan which determines on the basis of the analysis described in §509.E that it has deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for admission of minorities and/or female (minority and non-minority) applicants into the eligibility pool.

2. A sponsor adopting a selection method under §511.B.4 or 5 which determines on the basis of the analysis described in Subsection E of this Section that it has deficiencies in terms of underutilization of minorities and/or women in craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for selecting minority and female (minority and nonminority) applicants for the apprenticeship program.

E. Underutilization

1. As used in this Paragraph, underutilization refers to a condition in which fewer minorities and/or women (minority and nonminority) are employed in the particular craft or crafts represented by the program than would be reasonably expected in view of an analysis of specific factors in §509.F.1-5 of this plan.

2. When, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established.

3. When the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals and timetables which are unacceptable, and the council determines that the sponsor has deficiencies in terms of underutilization of minorities or women (minority and nonminority) within the meaning of this Paragraph, the council shall establish goals and timetables applicable to the sponsor for admission of minority and female (minority and

non-minority) applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with all requirements of this Paragraph.

F. Analysis to Determine if Deficiencies Exist. This analysis shall be set forth in writing of the affirmative action plan. The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors:

1. the size of the working age minority and female (minority and nonminority) population in the program sponsor's labor market area;

2. the size of the minority and female (minority and non-minority) labor force in the program sponsor's labor market area;

3. the percentage of minority and female (minority and non-minority) participation as apprentices in the particular craft as compared with the percentage of minorities and women in the labor force in the program sponsor's labor market area;

4. the percentage of minority and female (minority and non-minority) participation as journeypersons employed by the employer or employers participating in the program as compared with the percentage of minorities and women (minority and non-minority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and

5. the general availability of minorities and women (minority and non-minority) with present or potential capacity for apprenticeship in the program sponsor's labor market area.

G. Establishment and Attainment of Goals and Timetables. Goals and timetables shall be established on the basis of the sponsor's analyses of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing goals, the sponsor should consider results which could be reasonably expected from its good-faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its good faith efforts shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain maximum effectiveness toward attainment of its goals. However, in order to deal fairly with program sponsors, and with women who are entitled to protection under goals and timetables requirements, during the first 12 months after the effective date of these regulations, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than 50 percent of the proportion women represent in the workforce in the program sponsor's labor market area, and set a percentage

goal for women in each class beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first 12 months after the effective date of these regulations, sponsors are expected to make appropriate adjustments in goal levels. See §515.B.

H. Data and Information. The director of apprenticeship shall make available to program sponsors data and information on minority and female (minority and nonminority) labor force characteristics for each standard metropolitan statistical area, and for other special areas as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:433 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2218 (July 2011).

§511. Selection of Apprentices

A. Obligations of Sponsors. In addition to development of a written affirmative action plan to ensure that minorities have an equal opportunity for selection as apprentices and otherwise ensure prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that selection of apprentices shall be made under one of the methods specified in Paragraphs B.2-5 of this Section.

B. Selection. The requirements set forth in this Paragraph B.1 of this Section shall apply to all the methods specified in Paragraphs B.2-5 of this Section.

1. Creation of Pool of Eligibles. A pool of eligibles shall be created from applicants who meet the qualification of minimum legal working age or from applicants who meet qualification standards in addition to minimum legal age and provided that any additional qualification standards conform with the following requirements.

a. Qualification Standards. Qualification standards, and procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes which are to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool also shall be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationships, the sponsor shall follow procedures set forth in the Guidelines on Employee Selection Procedures, published at 41 CFR Part 60-3. Qualifications shall be considered as separately required so that failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

b. Aptitude Tests. Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool, and performance in the apprenticeship program. In determining such relationships, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. The requirements of this

Subparagraph also shall be applicable to aptitude tests used by a program sponsor which are administered by a state employment service agency, a private employment agency, or any other person, agency, or organization engaged in selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee will not be approved by the council unless the test meets the requirements of this Part.

c. Educational Attainments. All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance, in the apprenticeship program. In demonstrating such relationships, the sponsor shall meet the requirements of 41 CFR Part 60-3. School records or a passing grade on the general education development tests recognized by the state or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

d. Oral Interviews. Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and before he or she is selected for apprenticeship from the pool, he or she may be required to submit to an oral interview. Oral interviews shall be limited only to such objective questions as may be required to determine fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicant's answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, reasons therefore, and appeal rights available to the applicant.

e. Notification of Applicants. All applicants who meet requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each applicant from the applicant pool notice of his or her rejection, including reasons for the rejection, requirements for admission to the pool of eligibles, and appeal rights available to the applicant.

f. Goals and Timetables. The sponsor shall establish, where required by §509.D, percentage goals and timetables for admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with provisions of §509.D, E, and F.

g. Compliance. A sponsor shall be deemed to be in compliance with its commitment under §511.B.1.f of this plan if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every good-faith effort to meet its commitments (refer to §509.F). All the actions of the sponsor shall be reviewed and evaluated in determining whether such good-faith efforts have been made.

2. Selection on Basis of Rank from a Pool of Eligible Applicants. A sponsor may select apprentices from a pool of eligible applicants created in accordance with requirements

for §511.B.1 on the basis of rank order of scores of applicants on one or more qualification standards, where there is a significant statistical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow procedures set forth in 41 CFR Part 60-3.

3. Random Selection from Pool of Eligible Applicants

a. Selection. A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the council. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following selection at the program sponsor's place of business. The sponsor adopting this method of selecting apprentices shall meet the requirements of §511.B.1.a-g of this plan relating to creation of the pool of eligibles, oral interviews, and notification of applicants.

b. Goals and Timetables. The sponsor shall establish, where required by §509.D, percentage goals and timetables for admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with provisions of §509.D, E and F.

c. Compliance. Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with provisions of §511.B.1.g.

4. Selection from Pool of Current Employees

a. Selection. A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for selection of minority and female (minority and nonminority) apprentices, unless the sponsor concludes in accordance with provisions of §509.D, E, and F that it does not have deficiencies in terms of underutilization of minorities and/or women in the apprenticeship of journeyman crafts represented by the program.

b. Compliance. Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with provisions of §511.B.1.g of this plan.

5. Alternative Selection Method. A sponsor may select apprentices by means of any other method, including its present selection method, providing that the sponsor meets the following requirements:

a. Selection Method, Goals, and Timetables. Within 90 days of the effective date of this plan, the sponsor shall submit to the council a detailed statement of the selection method it proposes to use, along with the rest of its written affirmative action program. It should include, when required by §509.D, its percentage goals and timetables for selection of minority and/or female (minority and nonminority) applicants for apprenticeship and its written analysis upon which such goals and timetables, or lack thereof, are based. Establishment of goals and timetables must be in accordance with provisions of §509.D, E and F. The sponsor may not implement any such selection method until the council has

approved the selection method as meeting requirements of §511.B.5.b and has approved the remainder of its affirmative action program including its goals and timetables. If the council fails to act upon the selection method and the affirmative action program within 30 days of its submission, the sponsor may then implement the selection method.

b. Qualification Standards. Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential physical requirements, fair interviews, school grades, and previous work experience. When interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction, all of which are factors of the total judgment. In applying any such standards, the sponsor shall meet the requirements of 41 CFR Part 60-3.

c. Compliance. Determination of the sponsor's compliance with its obligations under these regulations shall be in accordance with provisions of §511.B.1.g. When a sponsor, despite its good-faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness toward attainment of its goals. The sponsor also may be required to develop and adopt an alternative selection method, including a method prescribed by the council, when it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. When the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected opportunities of minority and/or women (minority and nonminority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with provisions of §511.B.1.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:435 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2220 (July 2011).

§513. Existing List of Eligibles and Public Notices

A. A sponsor adopting a selection method under §511.B.2 or 3 and a sponsor adopting a selection method under §511.B.5 who determines that there are fewer minorities and/or women (minority and nonminority) on its existing lists of eligibles than would reasonably be expected in view of the analysis described in §509.E shall discard all existing eligibility lists upon adoption of selection methods required by this plan. New eligibility pools shall be established, and lists of eligibility pools be posted at the sponsor's place of business. Sponsors shall establish a reasonable period of not less than two weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see §509.C on affirmative action with respect to dissemination of information).

B. Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of two years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by certified mail, return receipt requested.

C. Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of customs and practices of the industry for reporting for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his or her current mailing address. A sponsor may restore to the list of eligibles an applicant who has been removed from the list at his request or who has failed to respond to an apprenticeship job opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:436 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2221 (July 2011).

§515. Records

A. Obligations of Sponsors. Each sponsor shall keep adequate records including a summary of qualifications of each applicant; the basis for evaluation and for selection or rejection of each applicant; a record pertaining to interviews of applicants; the original application for each applicant; information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work and, separately, hours of training provided; and any other records pertinent to a determination of compliance with these regulations, as may be required by the apprenticeship division. The records pertaining to individual applicants, whether selected or rejected, shall be maintained in such a manner as to permit identification of minority and female (minority and nonminority) participants.

B. Affirmative Action Plans. Each sponsor must retain a statement of its affirmative action plan required by §509 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analysis made pursuant to requirements of §509. Sponsors shall annually review their affirmative action plans and update them when necessary, including the goals and timetables.

C. Qualification Standards. Each sponsor must maintain evidence that its qualification standards have been validated in accordance with requirements set forth in §511.B.

D. Maintenance of Records by Sponsors. All records required by this plan and any other information relevant to compliance with these regulations, shall be maintained for five years, and made available, upon request, to the Louisiana Workforce Commission, Apprenticeship Division, the U.S. Department of Labor, or other authorized persons.

E. Records of the Louisiana Workforce Commission, Apprenticeship Division. The apprenticeship division shall keep adequate records, including registration requirements, approved individual program standards, registration records, deregistration records, program compliance reviews and investigations, individual program ethnic count, total apprenticeship ethnic count, and any other records pertinent

to a determination of compliance with this plan as may be required by the U.S. Department of Labor, and shall report such to the U.S. Department of Labor Office of Apprenticeship, semi-annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:437 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2222 (July 2011).

§517. Compliance Reviews

A. Conduct of Compliance Reviews. The council will regularly conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations. The council also will conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to §521.B.1, so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this plan. Compliance reviews will consist of comprehensive analysis and evaluation of each aspect of the apprenticeship program, including onsite investigations and audits.

B. Reregistration. A sponsor seeking reregistration shall be subject to a compliance review as described in §517.A as part of the registration process.

C. New Registration. Sponsors seeking new registration shall be subject to a compliance review as described in §517.A by the apprenticeship division as part of the registration process.

D. Voluntary Compliance. When a compliance review indicates that the sponsor is not operating in accordance with this plan, the apprenticeship division shall notify the sponsor in writing of results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions described under §525. In the case of sponsors seeking new registration, the apprenticeship division will provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:437 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2222 (July 2011).

§519. Noncompliance with Federal and State Equal Opportunity Requirements

A. A pattern or practice of noncompliance by a sponsor (or when the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with federal or state laws or regulations requiring equal opportunity may be grounds for imposition of sanctions in accordance with §525 if such noncompliance is related to equal employment opportunities of apprentices and/or graduates of such an apprenticeship program under this plan. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:437 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2222 (July 2011).

§521. Complaint Procedure

A. Filing

1. Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religion, national origin, or sex, with regard to apprenticeship, or that equal opportunity standards with respect to his or her selection have not been followed during an apprenticeship program may, by himself/herself, or by an authorized representative, file a complaint with the apprenticeship division, or at the apprentice's or applicant's election with a private review body established pursuant to §521.A.3. The complaint shall be in writing and signed by the complainant. It must include the name, address, and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this plan.

2. The complaint must be filed not later than 180 days from the date of the alleged discrimination or specified failure to follow equal opportunity standards. In the case of complaints filed directly with review bodies designated by program sponsors to review such complaint, any referral of such complaint by the complainant to the apprenticeship division must occur within the time limitation stated above or 30 days from the final decision of such review body, whichever is later. The time may be extended by the apprenticeship division for good cause shown.

3. Sponsors are encouraged to establish fair, speedy, and effective procedures for a review body to consider complaints of failure to follow equal opportunity standards. A private review body established by the program sponsor for this purpose should number three or more responsible persons from the community serving in this capacity without compensation. Members of the review body should not be directly associated with administration of an apprenticeship program. Sponsors may join together in establishing a review body to serve the needs of programs within the community.

B. Processing of Complaints

1. When the sponsor has designated a review body for reviewing complaints, and if the Apprenticeship Division determines that such review body will effectively enforce equal opportunity standards, the Apprenticeship Division, upon receiving a complaint, shall refer the complaint to the review body.

2. The Apprenticeship Division shall, within 30 days following referral of a complaint to the review body, obtain reports from a complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily adjusted, and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and all parties appropriately informed.

3. When a complaint has not been resolved by the review body within 90 days, or when, despite satisfactory resolution of the particular complaint by the review body, there is evidence that equal opportunity practices of the apprenticeship program are not in accordance with this plan, the apprenticeship division may conduct such compliance

review as found necessary and will take all necessary steps to resolve the complaint.

4. Where no review body exists, the apprenticeship division may conduct such compliance review as found necessary in order to determine all facts of the complaint, and obtain such other information relating to compliance with these regulations as circumstances warrant.

5. Sponsors shall provide written notice of the above complaint procedure to all applicants for apprenticeship and all apprentices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:437 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2223 (July 2011).

§523. Adjustments in Schedule for Compliance Review or Complaint Processing

A. If, in the judgment of the Apprenticeship Division, a particular situation warrants and requires special processing and either expedited or extended determination, it shall take steps necessary to permit such determination if it finds that no person or party affected by such determination will be prejudiced by such special processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:438 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2223 (July 2011).

§525. Sanctions

A. When the Apprenticeship Division, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this plan, and voluntary corrective action has not been taken by the program sponsor, the apprenticeship division shall institute proceedings to deregister the program or it shall refer the matter to the U.S. Department of Labor for referral to the Equal Employment Opportunity Commission or the attorney general with recommendations for institution of a court action by the attorney general under Title VII of the Civil Rights Act of 1964, as amended, or the attorney general for other court action as authorized by law.

B. Deregistration proceedings shall be conducted in accordance with the following procedures.

1. The Apprenticeship Division shall notify the sponsor in writing that a determination of reasonable cause has been made under provisions of §525.A and that the apprenticeship program may be deregistered unless, within 15 days of receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.

2. If within 15 days of receipt of the notice provided for in §525.B.1, the sponsor mails a request for hearing, the executive director, Louisiana Workforce Commission, Apprenticeship Division, shall convene a hearing in accordance with §525.C.

3. The executive director, Louisiana Workforce Commission, Apprenticeship Division, shall make a final decision on the basis of the records, which shall consist of the compliance review file and other evidence presented, and

if a hearing was conducted pursuant §525.C, the proposed findings and recommended decision of the hearing officer. The executive director, Louisiana Workforce Commission, Apprenticeship Division, may allow the sponsor reasonable time to take voluntary corrective action. If the Executive Director's decision is that the apprenticeship program is not operating in accordance with this plan, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered, the executive director shall make public notice of the order and shall notify the sponsor and the complainant, if any, and the U.S. Department of Labor. The apprenticeship division shall inform any sponsor whose program has been deregistered that it may appeal such deregistration to the U.S. Department of Labor in accordance with procedure set forth at 29 CFR 30.15.

C. Hearings shall be conducted in accordance with the following procedures.

1. Within 10 days of receipt of a request for a hearing, the executive director, Louisiana Workforce Commission, Apprenticeship Division, shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by certified mail, return receipt requested, to the sponsor. Such notice shall include a reasonable time and place of hearing, a statement of the provisions of this plan pursuant to which the hearing is to be held, and a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

2. The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel and a fair opportunity to present his case, including such cross-examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Executive Director upon the basis of the record before them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor LR 12:438 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2223 (July 2011).

§527. Reinstatement of Program Registration

A. Any apprenticeship program deregistered pursuant to this plan may be reinstated upon presentation of adequate evidence to the director of apprenticeship and state apprenticeship council, that the apprenticeship program is operating in accordance with this plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:438 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2224 (July 2011).

§529. Intimidatory or Retaliatory Acts

A. Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by Title VII of the Civil Rights Act of 1964, as amended, Executive Order 11246, as amended, or because he or she as made a complaint, testified, assisted, or participated in any manner in any investigation proceeding or hearing under this

plan, shall be considered noncompliance with the equal opportunity standards of this plan. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this plan, including conduct of any investigation, hearing or judicial proceeding arising there from.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:438 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2224 (July 2011).

§531. Nondiscrimination

A. The commitments contained in the sponsor's affirmative action program are not intended, and shall not be used, to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, or sex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:438 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2224 (July 2011).

§533. Exemptions

A. Requests for exemption from these regulations, or any part thereof, shall be made in writing to the director of apprenticeship and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause. The Apprenticeship Division will immediately notify the U.S. Department of Labor of any such exemptions granted affecting a substantial number of employees and reasons therefore.

B. Partial exemptions may be granted from three requirements namely:

1. adoption of an affirmative action plan;
2. adoption of selection procedures; and
3. discard of existing eligibility lists.

C. Sponsors eligible for exemption are those who are subject to an equal employment opportunity program providing for selection of apprentices, and for affirmative action in apprenticeship which has been approved as meeting requirement of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) and its implementing regulations published in Title 29 of the Code of Federal Regulations, Chapter XIV, or Executive Order 11246, as amended, and its implementing regulations at Title 41 of the Code of Federal Regulations, Chapter 60.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:438 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce Commission, Office of Workforce Development, LR 37:2224 (July 2011).

§535. Severability Clause

A. These rules and each of their provisions are hereby declared to be severable, one from another. If any provision or item of a rule, or the application thereof, is held invalid, such invalidity shall not effect other provisions, items, or

applications of the rule which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:381-391.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 12:439 (July 1986), amended LR 17:356 (April 1991), amended by the Louisiana Workforce

Commission, Office of Workforce Development, LR 37:2224 (July 2011).

Curt Eysink
Executive Director

1107#072

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Seed Commission

Seed Labeling; Seed Certifications; Fees
(LAC 7:XIII.121, 125, 131, 143, 171, 183 and 193)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, is intending on amending these regulations to allow the statement that the package contains coated seed and the maximum amount of coating to be placed on the front of the package separately from the label, along with a statement to see the label for more information; define plant clones and clonally propagated plants; establish application deadlines for certifying clonally propagated plant species; reword the fee schedule; establish a fee for certifying clonally propagated plant species; limit refunds to no more than 70 percent of unsold certified seeds; repeal the certification standards for Harding Grass Seed, Rescue Grass Seed, and Sesame Seed; and establish certification standards for California Bulrush, Sea Oats, and Smooth Cordgrass.

The requirements for the labeling of coated seed become effective after December 31, 2011. After discussions with representatives of seed companies and the seed industry it was decided to amend the requirements to allow seed companies more flexibility in providing consumers with needed information regarding coated seed. A definition of plant clones and clonally propagated plants is needed because of the increase in the production of these types of plants. The fee schedule is being revised to make it more understandable and to include fees for certifying certain clonally propagate plant species. Refunds are being limited to 70 percent of unsold certified seeds to prevent the total cost of certification from being absorbed by the department. The certifications standards for Harding Grass Seed, Rescue Grass Seed, and Sesame Seed are being repealed because these types of grasses are not grown in this state for the production of certified seeds. Certification standards for California Bulrush, Sea Oats, and Smooth Cordgrass are being added because these seeds are being produced in this state and certification of these seeds are being requested by seed producers.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§121. Labeling of Seed

A. - G. ...

H. After December 31, 2011 each package of coated seed shall have the following additional information on the front of the package which shall be set forth in a clear and

conspicuous manner so that the ultimate purchaser is able to read the information easily and without strain:

1. the words "coated seed;"
2. a statement giving the maximum amount of coating material contained within the package;
3. a statement referring purchaser to the product label for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 16:492 (June 1990), LR 37:270 (January 2011), LR 37:

Subchapter B. General Seed Certification Requirements

§125. Definitions

Clonally Propagated Plant—a plant that is duplicated or propagated as a plant clone from vegetative cuttings or plant divisions using one or more of an aerial stem, rhizome, stolon, leave, or root.

Plant Clone—a genetically identical plant or plant material derived originally from a single ancestor individual over one or more vegetative generations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:420 (February 2005), LR 37:

§131. Application Deadlines

A. - N.2.b. ...

O. Clonally propagated plant species, except for plant species for which a deadline is specifically provided in this Section:

1. new plantings-submit application at least 15 days prior to land preparation for planting;
2. established stands (fields certified the previous year)- submit renewal application by April 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 13:155 (March 1987), LR 13:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997), LR 25:1617 (September 1999), LR 34:863 (May 2008), LR 37:

§143. Fees

A. All fees shall be paid before the requested work is performed, as follows.

1. All application fees and fees for inspections, re-inspections, sampling and re-sampling shall be paid at the

time the application or request for work is submitted to the department, except for those crop kinds where the fee is based on an hourly rate and mileage.

2. Fees for certification of seeds by laboratory analysis shall be paid prior to submission of the certified sample to the State Seed Testing Laboratory.

3. Requests for different payment arrangements shall be made to and must be approved by the director or assistant director.

B. Application Fees

1. The application fee for certification for each producer shall be \$23 for each variety with only one variety per application if the application is timely submitted.

2. The application fee for certification shall be \$100 for each application submitted after the deadline shown in §131 of this Part.

C. Field inspection fees shall be charged as follows:

1. all crop, grass, and other seeds not listed in this Section—\$.90 per acre;

2. for the following species, California Bulrush, Sea Oats, and Smooth Cordgrass:

a. an hourly fee of \$25 per hour, per inspector shall be charged for each inspection of native plants; and

b. mileage for travel to and from inspection location shall be charged at the mileage reimbursement rate established by the Division of Administration's state travel regulations;

3. rice—\$.90 per acre

4. small grains—\$.90 per acre

5. sugarcane—\$1.80 per acre

6. sweet potato;

a. field inspection (including seed bed inspection)—\$1.80 per acre;

b. greenhouse inspections—\$50 per crop year plus a fee of five cents per 1,000 plants for each 1,000 sweet potato plants inspected for certification purposes;

7. turf and pasture grass—\$25 per acre

D. Reinspection Fees—\$50 for each re-inspection.

E. Fees for Phytosanitary Inspections—\$0.50 per acre

F. Fees for Resampling Certified Seed—\$30 for each re-sample.

G. Fees for bulk sampling—\$30 for each bulk sample by vacuum probe.

H. Seed Certification Fees

1. Fees for certified seed shall be 16 cents per weight unit and be calculated on the total weight units in the certifiable lot. The number of weight units for a particular lot of seed shall be reported when the certified sample is taken.

a. The weight unit for all seeds is 50 pounds except for rice which has a weight unit of 100 pounds

b. A person who sells, distributes, or offers for sale certified seed in Louisiana and who has paid certification fees for a particular lot of seed may request a partial refund, not to exceed seventy-percent on the unsold portion of the certified lot.

c. A person requesting a refund must submit a written request, along with all unused tags from the certified lot, within nine months of the certified test date, stating:

i. the lot number for the seed that the request is being made;

ii. the number of weight units sold from the certified lot; and

iii. the number of weight units partitioned for refund from the certified lot.

d. A request for a refund shall be approved upon verification of the unused tags and information submitted with the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984); amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000), LR 29:2632 (December 2003), LR 31:420 (February 2005), LR 31:1511 (July 2005), LR 34:2339 (November 2008), LR 37:

Subchapter C. Certification of Specific Crops/Varieties

§171. California Bulrush (*Schoenoplectus Californicus*)

Clonally Propagated Plant Certification Standards

A. The department shall issue numbered certification tags when requested to do so by a grower who has met the requirement and standards set forth in this Part. The numbered certification tags shall be attached by the grower to each container of certified material prior to shipment.

B. Definition of Classes. For the purpose of this Section, the word "material" refers to clonally propagated plants with identical genotypes.

1. Breeder material shall be maintained by the plant breeder or his authorized agent. Every plant used to establish breeder ponds or breeder containers shall be proven to be genetically identical through genetic fingerprinting.

2. Foundation material shall be the vegetative increase of breeder material. 10 percent of the material or 192 random plants, (whichever is smaller), used to establish foundation ponds or containers shall be genetically fingerprinted.

3. Registered material shall be the vegetative increase of either breeder or foundation material. Five percent of the material or 96 random plants, (whichever is smaller), used to establish registered ponds or containers shall be genetically fingerprinted.

4. Certified material shall be the vegetative increase of breeder, foundation, or registered material. Certified material is not required to be genetically fingerprinted.

C. Production Requirements

1. Pond Requirements

a. Ponds shall be contained by levees.

b. Only one variety of California bulrush shall be grown per pond.

c. Ponds of different varieties must be separated by a minimum of 20 feet isolation, and must have individual water supplies and water drainage capabilities for each produced variety.

d. All seed heads must be removed annually from plants after flowering begins, but no later than May 1, to ensure viable seed are not produced.

2. Container/Tank Requirements

a. Soil used for container or tank production shall:

i. come from an area that has not produced California bulrush for a minimum of one year; and

ii. be free of visible California bulrush rhizomes and stems prior to transplanting.

b. Only one variety of California bulrush shall be grown per flooded tank.

c. Different varieties shall be grown in separate flooded tanks and shall have individual water supplies and drainage capabilities.

d. All seed heads shall be removed annually from plants after flowering begins but no later than May 1, to ensure viable seed are not produced.

D. Land Requirements

1. Ponds and containers shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of California bulrush and noxious and objectionable weeds in order to be eligible for the production of all certified classes of *Schoenoplectus californicus*.

E. Inspections by Grower

1. Ponds and containers shall be inspected within four weeks prior to transplanting and prior to the department's inspection to ensure ponds and containers are free of California bulrush volunteers.

2. Ponds and containers shall be inspected a minimum of once a year to ensure that:

a. only a single variety is being grown per pond or flooded tank unit;

b. ponds of different varieties are separated by a minimum of 20 feet of non-flooded elevated land;

c. ponds and/or tanks of different varieties have individual water supplies and drainage capabilities; and

d. ponds and/or tanks grown in conjunction with seed producing cultivated or wild *Schoenoplectus californicus* have a minimum of 150 feet isolation at all points.

3. Ponds and containers shall be inspected at least once a year between May 1 and June 15 to ensure all seed heads have been removed.

F. Inspections by the Department

1. First Year (Year of Transplant)

a. Ponds and containers shall be inspected by department inspectors within four weeks prior to transplanting to ensure ponds and containers are free of California bulrush volunteers. Field shall be accessible and non-flooded at the time of the department's inspection.

b. Ponds and containers shall be inspected between 60 and 120 days from date of plant establishment for the purpose of collecting genetic fingerprinting samples.

c. Ponds and containers shall be inspected by department inspectors a minimum of once a year between May 1 and June 15 to ensure that:

i. only a single variety is being grown per pond or flooded tank unit;

ii. ponds of different varieties are separated by a minimum of 20 feet of non-flooded elevated land; and

iii. ponds and/or tanks of different varieties have individual water supplies and drainage capabilities;

iv. that ponds and/or tanks grown in conjunction with seed producing *Schoenoplectus californicus* (cultivated or wild) have a minimum of 150 feet isolation at all points; and

v. that all seed heads have been removed no later than May 1.

d. The department shall have the right to reinspect, resample and retest ponds and containers that are out-of-tolerance for genetic fingerprinting prior to final certification.

e. Additional inspections may be performed at the discretion of the department at any time without prior notice.

2. Subsequent Years

a. Ponds and containers shall be inspected by department inspectors a minimum of once a year between May 1 and June 15 to ensure that:

i. only a single variety is being grown per pond or flooded tank unit;

ii. ponds of different varieties are separated by a minimum of 20 feet of non-flooded elevated land;

iii. ponds and/or tanks of different varieties have individual water supplies and drainage capabilities;

iv. ponds and/or tanks grown in conjunction with seed producing *Schoenoplectus californicus* (cultivated or wild) have a minimum of 150 feet isolation at all points; and

v. all seed heads have been removed no later than June 1.

b. Additional inspections may be performed at the discretion of the department at any time without prior notice.

G. Field Standards

Production Fields/Tanks

| Factor | Breeder | Foundation | Registered | Certified |
|--|---|--|--|--|
| Maximum Age: Production Unit Life From Transplant Date | 3 years | 3 years | 4 years | 4 years |
| Isolation: Minimum Clonal/Seed Separation Between Production Units | | | | |
| Pond Production | Clonal- 20 ft.: Seed- 150 ft. | Clonal-20 ft.: Seed- 150 ft. | Clonal-20 ft.: Seed- 150 ft. | Clonal-20 ft.: Seed- 150 ft. |
| Tank Production | Clonal-1 variety per tank: Seed- 150 ft. | Clonal- 1 variety per tank: Seed- 150 ft. | Clonal- 1 variety per tank: Seed- 150 ft. | Clonal- 1 variety per tank: Seed- 150 ft. |
| Plant Variants | | | | |
| Fingerprints (between 60 and 120 days from date of establishment) | None | 2 plants/sample | 2 plants/sample | Not Applicable |
| Visual Inspections | None | 3 plants per 5,400 ft ² | 5 plants per 5,400 ft ² | 10 plants per 5,400ft ² |
| Harmful Diseases ¹ | None | None | None | None |

| Factor | Breeder | Foundation | Registered | Certified |
|---|---------|------------|------------|--------------------------------------|
| Noxious or Objectionable Weeds ² (Refer to List Below) | None | None | None | ≤ 5 plants per 5,400 ft ² |
| Land Requirements | 1 year | 1 year | 1 year | 1 year |
| Other Crops ³ (Refer to List Below) | None | None | None | None |

¹ Diseases seriously affecting quality of seed and transmissible by planting stock

² *Cyperus spp.* (Sedge), *Eleocharis spp.* (Spikerush), *Phragmites australis* (Roseau cane), *Typha spp.* (Cattail)

³ *Spartina alterniflora* (Smooth cordgrass), *Spartina patens* (Marshhay cordgrass), *Spartina cynosuroides* (Big cordgrass), *Spartina spartinae* (Gulf cordgrass), *Distichlis spicata* (Saltgrass), *Paspalum vaginatum* (Seashore paspalum)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:

§183. Sea Oats (*Uniola Paniculata*) Clonally Propagated Plant Certification Standards

A. The department shall issue numbered certification tags when requested to do so by a grower who has met the requirement and standards set forth in this Part. The numbered certification tags shall be attached by the grower to each container of certified material prior to shipment.

B. Definition of Classes. For the purpose of this Section, the word “material” refers to clonally propagated plants with identical genotypes.

1. Breeder material shall be maintained by the plant breeder or his authorized agent. Every plant used to establish breeder ponds or breeder containers shall be proven to be genetically identical through genetic fingerprinting.

2. Foundation material shall be the vegetative increase of breeder material. Ten percent of the material or 192 random plants, (whichever is smaller), used to establish foundation ponds or containers shall be genetically fingerprinted.

3. Registered material shall be the vegetative increase of either breeder or foundation material. Five percent of the material or 96 random plants, (whichever is smaller), used to establish registered ponds or containers shall be genetically fingerprinted.

4. Certified material shall be the vegetative increase of breeder, foundation, or registered material. Certified material is not required to be genetically fingerprinted.

C. Production Requirements

1. Plot Requirements

a. Plots shall be free of volunteer sea oats plants for a minimum of four weeks prior to transplanting.

b. Only one variety of sea oats shall be grown per plot.

c. Plots of different varieties must be separated by a minimum of 30 feet isolation at all points.

d. All seed heads shall be removed annually from plants after flowering begins, but not later than July 1, to ensure viable seed are not produced.

2. Container/Tank Requirements

a. Soil used for container or tank production shall:

i. come from an area that has not produced sea oats for a minimum of three years; and

ii. be free of visible sea oats rhizomes and stems prior to transplanting.

b. Only one variety of sea oats shall be grown per production tank.

c. Different varieties may be grown in the same tank unit if individual varieties are separated by solid sided partition that will not allow rhizome or stem material to spread between or within tank units.

d. All seed heads shall be removed annually from plants after flowering begins, but not later than July 1, to ensure viable seed are not produced.

D. Land Requirements

1. Plots and containers to be eligible for the production of all certified classes of *Uniola paniculata* shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of sea oats and noxious and objectionable weeds.

E. Inspections by Growers

1. Plots and containers shall be inspected within four weeks prior to transplanting and prior to the department’s inspection to ensure they are free of sea oats volunteers.

2. Plots and containers shall be inspected a minimum of once a year to ensure that:

a. only a single variety is being grown per plot or tank;

b. plots of different varieties are separated by a minimum of 30 feet of land that does not contain sea oats plants; and

c. plots or production tanks grown in conjunction with seed producing *Uniola paniculata* (cultivated or wild) have a minimum of 150 feet isolation at all points.

3. Plots and containers shall be inspected once per year between July 1 and August 15 to ensure all seed heads have been removed.

F. Inspections by the Department

1. First Year (Year of Transplant)

a. Plots and containers shall be inspected within four weeks prior to transplanting to ensure they are free of sea oats volunteers. Plots and containers shall be accessible and non-flooded at the time of the department’s inspection.

b. Plots and containers shall be inspected between 60 and 120 days from date of plant establishment for the purpose of collecting genetic fingerprinting samples.

c. Plots and containers shall be inspected a minimum of once a year between July 1 and August 15 to ensure that:

i. only a single variety is being grown per plot or tank;

ii. plots of different varieties are separated by a minimum of 30 feet of land that does not contain sea oats plants;

iii. plots or production tanks grown in conjunction with seed producing *Uniola paniculata* (cultivated or wild) have a minimum of 150 feet isolation at all points; and

iv. all seed heads have been removed no later than July 1.

d. The department shall have the right to re-inspect, re-sample and re-test plots and containers that are out-of-tolerance for genetic fingerprinting prior to certification.

e. Additional inspections may be performed at the discretion of the department at any time without prior notice.

2. Subsequent Years

a. Plots and containers shall be inspected a minimum of once a year between July 1 and August 15 to ensure that:

i. a single variety is being grown per plot or tank;

ii. plots of different varieties are separated by a minimum of 30 feet of land that does not contain sea oats plants;

iii. plots or production tanks grown in conjunction with seed producing *Uniola paniculata* (cultivated or wild) have a minimum of 150 feet isolation at all points; and

iv. all seed heads have been removed no later than July 1.

b. Additional inspections may be performed at the discretion of the department any time without prior notice.

G. Field Standards

Production Fields/Tanks

| Factor | Breeder | Foundation | Registered | Certified |
|--|---|--|--|--|
| Maximum Age: Production Unit Life From Transplant Date | 4 years | 4 years | 5 years | 5 years |
| Isolation: Minimum Clonal/Seed Separation Between Production Units | | | | |
| Plot Production | Clonal- 30 ft.: Seed- 150 ft. | Clonal- 30 ft.: Seed- 150 ft. | Clonal- 30 ft.: Seed- 150 ft. | Clonal- 30 ft.: Seed- 150 ft. |
| Tank Production | Clonal -1 variety per tank: Seed- 150 ft. | Clonal - 1 variety per tank: Seed- 150 ft. | Clonal - 1 variety per tank: Seed- 150 ft. | Clonal - 1 variety per tank: Seed- 150 ft. |
| Plant Variants | | | | |
| Fingerprints (between 60 and 120 day from date of establishment) | None | 2 plant per sample | 2 plant per sample | Not Applicable |
| Visual Inspections | None | 3 plants per 5,400ft ² | 5 plants per 5,400 ft ² | 10 plants per 5,400 ft ² |
| Harmful Diseases ¹ | None | None | None | None |
| Noxious or Objectionable Weeds ² (Refer to List Below) | None | None | None | ≤ 5 plants per 5,400 ft ² |
| Land Requirements | 1 year | 1 year | 1 year | 1 year |
| Other Crops ³ (Refer to List Below) | None | None | None | None |

¹ Diseases seriously affecting quality of seed and transmissible by planting stock

² *Cyperus* spp. (Sedges), *Panicum repens* (Torpedograss), *Phragmites australis* (Roseau cane), *Fimbristylis* spp. (Fimbristylis), *Tamarix* spp. (Salt cedar), *Cenchrus* spp. (Sandbur), *Suaeda linearis* (Sea-blite), *Acacia farnesiana* (Sweet acacia)

³ *Spartina patens* (Marshhay cordgrass), *Spartina spartinae* (Gulf cordgrass), *Sporobolus virginicus* (Dropseed), *Distichlis spicata* (Saltgrass), *Schizachyrium maritimum* (Seacoast bluestem), *Paspalum vaginatum* (Seashore paspalum), *Panicum amarum* (Beach panicgrass)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:

**§193. Smooth Cordgrass (*Spartina Alterniflora*)
Clonally Propagated Plant Certification
Standards**

A. The department shall issue numbered certification tags when requested to do so by a grower who has met the requirement and standards set forth in this Part. The numbered certification tags shall be attached by the grower to each container of certified material prior to shipment.

B. Definition of classes. For the purpose of this Section, the word “material” refers to clonally propagated plants with identical genotypes.

1. Breeder material shall be maintained by the plant breeder or his authorized agent. Every plant used to establish breeder ponds or breeder containers shall be proven to be genetically identical through genetic fingerprinting.

2. Foundation material shall be the vegetative increase of breeder material. Ten percent of the material or 192 random plants (whichever is smaller) used to establish foundation ponds or containers shall be genetically fingerprinted.

3. Registered material shall be the vegetative increase of either breeder or foundation material. Five percent of the material or 96 random plants (whichever is smaller) used to establish registered ponds or containers shall be genetically fingerprinted.

4. Certified material shall be the vegetative increase of breeder, foundation, or registered material. Certified material is not required to be genetically fingerprinted.

C. Production Requirements

1. Pond Requirements

a. Ponds shall be contained by levees.

b. Only one variety of smooth cordgrass shall be grown per pond.

c. Ponds of different varieties shall be separated by a minimum of 20 feet isolation land and must have

individual water supplies and water drainage capabilities for each produced variety.

d. All seed heads shall be removed annually from plants after flowering begins, but not later than September 1, to ensure viable seed are not produced.

2. Container/Tank Requirements

a. Soil used for container or tank production shall:

i. come from an area that has not produced smooth cordgrass for a minimum of one year; and

ii. be free of visible smooth cordgrass rhizomes and stems prior to transplanting.

b. Only one variety of smooth cordgrass shall be grown per flooded tank.

c. Different varieties shall be grown in separate flooded tanks and shall have individual water supplies and drainage capabilities.

d. All seed heads shall be removed annually from plants after flowering begins, but not later than September 1, to ensure viable seed are not produced.

D. Land Requirements

1. Ponds and containers to be eligible for the production of all certified classes of *Spartina alterniflora* shall be left undisturbed for a minimum of 4 weeks prior to planting, and found to be free of smooth cordgrass and noxious and objectionable weeds.

E. Inspections by Grower

1. Ponds and containers shall be inspected within four weeks prior to transplanting and prior to the department's inspection to ensure ponds are free of smooth cordgrass volunteers.

2. Ponds and containers shall be inspected a minimum of once a year to ensure that:

a. only a single variety is being grown per pond or flooded tank unit;

b. ponds of different varieties are separated by a minimum of 20 feet of non-flooded elevated land;

c. ponds and/or tanks of different varieties have individual water supplies and drainage capabilities; and

d. ponds and/or tanks grown in conjunction with seed producing *Spartina alterniflora* (cultivated or wild) have a minimum of 150 feet isolation at all points;

3. Ponds and containers shall be inspected once per year between September 1 and October 15 to ensure all seed heads have been removed.

F. Inspections by the Department

1. First Year (Year of Transplant)

a. Ponds and containers shall be inspected by department inspectors within four weeks prior to transplanting to ensure ponds and containers are free of smooth cordgrass volunteers. Ponds and containers shall be accessible and non-flooded at the time of the department's inspection.

b. Ponds and containers shall be inspected between 60 and 120 days from date of establishment for the purpose of collecting genetic fingerprinting samples.

c. Ponds and containers shall be inspected by department inspectors a minimum of once a year between September 1 and October 15 to ensure that:

i. only a single variety is being grown per pond or flooded tank unit;

ii. ponds of different varieties are separated by a minimum of 20 feet of non-flooded elevated land;

iii. ponds and/or tanks of different varieties have individual water supplies and drainage capabilities;

iv. ponds and/or tanks grown in conjunction with seed producing *Spartina alterniflora* (cultivated or wild) have a minimum of 150 feet isolation at all points; and

v. all seed heads have been removed no later than September 1.

d. The department shall have the right to re-inspect, re-sample and re-test ponds and containers that are out-of-tolerance for genetic fingerprinting prior to final certification.

e. Additional inspections may be performed at the discretion of the department at any time without prior notice.

2. Subsequent Years

a. Ponds and containers shall be inspected by department inspectors a minimum of once a year between September 1 and October 15 to ensure that:

i. a single variety is being grown per pond or flooded tank unit;

ii. ponds of different varieties are separated by a minimum of 20 feet isolation at all points;

iii. ponds and/or tanks of different varieties have individual water supplies and drainage capabilities;

iv. ponds and/or tanks grown in conjunction with seed producing *Spartina alterniflora* (cultivated or wild) have a minimum of 150 feet isolation at all points; and

v. all seed heads have been removed no later than September 1.

b. Additional inspections may be performed at the discretion of the department at any time without prior notice.

G. Field Standards

Production Fields/Tanks

| Factor | Breeder | Foundation | Registered | Certified |
|--|---|--|--|--|
| Maximum Age: Production Unit Life From Transplant Date | 3 years | 3 years | 4 years | 4 years |
| Isolation: Minimum Clonal/Seed Separation Between Production Units | | | | |
| Pond Production | Clonal- 20 ft.: Seed- 150 ft. | Clonal-20 ft.: Seed- 150 ft. | Clonal-20 ft.: Seed- 150 ft. | Clonal-20 ft.: Seed- 150 ft. |
| Tank Production | Clonal-1 variety per tank: Seed- 150 ft. | Clonal- 1 variety per tank: Seed- 150 ft. | Clonal- 1 variety per tank: Seed- 150 ft. | Clonal- 1 variety per tank: Seed- 150 ft. |
| Plant Variants | | | | |
| Fingerprints (between 60 and 120 days from date of establishment) | None | 2 plants/sample | 2 plants/sample | Not Applicable |

| Factor | Breeder | Foundation | Registered | Certified |
|--|---------|------------------------------------|------------------------------------|--------------------------------------|
| Visual Inspections | None | 3 plants per 5,400 ft ² | 5 plants per 5,400 ft ² | 10 plants per 5,400 ft ² |
| Harmful Diseases ¹ | None | None | None | None |
| Noxious or Objectionable Weeds ² (Refer to List Below) | None | None | None | ≤ 5 plants per 5,400 ft ² |
| Land Requirements | 1 year | 1 year | 1 year | 1 year |

¹ Diseases seriously affecting quality of seed and transmissible by planting stock

² *Salvinia spp.* (Salvinia), *Cyperus spp.* (Sedge), *Eleocharis spp.* (Spikerush), *Phragmites australis* (Roseau cane), *Typha spp.* (Cattail)

³ *Spartina patens* (Marshhay cordgrass), *Spartina cynosuroides* (Big cordgrass), *Spartina spartinae* (Gulf cordgrass), *Distichlis spicata* (Saltgrass), *Schoenoplectus californicus* (California bulrush), *Paspalum vaginatum* (Seashore paspalum)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:

Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed action.

Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Lester Cannon, Assistant Director of the Seed Commission, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on August 25, 2011. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Seed Labeling; Seed Certifications; Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No direct material effect on governmental costs or savings is anticipated. The requirements for the labeling of coated seed

are being amended to allow seed companies flexibility in providing consumers with needed information required by rule regarding coated seed. Plant clones and clonally propagated plants are being defined because of the increased production of these types of plants. The fee schedule is being revised to meet readability standards and to include fees for certifying certain clonally propagated plant species. Refunds are being limited to 70% of unsold certified seeds to prevent the total cost of certification of unsold seeds from being absorbed by the department. The certifications standards for Harding Grass Seed, Rescue Grass Seed, and Sesame Seed are being repealed and certification standards for California Bulrush, Sea oats, and Smooth Cordgrass are being added.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is anticipated to have a direct material effect on the revenue collection of the Seed Commission of approximately \$1,333 per year. The anticipated inspection fees associated with the certification of clonally propagated California Bulrush, Sea Oats and Smooth Cordgrass of \$477 is based on the inspection fees for the two current producers which includes an estimated time of 3 hours inspection time for each of the three yearly inspections at an hourly rate of \$25.00/hour and approximately 175 miles total travel distance, to and from the point of inspection, at a rate of 48 cents/mile. The certification refund impact is based on the average refund for the past 3 years of \$8,561. Thirty percent of that yearly average is \$856; which will be the estimated yearly increase in revenue to the Department. Currently, seed producers can seek 100% refund of certification fees for unsold product.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The anticipated costs to producers of certified seeds are an aggregate amount equal to the increased revenues being received by the department. Producers of California Bullrush, Sea Oats and Smooth Codgrass are anticipated to spend \$477 annually for inspection fees. Seed manufacturers would lose 30% of potential refunds for unsold certified seed products, estimated at \$856 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Craig Gannuch
Assistant Commissioner
1107#067

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry Forestry Commission

Timber Harvesting Records
(LAC 7:XXXIX.1501 and 1503)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:4278.3, the Department of Agriculture and Forestry is intending on amending these rules and regulations ("the proposed action") to change from four years to six years the period of time that timber harvesting and receiving records must be kept. R.S. 14:67.12 provides that the theft of timber is a felony that is necessarily subject to imprisonment at hard labor. La. Code of Criminal Procedure Art. 572 provides that a felony necessarily punishable by imprisonment at hard labor is subject to a six year limitation for the institution of prosecution. Without timber harvesting and receiving records it is highly improbable that a prosecution for timber theft will be successful. By increasing from four to six years the length of time that timber harvesting records must be kept the ability to initiate and successfully prosecute a timber theft that is older than four years is substantially increased.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 15. Timber Harvesting and Receiving Records

§1501. Loaders Log: Required Information; Distribution; Maintenance of Records

A. A loaders log must be kept on all timber harvesting sites. On any per-unit sale, upon completion of the harvest, the purchaser must provide the timber owner a copy of the loaders log. Loaders log must be maintained for a period not less than six years.

B. - B.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records

A. Scale tickets must be maintained for a period of not less than six years. Information required by the scale ticket regulations may be kept on a load ticket provided that the scale ticket can be cross-referenced to the load ticket. When both are used the load ticket and scale ticket must be maintained for a period of not less than six years.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:

Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed action.

Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Wade Dubea, State Forester, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on August 25, 2011. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Timber Harvesting Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental costs or savings. The proposed action changes from four years to six years the period of time that timber harvesting and receiving records must be kept. This will align requirements for record retention to coincide with the criminal statute of limitations for prosecution of felony theft necessarily punishable by imprisonment at hard labor.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent that loggers, timber haulers and lumber mills pay for storage of records by a third-party entity, or are required to expand current storage space, there may be a minimal increase in costs associated with extending records retention.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Craig Gannuch
Assistant Commissioner
1107#068

Evan Bresseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry
Forestry Commission**

Tree Seedling Prices (LAC 7:XXXIX.301)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:4303, the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission is intending on amending these rules and regulations (“the proposed action”) regarding tree seedling prices. Forestry seedling nursery operations are an ancillary budget operation and all production and operating costs must be covered entirely by revenue generated from seedling sales. Fuel, fertilizer, and chemical costs have risen substantially. Seedling prices are set to reflect, as closely as possible, a break-even pricing structure and to be conducive to the promotion and development of sound reforestation practices in this state. The proposed changes to the seedling prices are designed to bring sales revenue in line with production costs and to establish an efficient and organized pricing structure that is consistent with tree seedling marketing in the state and the region.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 3. Tree Seedlings

§301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings.

| Seedling Prices Per Packet: | | | | |
|---|----------------------|------------|------------|-----------|
| Category | 1000 and Over | 500 | 100 | 50 |
| Superior Loblolly Pine | \$43 | \$32 | N/A | N/A |
| Advanced Generation Pine - Lob and Slash | \$50 | \$37 | N/A | N/A |
| Specialty Pine - Spruce and Superior Virginia | \$87 | \$52 | N/A | N/A |
| Improved Longleaf Pine | \$102 | \$57 | N/A | N/A |
| Containerized Adv/Gen Pine | \$127 | | \$32 | N/A |
| Containerized Sup. Virginia Pine | \$152 | | \$37 | N/A |
| Containerized Imp.Longleaf Pine | \$202 | | \$42 | N/A |
| Specialty Hardwoods | \$305 | \$255 | \$55 | \$45 |
| Hardwood Species | \$220 | \$205 | \$45 | \$35 |

B. The following price discounts will be offered if applicable to any category of seedling.

1. A discount of \$3 per thousand for each order of Superior Loblolly Pine or Advanced Generation Pine-loblolly/slash that exceeds 500,000 seedlings.

2. A discount equal to the difference between the cost of production and seedling price if the cost of production is less than the seedling price.

3. A discount equal to the Office of Forestry seed costs if the seedlings are produced from seed supplied by the customer.

4. A discount to be determined by the state forester with the approval of the commissioner of agriculture and

forestry if there is a surplus of seedlings above planned or expected sales or if the rate of actual sales indicates that there will be a surplus of seedlings at the end of the selling season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 ((December 1996), LR 26:2437 November 2000), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 30:200 (February 2004), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 37:

Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed action.

Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Wade Dubea, State Forester, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on August 25, 2011. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tree Seedling Prices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental costs or savings. The purpose of the proposed rule change is to bring nurseries seedling sales revenue in line with production costs and to establish an efficient and organized pricing structure that is consistent with tree seedling marketing in the state and the region. The proposed action increases the prices charged for tree seedlings, expands categories of seedling sales and associated prices, and changes the discount to a flat rate for orders of over 500,000 seedlings for specific categories of pines. The forestry seedling nursery program is an ancillary budget operation whereby all production and operating costs must be covered entirely by the

revenue generated from seedling sales. The input costs for fuel, fertilizer, and chemicals have risen substantially. The adjusted seedling prices are set to reflect, as closely as possible, a break-even pricing structure conducive to the promotion and development of sound reforestation practices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on self-generated revenues to the auxiliary program from the sale of tree seedlings.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action is anticipated to have a direct material effect on the costs of entities that plant trees for commercial purposes or who are engaged in reforestation efforts in this state through greater volume discounts on the price of seedlings. These persons and groups will obtain an economic benefit by the continuation of a source for tree seedlings that will keep the costs of reforestation lower than if the tree seedlings had to be purchased from out-of-state and shipped into this state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Craig Gannuch
Assistant Commissioner
1107#069

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2010 Annual Incorporation by Reference of
Certain Federal Air Quality Regulations
(LAC 33:III.506, 507, 2160, 3003, 5116,
5122, 5311, and 5901)(AQ319ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.507.B.2. 2160.A, 3003. 5116.A, 5311.A, and 5901.A (Log #AQ319ft).

This Rule is identical to federal regulations found in July 1, 2010, 40 CFR, Part 51, Appendix M, Part 60, 61, 63, 68, 70.6(a), and 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This proposed Rule incorporates by reference (IBR) into the Air regulations, LAC 33:Part III, the following federal regulations in the July 1, 2010 edition of the Code of Federal Regulations (CFR); Part 51, Appendix M, Capture Efficiency Test Procedures; 40 CFR Part 60, New Source Performance Standards; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP); 40 CFR

Part 63, NESHAP for Source Categories; 40 CFR Part 68; Chemical Accident Prevention and Minimization of Consequences; 40 CFR Part 70.6(a), Standard permit requirements; and 40 CFR Part 96, NOx Budget Trading Program and CAIR Nox and SO2 Trading Programs for State Implementation Plans. Any exception to the IBR is explicitly listed in the proposed Rule.

In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current Code of Federal Regulations, July 1, 2010, must be adopted into the Louisiana Administrative Code (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. - B.4. ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The Federal SO₂ Model Rule, published in the *Code of Federal Regulation* at 40 CFR Part 96, July 1, 2010, is hereby incorporated by reference, except for Subpart III-CAIR SO₂ OPT-in Units and all references to opt-in units.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2010. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination,

revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2010, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2010, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October

2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2010, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

| 40 CFR Part 61 | Subpart/Appendix Heading |
|--|--------------------------|
| | *** |
| [See Prior Text in Subpart A – Appendix C] | |

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2010, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2010, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality, Office of Environmental Assessment, or from a public library.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2010.

B. - C.6. ...

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ319ft. Such comments must be received no later than August 25, 2011, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to perry.theriot@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ319ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on August 25, 2011, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Perry Theriot at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

1107#047

NOTICE OF INTENT

Office of the Governor Real Estate Commission

Real Estate (LAC 46:LXVII.Chapters 1-57)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend and repromulgate LAC 46:LXVII, Real Estate, Chapters 1-57.

The proposed amendments represent a complete reorganization of the rules, so as to clarify the requirements for licensees, registrants, and certificate holders and real estate schools and vendors, and to amend certain verbiage, so as to make the purpose, spirit and intent of each amended rule clear, understandable, and efficient.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 1. Authority

§101. Adoption

A. The rules and regulations of the Louisiana Real Estate Commission contained herein have been adopted pursuant to and in compliance with R.S. 37:1430 et seq., and any violation of these rules or regulations, or of any real estate licensing law, shall be sufficient cause for any disciplinary action permitted by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 3. Initial License Applications

§301. Forms

A. Initial license applications shall be in such form and detail as prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

B. Initial license applications shall be classed in the following categories:

1. salesperson;
2. broker—individual;
3. broker—corporation, partnership, limited liability company;
4. broker—branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006), LR 37:

§303. Sponsorship

A. Applicants for a salesperson license shall be sponsored by an active licensed broker and shall submit the Affidavit of Sponsorship Form (Part B) prescribed by the commission as proof of sponsorship.

B. The Affidavit of Sponsorship Form (Part B) may be submitted with the initial license application, but no later than 90 days after passing the license examination.

C. If the Affidavit of Sponsorship Form (Part B) is not received within the prescribed 90 days, an inactive license shall be issued to the salesperson applicant who shall then be subject to the Louisiana Real Estate License Law and the commission rules and regulations regarding inactive licensees. An active license shall not be issued until such time as the Transfer to Active Status Form prescribed by the commission is received.

D. Applicants for a broker license who elect to be sponsored by an active licensed broker shall be exclusively affiliated as an associate broker of the sponsoring broker.

E. Active licensed brokers who elect to sponsor an applicant for a real estate license shall be subject to the duties and penalties prescribed for sponsoring brokers in the Louisiana Real Estate License Law and commission rules and regulations and shall bear the responsibility for the license activity of any sponsored licensee, which shall also include ensuring timely license renewal prior to the practicing of real estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006), LR 37:

§305. Documentation

A. All initial license applications for an individual real estate broker or salesperson license shall be submitted with the following documentation:

1. proof of completion of the real estate instruction hours prescribed by R.S. 37:1437;

a. real estate pre-license instruction hours obtained in other jurisdictions may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;

b. real estate pre-license instruction hours obtained from nationally recognized institutes may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;

c. every applicant for a Louisiana real estate license shall provide proof of at least 30 classroom hours of pre-license instruction that includes the Louisiana Real Estate License Law, rules and regulations of the commission, Louisiana Civil Law, as it relates to real estate, and any other instruction hours the commission deems necessary and appropriate;

2. license history verification from each jurisdiction in which the applicant has held or currently holds a real estate license;

3. verification of passing an equivalent real estate license examination, if the applicant is currently or was previously a resident licensee in another jurisdiction;

4. copy of any trade name or trademark registration issued by the Secretary of State for use by the individual broker or salesperson applicant in real estate license activities.

B. Every application for a corporation, partnership or limited liability company broker license shall be submitted by the designated qualifying broker with the following documentation:

1. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating an individual real estate broker as the qualifying broker;

2. copy of the registration certificate issued by the Secretary of State;

3. copy of any trade name or trademark registration issued by the Secretary of State for use by the corporation, partnership or limited liability company in real estate license activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006), repromulgated LR 37:

§307. Names on Licenses, Registrations and Certificates; Trade Names

A. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors shall be issued in the legal name of the individual person.

B. Licenses, registrations and certificates issued to a corporation, partnership or limited liability company for any purpose shall be issued in the identical name as registered with the Secretary of State. A license, registration or certificate shall not be issued to any corporation, partnership, or limited liability company not registered and in good standing with the Secretary of State.

C. Names on licenses, registrations and certificates issued by the commission shall not include a trade name unless the trade name is registered with the Secretary of State and a copy of the registration is on file at the commission.

D. The name of a licensee whose real estate license has been revoked by the commission shall not appear on any license in a manner that represents, suggests, or implies that the former licensee is licensed by the commission.

E. Any name or trade name used by a licensee, registrant or certificate holder in any manner shall be a clearly identifiable entity that can be distinguished from that of another licensee, registrant or certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 5. Examinations

§501. Authorization

A. The commission shall issue an examination authorization to each eligible applicant. The examination authorization shall be valid for one examination and shall expire 90 days after the date it is issued.

B. It shall be the responsibility of each applicant that has received an examination authorization from the commission to contact the designated national testing service for an appointment to take the examination.

C. An applicant whose examination authorization expires prior to the applicant taking the examination shall receive a new examination authorization upon submission of

a written request and the processing fee prescribed in R.S. 37:1443.

D. The commission shall provide each applicant with a license information bulletin that contains the examination procedures established by the commission and the designated testing service. Failure to comply with the procedures contained in the license information bulletin may result in disqualification from the examination and the forfeiture of all fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006), repromulgated, LR 37:

§503. Disqualification of Applicants

A. Any applicant who copies or communicates or attempts to copy or communicate examination content shall be considered in violation of examination security, which shall be grounds for denial of a license and the forfeiture of all fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006), LR 37:

§505. Prohibited Activities

A. Licensees, certificate holders, registrants, school owners or school directors, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service currently or previously contracted with the commission. Violations of this Section shall be cause for censure, suspension, or revocation of a license, certificate, or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006), repromulgated LR 37:

§507. Failure of Examination

A. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the commission. After one year the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

B. An applicant who does not pass both portions of the examination shall be required to retake the failed portion only; however, the score on the passed portion shall remain valid for a period of one year, after which time the applicant shall be required to retake it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006), LR 37:

Chapter 7. Fees

§701. Duration of Fees

A. Fees for licenses, certificates, and registrations shall cover a period of one calendar year and shall not be prorated.

B. Except as otherwise provided in these rules and regulations all fees submitted to the commission are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006), repromulgated LR 37:

§705. Returned Checks

A. Payment of any fee with a check that is returned by a financial institution, wherein the reason for not paying the check is not a fault of the financial institution, shall be grounds for cancellation of the transaction for which the fee was submitted and/or the censure, suspension, or revocation of a license, registration or certificate.

B. Persons issuing checks that are returned to the commission by a financial institution for any reason shall be notified by certified mail at the most current address of record. Within 10 days from the date of the notification, the person issuing the check shall remit a certified check, cashier's check, or money order, to the commission in the amount of the returned check, plus the processing fee prescribed in R.S. 37:1443.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006), LR 37:

Chapter 9. Renewal of Licenses, Registrations and Certificates

§901. Timely Submission of License, Registration, or Certificate Renewal

A. It shall be the responsibility of the individual licensee, registrant, or certificate holder to ensure that the renewal of an individual license, registration, or certificate has been fully completed and timely submitted to the commission with the required fees.

B. The renewal license of a salesperson or associate broker shall not be issued before the license of the sponsoring broker is renewed.

C. A licensee, registrant, or certificate holder who fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license, registration, or certificate until such time as the license, registration, or certificate is renewed.

D. A licensee whose sponsoring broker fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license until such time as the sponsoring broker has renewed or the licensee transfers to a new sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006), LR 37:

§907. Education Hours Required for Renewal

A. Each licensee shall complete 12 hours of approved course work prior to license renewal. Four of the 12 hours shall be completed in the annual mandatory topic designated by the commission.

B. All initial licensees shall complete 45 post-license hours within 180 days of the initial license date. The hours shall satisfy eight of the 12 continuing education hours required for annual renewal. The remaining four hours shall be in the annual mandatory topic designated by the commission.

C. Licensees shall not receive duplicate credit for attending the same continuing education course from the same vendor in the same year.

D. Education that is not obtained through an approved real estate continuing education vendor shall be submitted to the commission prior to renewal for review and approval towards the annual continuing education requirement prescribed in R.S. 37:1437.C.6(a)(i).

E. Course work completed by licensees through non-approved providers will be considered for credit by the commission on an individual basis.

F. Licensees seeking approval for course work obtained through non-approved providers must apply directly to the Education Division for credit toward the license renewal requirement. Each submission shall include a cover letter that contains the licensee's complete name, mailing address, and telephone number, with the following documentation:

1. certificate of completions;
2. hours completed;
3. date of completion;
4. detailed course content information;
5. verification of successful completion of an examination on course content, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006), LR 37:

Chapter 15. Transfers and Terminations

§1501. Forms

A. A request to terminate sponsorship of a licensee or to transfer a licensee to a new broker shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006), repromulgated LR 37:

§1503. Fee Exemptions

A. A request for license transfer that is submitted within 60 days of any of the following circumstances shall be exempt from the transfer fee or delinquent renewal fee prescribed in R.S. 37:1443:

1. the sponsoring broker has died;
2. the sponsoring broker has failed to renew his license;
3. the license of the sponsoring broker has been suspended or revoked;

4. the license of the sponsoring broker has been transferred to the inactive status;

5. the sponsoring broker elects to discontinue the sponsorship of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006), repromulgated LR 37:

§1505. Purchase or Acquisition of Agencies

A. When a licensed agency purchases or otherwise acquires another licensed agency, the sponsoring or qualifying broker of the acquiring agency shall notify the commission in writing no later than the fifth working day following the date of acquisition.

B. The notice shall specify the date of acquisition and shall request a transfer to the acquiring agency for all licensees sponsored by the acquired agency.

1. The sponsoring broker for the acquired agency shall return the licenses of all sponsored licensees to the commission no later than the fifth working day following the date of acquisition.

2. The commission shall issue new licenses to the acquiring agency for each licensee sponsored by the acquired agency. The effective date of transfer to the acquiring agency shall be the date of acquisition specified in the notification.

C. The notification of acquisition shall certify continuous errors and omissions insurance coverage for all licensees that are transferred to the acquiring agency. If the transfer of licensees necessitates payment to the commission for coverage under the commission group errors and omission insurance policy, a listing of all licensees for which coverage is requested and all applicable fees shall accompany the notification.

D. The sponsoring broker of the acquiring agency shall give written notice to all licensees transferred to the acquiring agency within five working days following the date of acquisition.

E. Any licensee of the acquired agency who elects to transfer from the acquiring agency shall do so in accordance with the provisions of R.S. 37:1441.A and §1501.A of this Chapter.

F. Any licensee of the acquired agency who is terminated by the acquiring agency shall be transferred in accordance with the provisions of R.S. 37:1441.A and §1501.A and 1503.A.5 of this Chapter.

G. The acquiring agency shall provide a written report to the commission on the status of all former licensees of the acquired agency within 15 days following the acquisition.

1. The notification shall include a listing by category that identifies:

a. each licensee that requested the return of their license to the commission;

b. each licensee that is being terminated by the acquiring agency;

c. each licensee that will remain with the acquiring agency.

2. The notification shall include the following documentation and fees:

a. the license of each licensee that will not remain with the acquiring agency;

b. copies of the written notification to and/or from each licensee as required by §1505.D of this Chapter;

c. payment of the transfer fee prescribed in R.S. 37:1443 for each licensee who was sponsored by the acquired agency and who will remain with the acquiring agency;

d. payment of the errors and omissions insurance fee prescribed in §1505.C of this Chapter, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006), LR 37:

§1507. Change of Licensing Status

A. A request to transfer a license from active to inactive status or from inactive to active status shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443, unless exempt as prescribed in §1503 of this Chapter.

B. Corporate, partnership and limited liability company broker licenses shall remain in the active license status.

C. An individual broker that elects to become exclusively affiliated with a sponsoring broker shall submit a request to transfer on forms prescribed by the commission, which shall be accompanied by the fees prescribed in R.S. 37:1443. Prior to submitting the request to transfer, the individual broker shall notify any sponsored licensees of the intended transfer by certified mail and send the associate broker's license or salesperson's license, by hand delivery or by certified or registered mail, to the commission within five days of such notification.

D. A licensee may transfer to inactive status without completing the applicable education requirement; however, the commission shall not transfer the licensee to active status until such time that the education requirement is complete.

E. The post-license education hours may be used to satisfy the continuing education hours, or a portion of the continuing education hours required for active status as follows:

1. one to five years of inactive status—45 hours of post-license education in lieu of the required continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and/or commission rules and regulations within one year prior to the date of the transfer to active status;

2. more than five years of inactive status—45 hours of post-license education and at least 35 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and/or commission rules and regulations within one year prior to the date of the transfer to active status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real

Estate Commission, LR 28:485 (March 2002), amended LR 32:1449 (August 2006), LR 37:

Chapter 17. Termination Responsibilities

§1701. Relinquishment of Business Related Property and Data

A. A licensee whose business relationship with a sponsoring broker has been terminated for any reason shall immediately relinquish all business related property to the sponsoring broker, including:

1. the keys to any and all properties listed with the broker;
2. any documents that in any way pertain to real estate transactions wherein a broker or licensees sponsored by the broker has appeared in a licensing capacity. This does not preclude the licensee from retaining copies of such documents.

B. A sponsoring broker who alleges the failure of a former sponsored licensee to comply with §1701.A of this Chapter shall submit a signed written report of such failure to the commission. The signed report shall constitute a written complaint filed with the commission and shall list the specific business related data and property that was not relinquished to the sponsoring broker. The sponsoring broker shall provide a copy of the report to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1449 (August 2006), repromulgated LR 37:

§1703. Financial Obligations; Commissions and Dues; Disputes

A. The commission shall not intervene or become otherwise involved in employment disputes or disputes pertaining to financial obligations that are the result of a business relationship between a broker and a sponsored licensee or a timeshare developer and timeshare sales registrant, including the payment of commissions and dues to professional organizations. Such disputes shall be settled by the respective parties or by a court of competent jurisdiction.

B. Employment disputes or disputes over financial obligations, commissions, or dues shall not be cause for the failure of a sponsoring broker to return a license or registration to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1449 (August 2006), repromulgated LR 37:

Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names

§1901. Names on Licenses, Registrations and Certificates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42

(January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:0000 (August 2006), repealed LR 37:

§1903. Trade Names

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:830 (April 2002), amended LR 32:0000 (August 2006), repealed LR 37:

Chapter 21. Concurrent Licenses and Registrations

§2101. Broker or Salesperson License; Timeshare Interest Salesperson Registration

A. A broker may be concurrently licensed as an individual and as the designated qualifying broker of one or more corporations, limited liability companies, and/or partnerships.

B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.

C. A real estate license and a timeshare interest salesperson registration shall not be issued concurrently to any person. A broker shall not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1450 (August 2006), repromulgated LR 37:

Chapter 23. Branch Offices

§2301. Branch Office License

A. An office established by a broker or sponsored licensee for conducting any real estate license activity at a separate address from the registered address of the broker, wherein the name and telephone number of the broker or agency is advertised in any way, shall be considered a branch office and shall be licensed as such.

B. An application for a branch office license shall be submitted on the forms prescribed by the commission and accompanied by the fees prescribed in R.S. 37:1443.

C. Every branch office shall be under the direct supervision of a licensed individual broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto. Nothing shall preclude a sponsoring broker from acting as the branch office manager for one or more branch offices.

D. A broker designated as a branch office manager shall be subject to the duties and penalties prescribed for sponsoring brokers in R.S. 37:1430 et seq.; however, this shall not relieve the sponsoring broker of the ultimate responsibility for the branch office operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 32:1450 (August 2006), LR 37:

Chapter 25. Advertising; Disclosures; Representations

§2501. Disclosures and Representations

A. Agreements between brokers to allow property data to be shared and disseminated to clients, customers, or prospective clients, including but not limited to web-based or email multiple listing service property data, IDX or VOW property data does not constitute advertising or advertisement as to the property data shared.

B. All advertising for property listed by or services performed by a licensed individual real estate broker or a licensed corporation, limited liability company, or partnership, and any advertising for property listed by or services performed by a licensed individual real estate broker or a licensed corporation, limited liability company, or partnership by sponsored licensees or employees, shall be under the direct supervision of and approved by the licensed individual real estate broker or designated qualifying broker of the licensed corporation, limited liability company, or partnership.

C. Any trade name used by a licensee, registrant or certificate holder in advertising shall be a trade name that is a clearly identifiable entity that will distinguish itself from other licensees, registrants or certificate holders.

D. All advertising by a licensed salesperson, associate broker, individual real estate broker, or licensed corporation, limited liability company, or partnership shall include their business name, which for the purpose of these rules shall mean the name in which that salesperson, associate broker, individual real estate broker, or licensed corporation, limited liability company, or partnership is on record with the commission as doing business as a licensee of the commission or, in the case of a trade name, that which is registered with the Secretary of State and on record with the commission.

E. A group or team name may be used in an advertisement only with the approval of the sponsoring broker. Any person listed as a group or team member in the advertisement must be a licensee sponsored by the sponsoring broker.

F. In all advertising, the salesperson or associate broker must include the name and telephone number of the sponsoring broker.

G. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

1. The salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name, and which must include the name and telephone number of the sponsoring broker;

2. The salesperson's or associate broker's contact information;

3. A group or team name, as long as the name(s) of the salesperson(s) and/or associate broker(s) are included near the team reference and cannot be construed as that of a company name; and

4. A slogan that may not be construed as that of a company name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1450 (August 2006), LR 37:

§2503. Owner Authorization

A. No broker or licensee sponsored by said broker shall in any way advertise property belonging to other persons as being for sale or rent or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or their authorized attorney in fact.

B. Undivided real estate may be offered for sale or lease with the written consent of the owner of the property to be sold or leased as to his undivided portion of the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§2505. Accuracy in Advertising

A. All advertising shall be an accurate representation of the property advertised. No broker or licensee sponsored by said broker shall use advertising which is misleading or inaccurate or in any way misrepresents any property, terms, value, policies, or services of the business conducted. The advertising shall not include any name or trade name of any franchiser or real estate organization or association of which the licensee is not a member or franchisee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§2507. Advertisements of Residential Property

A. All printed advertisements for the sale or lease of residential real estate shall indicate the month and year the advertisement is printed, published, or distributed. Advertisements printed or published in newspapers, real estate trade publications and commercial magazines and brochures bearing an issue or publication date will be considered in compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§2509. Advertisements by Franchise Organizations

A. Any licensed broker or salesperson affiliated with a franchise organization must disclose to the public that the real estate brokerage firm is independently owned and operated in all advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§2511. Agent Owner-Licensed Agent

A. A licensed broker or salesperson who offers property in which he or she owns any interest as being for sale or rent shall state in any advertising, and on any sign placed on the property, that he or she is a licensed real estate agent.

B. Any licensed broker or salesperson that advertises, or offers to purchase or rent property for his or her own full or

partial interest shall state in any advertisement that he or she is a licensed real estate agent.

C. Including the term "licensed real estate agent" in any advertisement or on any sign shall be sufficient to satisfy this requirement.

D. This Section is not applicable to the sale, rental, or acquisition of property by licensees under a contractual agreement with a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

§2515. Internet Advertising

A. A real estate broker advertising or marketing on a site on the Internet must include the following data on each page of the site on which the advertisement appears:

1. the broker's name or trade name as registered with the commission;
2. the city and state in which the broker's main office or branch office is located.

B. A real estate broker using any Internet electronic communication for advertising or marketing, including but not limited to, e-mail, email discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the broker's name or trade name as registered with the commission;
2. the city and state in which the broker's main office or branch office is located.

C. An associate broker or salesperson advertising or marketing on a site on the Internet must include the following data on each page of the site on which the licensee's advertisement or information appears:

1. the associate broker's or salesperson's name;
2. the name or trade name of the licensed broker or agency listed on the license of the salesperson or associate broker;
3. the city and state in which the broker's main office or branch office is located.

D. An associate broker or salesperson using any Internet electronic communication for advertising or marketing, included but not limited to, e-mail, email discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the associate broker's or salesperson's name;
2. the name or trade name of the licensed broker or agency listed on the license of the salesperson or associate broker;
3. the city and state in which the broker's main office or branch office is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 37:

Chapter 27. Escrow and Trust Accounts

§2701. Resident Broker Requirements

A. A resident broker, including corporations, partnerships and limited liability companies, who accepts any funds on behalf of clients in a real estate sales

transaction shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds received by a broker in connection with the sale of real estate shall be deposited in this account when there is a written contract to buy and sell real estate that has been fully executed and accepted by both buyer and seller.

B. A resident broker, including corporations, partnerships and limited liability companies, engaged in the management of property owned by other persons shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental payments from or on behalf of clients in connection with the management of properties owned by other persons shall be deposited into this account.

C. A resident broker, including corporations, partnerships and limited liability companies, engaged in the collection of rental security or damage deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental security or damage deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006), LR 37:

§2703. Non-Resident Broker Requirements

A. Non-resident brokers shall open and maintain sales escrow checking accounts, rental trust checking accounts, and security deposit checking accounts, as provided in §2701 of this Chapter; however, these accounts shall be opened and maintained in a Louisiana financial institution or a financial institution located in the resident state of the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006), LR 37:

§2705. Change in License Status; Associate Broker and Inactive Broker Requirements

A. Associate brokers are prohibited from opening and maintaining a sales escrow checking account, rental trust checking account, or security deposit trust checking account. All funds received by an associate broker in any real estate

transaction shall be placed in the custody of the sponsoring broker.

B. An associate broker previously licensed as an individual broker or an active broker transferring to inactive status:

1. shall maintain all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts for the limited and specific purpose of completing pending transactions and disbursing all deposits contained therein;

2. shall not deposit additional funds in sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts as of the effective date of affiliation with a sponsoring broker or transfer to inactive status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006), LR 37:

§2707. Branch Office Accounts

A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Louisiana Real Estate Commission, LR 32:1452 (August 2006), repromulgated, LR 37:

§2708. Signatory Rights on Checking Accounts

A. An individual real estate broker shall be an authorized signatory on each sales escrow checking account, rental trust checking account, or security deposit trust checking account and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees and/or employees of the broker as signatories on the accounts shall not relieve the individual real estate broker of this responsibility.

B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees, principals and/or employees of the licensed entity as signatories on the accounts shall not relieve the qualifying broker of this responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006), repromulgated LR 37:

§2709. Additional Accounts

A. Where the interest of the principal parties to a transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker or non-resident broker may open an additional sales escrow checking account, rental trust checking account or

security deposit trust checking account, as prescribed in §§2701 and 2703 of this Chapter, and shall deposit therein all funds received in trust on behalf of the parties to the transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006), repromulgated LR 37:

§2711. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006), repromulgated LR 37:

§2713. Personal Funds in Escrow and Trust Checking Accounts

A. A sum not to exceed \$2,500 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts, and shall not be used for any other purpose.

B. A broker engaged in property management activities may keep funds in excess of \$2,500 in a rental trust checking account for the temporary, limited, and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006), LR 37:

§2715. Withdrawal

A. Funds deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall not be withdrawn for any purposes except:

1. upon the mutual written consent of all parties having an interest in the funds;
2. upon court order;
3. to deposit funds into the registry of the court in a concursus proceeding;
4. to disburse funds upon a reasonable interpretation of the contract that authorizes the broker to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;
5. to return the funds to a buyer at the time of closing;
6. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts;
7. upon approval by the commission in connection with the sale or acquisition of a licensed entity;

9. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

B. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006), LR 37:

§2717. Deposits

A. Funds received in a real estate sales, lease or management transaction shall be deposited in the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006), repromulgated, LR 37:

§2719. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed.

B. Bankruptcy and/or the revocation, suspension, or lapse of a broker license for any reason shall not be cause to close or discontinue maintenance of any sales escrow checking account, rental trust checking account, or security deposit trust checking account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006), repromulgated, LR 37:

§2721. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring broker of the acquiring agency shall notify the commission in writing of the acquisition and the anticipated date of the transfer of trust funds. The notice shall specify the name of the acquired agency and account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter requesting approval to transfer the funds shall be jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency and shall accompany the notification to the commission.

C. The transfer of funds shall not occur without written approval from the commission, as prescribed in §2715.A.9 of this Chapter.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency shall be

forwarded to the commission certifying that all trust funds have been transferred. The letter shall include the following:

1. certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;

2. certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;

3. a listing of all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;

4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.

E. Within 10 days following the transfer of funds, the sponsoring broker of the acquired agency shall close the escrow accounts and trust accounts from which the funds were transferred and shall advise the commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006), repromulgated, LR 37:

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. When a dispute exists in a real estate transaction regarding the ownership or entitlement to funds held in a sales escrow checking account, the broker holding the funds shall send written notice to all parties and licensees involved in the transaction. Within 90 days of the scheduled closing date or knowledge that a dispute exists, whichever occurs first, the broker shall do one of the following:

1. disburse the funds upon the written and mutual consent of all of the parties involved;

2. disburse the funds upon a reasonable interpretation of the contract that authorizes the broker to hold the funds. Disbursement may not occur until 10 days after the broker has sent written notice to all parties and licensees;

3. place the funds into the registry of any court of competent jurisdiction and proper venue through a concursus proceeding;

4. disburse the funds upon the order of a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 34:2422 (November 2007), LR 37:

§2903. Escrow Disbursement Order

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), repealed LR 37:

Chapter 31. Change of Address and/or Telephone Number

§3101. Reporting Change of Address and/or Telephone Number

A. The commission shall be notified in writing within 10 days of any change in the mailing address, physical address, and/or telephone number of a licensee's, certificate holder's, or registrant's business or residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 37:

§3103. Changes in Data Provided by Corporations, Partnerships and Limited Liability Companies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 35. Disclosure by Licensee

§3501. Licensee as Principal in a Real Estate Transaction

A. The license status of a principal in a real estate transaction, whether individually or through an entity in which an interest is held by the licensee, shall be disclosed in writing to all other principals in the real estate transaction prior to entering into negotiations concerning the execution of a real estate contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 37:

Chapter 36. Residential Property Disclosure

§3601. Property Disclosure Document for Residential Real Estate

A. In accordance with R.S. 9:3196 through 9:3200, unless exempted therein, the seller of residential real property shall complete a property disclosure document in a form prescribed by the Louisiana Real Estate commission or a form that contains at least the minimum language prescribed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3195 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 30:1192 (June 2004); amended LR 37:

Chapter 37. Agency Disclosure

§3701. Agency Relationships in Real Estate Transactions

A. Effective March 1, 1998, agency relations in real estate transactions will be governed by Chapter 4 of Code XV of Title 9 of the Louisiana Revised Statutes of 1950 comprised of R.S. 9:3891-3899.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§3703. Agency Disclosure

A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

B. Licensees shall ensure that the pamphlets and forms are the most current versions prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.

C. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time when substantive contact is made between the licensee and customer, i.e. any specific financial qualifications of the customer or the motives or objectives in which the customer may divulge any confidential, personal or financial information, which, if disclosed to the other party to the transaction, could harm the party's bargaining position, when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees at the time when substantive contact is made shall ensure that the recipient signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the signature of the recipient, and the licensee shall retain the signed pamphlet or a copy of the form for a period of five years.

E. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees by email or other form of electronic transmission shall ensure that the recipient acknowledges receipt of the pamphlet or form by a document verifying the time and date of receipt. The licensee providing the pamphlet or form shall retain the signed pamphlet or a copy of the form for a period of five years.

F. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the agency disclosure informational pamphlet receipt or the agency disclosure form, or refuses to provide a document verifying receipt of the pamphlet or form, the licensee shall prepare written documentation that includes the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form, or providing a document verifying receipt of the pamphlet or form. This documentation shall be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 37:

§3705. Dual Agency Disclosure

A. The dual agency disclosure form shall be used by licensees acting as a dual agent under R.S. 9:3897.

B. Licensees shall ensure that the form is the most current version prescribed by the commission and that

reproductions of the form contain the identical language prescribed by the commission.

C. Licensees shall ensure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent. A copy of this documentation shall be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003), amended by the Office of the Governor, Real Estate Commission, LR 32:1455 (August 2006), LR 37:

Chapter 38. Mold Disclosure

§3801. Mold Informational Pamphlets

A. The United States Environmental Protection Agency (EPA) shall be the official source of any mold informational pamphlet approved by the Louisiana Real Estate Commission.

B. A licensee who chooses to deliver mold information to a buyer shall be deemed in compliance with R.S. 37:1470.A(1) if the licensee performs at least one of the following:

1. delivers "*A Brief Guide to Mold, Moisture, and Your Home*" (EPA 402-K-02-003), or any successor thereof, to a residential buyer; or

2. delivers "*Mold Remediation in Schools and Commercial Buildings*" (EPA 402-K-01-001, March 2001), or any successor thereof, to a commercial buyer; or

3. directs a buyer to the mold informational pamphlets maintained on the United States Environmental Protection Agency (EPA) website at <http://www.epa.gov/iaq/molds/index.html>, or any successor thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 30:1477 (July 2004), repromulgated LR 37:

Chapter 39. Presentation of Offers and Counter Offers

§3900. Purchase Agreement Forms

A. The purchase agreement form used by licensees representing the buyer or seller in a residential real estate transaction shall be the *Residential Agreement to Buy or Sell*, or any successor thereof, prescribed by the Louisiana Real Estate Commission.

B. The *Residential Agreement to Buy or Sell*, or any successor thereof, shall be used in accordance with the provisions of R.S. 37:1449.1.

C. The official source of the prescribed purchase agreement form shall be the Louisiana Real Estate Commission website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 33:2423 (November 2007), effective January 1, 2008, amended LR 37:

§3901. Timely Presentation of Offers and Counter Offers

A. All written offers and counter offers for the purchase of real estate shall be presented to all buyers and/or sellers

for their consideration and decision immediately, without delay.

B. The licensee who prepares an offer or counter offer in a real estate transaction shall ensure that the time of day and date the offer or counter offer was signed by the offering party are included in the document.

C. The licensee who presents an offer or counter offer in a real estate transaction shall ensure that the time of day and date the offer or counter offer was accepted, rejected or countered are included in the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), repromulgated LR 37:

§3903. Negotiations in Exclusive Agency Contracts

A. Negotiations concerning property listed exclusively with a broker shall be carried on with the listing broker or agent designated by the listing broker, not the owner, except with the expressed consent of the listing broker.

B. Negotiations with a buyer who has entered into an exclusive buyer agent contract with a licensed broker shall be carried on with the licensed broker, or agent designated by the licensed broker, not the buyer, except with the express consent of the licensed broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§3905. Transactions

A. Designated agents receiving written offers or counter offers in transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.

B. It shall be the responsibility of each of the designated agents to make reasonable efforts to contact and notify the designated agent of the other party of the existence of an offer or counter offer.

1. It shall be the responsibility of the designated agent who transmits or delivers the written offer or counter offer to document the date, time of day, place, and method of delivery.

2. Such documentation as to the date, time of day, place and method of transmission or delivery of the written offer or counter offer may include, but will not be limited to, annotation by the delivering designated agent, a dated and timed facsimile transmission receipt or a dated and timed electronic mail receipt.

3. Such documentation shall be retained pursuant to R.S. 37:1449.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:1087 (July 2003); LR 30:41 (January 2004)), amended by the Office of the Governor, Real Estate Commission, LR 37:

§3907. Rejection of Offers and Counter Offers

A. All written offers and counter offers presented to a seller and/or buyer and not accepted shall be clearly marked as rejected and signed by the seller and/or buyer. In any

circumstance in which a seller and/or buyer refuses to sign a rejected offer or counter offer, the licensee making the presentation of the offer or counter offer shall annotate this fact indicating the time of day and date of the rejection of the offer or counter offer by the seller and/or buyer. A copy of the rejected offer or counter offer signed by the seller and/or buyer, or a copy of the rejected offer or counter offer bearing the annotation of the licensee, shall be provided to the buyer and/or seller, and the rejected offer or counter offer shall be returned to the prospective buyer and/or seller within five days after the signature or annotation is affixed to the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000)), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§3909. Broker's Authority to Reject Offers or Counter Offers

A. In the event the owner (seller) is not available and grants authority to the listing broker to reject an offer or counter offer, the listing broker or a licensee designated by the listing broker shall mark the offer or counter offer as rejected and sign the offer or counter offer as such in lieu of the owner (seller), but the listing broker or licensee designated by the listing broker shall nevertheless forward a copy of the rejected written offer or counter offer to the owner (seller) for his signature acknowledging the rejection of the offer or counter offer. The copy of the rejected offer or counter offer signed by the owner (seller) shall be retained in the files of the listing broker. In the case of a cooperative transaction, the cooperating listing broker shall provide a copy of the rejected offer or counter offer bearing the signature of the owner to the cooperating selling broker within five days after the signed rejection is received from the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000)), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 41. Investigations and Hearings

§4101. Complaints

A. Complaints alleging violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the commission shall bear the signature of the complainant or that of his or her legal representative before any action will be taken thereon by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000)), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4103. Addition of Respondents to Investigations

A. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the commission have been committed by licensees, timeshare registrants, or certificate holders other than the licensee, timeshare registrant, or certificate holder against whom the original complaint was made, the

additional licensees or timeshare registrants may be added as respondents to the investigation in the absence of any written complaint alleging such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000)), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4105. Executive Director May Authorize Investigations and Cease and Desist Orders

A. Upon documented probable cause, the executive director of the Louisiana Real Estate Commission may issue written authorization to investigate apparent violations of the Louisiana Real Estate License Law and/or the Rules and Regulations of the commission.

B. Upon documented probable cause that any or state law or commission regulation has been violated, the executive director of the Louisiana Real Estate Commission may issue a cease and desist order to any unlicensed entity, licensee, registrant, or certificate holder.

C. Upon documented probable cause that any or state law or commission regulation has been violated, the executive director of the Louisiana Real Estate Commission may issue a cease and desist order to any licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000), amended LR 37:

§4107. Adjudicatory Proceedings

A. When, as a result of an investigation, it appears that violations of the Louisiana Real Estate License Law may have been committed by a licensee, registrant or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

1. Informal Adjudicatory Proceedings

a. The complaint may be concluded informally without a hearing by the commission on the recommendation of the hearing examiner and the concurrence of the executive director.

b. A preliminary notice of adjudication will be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act or acts specified and submits a written request that the matter be resolved informally.

c. A hearing officer will be appointed by the executive director to conduct an informal hearing with the respondent.

d. At the informal hearing, no evidence will be presented, no witnesses will be called and no formal transcript of the proceedings will be prepared by the commission. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.

e. Following an admission by the respondent at the informal hearing that violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate License Law. In the written document the respondent must

stipulate to having committed an act or acts in violation of the Louisiana Real Estate License Law or the Rules and Regulations of the commission, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the commission, and the right to judicial appeal of the consent order.

f. If at the informal hearing the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations shall be referred to a formal adjudicatory hearing.

g. The executive director of the Louisiana Real Estate Commission may authorize a respondent to execute a Stipulations and Consent Order before a duly commissioned and qualified notary in lieu of participating in an informal hearing with a Hearing Officer in cases where the sanction for the alleged violation has been previously approved by the commission.

h. If a respondent does execute a stipulations and consent order, the executive director shall submit the document to the commission at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the commission.

i. The actions of the commission relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is considered and at which authorization is granted to the executive director to execute the order in the name of the commission.

j. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the commission.

2. Formal Adjudicatory Proceedings

a. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:1456 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

b. The order issued by the commission pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the commission and entered into the record at the proceedings.

c. The date of entry is the date the order is issued by the commission and entered into the record at the formal adjudicatory proceedings.

d. If a request for rehearing, reopening, or reconsideration of the order of the commission is timely filed and denied by the commission, the order of the commission shall become final on mailing of the notice of the commission's final decision on the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

§4109. Appellate Proceedings

A. Rehearings

1. An order of the commission shall be subject to rehearing, reopening or reconsideration by the commission on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be postmarked or received at the office of the commission

within 10 days from the date of entry of the order rendered by the commission.

2. The request shall be reviewed by the commission attorney for compliance with the Administrative Procedure Act. A finding by the commission attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial of the request.

B. Judicial Review

1. Proceedings for judicial review of an order issued by the commission may be instituted by filing a petition for judicial review in the Nineteenth Judicial District Court in the parish of East Baton Rouge.

2. In the event a request for rehearing, reopening or reconsideration has been filed with the commission, the party making the request shall have 30 days from the final decision on the request within which to file a petition for judicial review.

3. If a request for rehearing, reopening or reconsideration is not filed with the commission, the Petition for Judicial Review must be filed in the Nineteenth Judicial District Court within 30 days after the mailing of the order of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development Real Estate Commission, LR 26:49 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4111. Stay of Enforcement

A. The filing of a petition for judicial review by a respondent licensee does not itself stay enforcement of an order issued by the commission. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000)), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4113. Costs of Adjudicatory Proceedings

A. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the commission may assess the respondent the administrative costs of the proceeding, as determined by the commission. Payment of these costs shall be a condition of satisfying any order issued by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 43. Licensee, Registrant, and Certificate Holder Responsibilities

§4301. Knowledge of the Law

A. It shall be the duty of all licensees, certificate holders, and registrants to have knowledge and be aware of all laws regulating the real estate industry in Louisiana including, but not limited to, these rules and regulations and the Louisiana Real Estate License Law as set forth in Chapter 17, Title 37 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 45. Franchise Operations

§4501. Registration of Franchise Name

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation shall offer for sale, lease, rent, or use in any way, any franchise name to be publicly utilized or used by a licensed Louisiana real estate broker.

B. Any name or trade name used by a franchisor or franchisee shall be a name or trade name that is a clearly identifiable entity that will distinguish it from other franchisors or franchisees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 37:

§4503. Registration of Franchise Operation

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation engaged in a franchise operation of real estate brokerage firms shall operate in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4505. Application for Registration

A. Any person, partnership, limited liability company, or corporation which intends to operate or do business as a franchiser of real estate brokerage firms in Louisiana shall make application to the Louisiana Real Estate Commission for registration. Applications for registration shall contain the following information and supporting documents:

1. name, address, and whether the applicant is a person, partnership, limited liability company, or corporation;

2. partnership and limited liability company—the names and addresses of all partners or principals;

3. corporation—names and addresses of officers and members of the board of directors and the place of incorporation;

4. partnership, limited liability company, or corporation—a certified copy of the articles of incorporation or the document establishing the partnership or limited liability company;

5. a certified, audited financial statement disclosing the current financial condition of the applicant;

6. a statement of the business activities of the applicant, including a description of the franchise agreement to be used in connection with the Louisiana real estate brokers, and a list of the states in which the franchiser is qualified to do and/or is doing business.

B. Upon receipt of the application for registration, the commission may require such additional information as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4507. Agent for Service of Process

A. If the applicant is not a resident of Louisiana, it shall appoint a licensed active Louisiana individual real estate broker to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4509. Annual Registration

A. If the requirements set forth herein are met the commission shall register the franchiser for a period of one year. The franchiser shall then renew each year by furnishing the commission with all information as would modify or change the information previously submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4511. Renewal Requirements

A. Each application for renewal by a franchiser shall be submitted on or before January 15 of each year and shall reflect the information required by the commission for the preceding year.

B. Any application for renewal by the franchiser shall also include the name and address of any licensed Louisiana broker that is operating under a franchise agreement with the franchiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4513. Penalty

A. Any person, partnership, limited liability company, or corporation which operates in Louisiana as a franchiser of real estate brokerage firms, without the specific authority to do so as granted by the Louisiana Real Estate Commission, shall be subject to a penalty of the refusal by the commission to allow said person, partnership, limited liability company, or corporation to operate or do business in Louisiana for a period of at least one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4515. Violations of Law

A. The commission shall have the power to withdraw any registration and/or issue a cease and desist order, after a

hearing, to any franchiser that is subject to these rules and regulations, upon determination that any federal or state law or commission regulation has been or will be violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 47. Waiver of Renewal Requirements

§4701. Veteran Waiver

A. Licensees who are inducted into military service or those licensees in the military who are transferred out of state shall, upon furnishing appropriate evidence of their honorable service, be entitled to renewal of their licenses, without penalty, provided application is filed within six months following discharge. The provisions of this Section shall extend to spouses of persons described hereinabove who were licensed at the time of such induction or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 49. Reciprocity

§4901. Licensing

A. The commission may enter into a reciprocal agreement with the appropriate authority of any other state to permit any resident of that other state who is licensed there as a real estate broker or salesperson to obtain an equivalent Louisiana non-resident license and engage in the real estate business in Louisiana if that other state agrees to similarly grant a non-resident license to any Louisiana resident broker or salesperson and permit the licensee to engage in the real estate business in that other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§4903. Requirements for License

A. Any person residing in and licensed as a real estate broker or salesperson in a state whose appropriate authority has entered into a reciprocal agreement with the commission shall be granted an equivalent non-resident license by the commission upon applying and complying with the following requirements:

1. providing the commission with sufficient proof of his licensing by his resident state;
2. paying all fees prescribed for an equivalent Louisiana resident license;
3. filing an irrevocable appointment of agent for service of process with the commission appointing the executive director as the licensee's agent for service of process in all matters arising out of or in conjunction with any real estate activities conducted by the licensee in Louisiana;
4. corporation—procuring a certificate of authority to do business in Louisiana from the Louisiana Secretary of State and providing the commission with a copy; and

5. partnership or limited liability company—procuring a certificate of registry as a foreign partnership from the Louisiana Secretary of State and providing the commission with a copy.

B. A license applicant who has been a resident of Louisiana for not more than 90 days may be considered by the commission as a non-resident for purposes of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

§4905. Non-resident Licensee

A. The non-resident licensee is bound, in all respects, by the provisions of the Louisiana Real Estate License Law (R.S. 37:1431 et seq.) and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000)), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 51. Out-of-State Broker Cooperation

§5101. Broker Cooperation

A. A Louisiana broker may cooperate with a licensed broker of another state in the sale, exchange, purchase, rental, leasing, or management of real property located in Louisiana within the limits provided in the Louisiana Real Estate License Law and rules and regulations of the commission under the following conditions.

1. The sale, exchange, purchase, rental, leasing, or management of Louisiana real property shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the out-of-state broker. All advertising of any kind must contain the names of both the Louisiana licensed broker and the out-of-state broker. The out-of-state broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.

2. Any funds collected on behalf of others shall be maintained in the Louisiana broker's sales escrow checking account, rental trust checking account or security deposit trust checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

3. In each instance herein where a Louisiana broker enters into a cooperating agreement with an out-of-state broker for the sale, exchange, purchase, rental, leasing, or management of Louisiana real property, the Louisiana broker must file one copy of a cooperating agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperating agreement must be filed for each separate transaction. This agreement must contain verbiage wherein both the Louisiana broker and the out-of-state broker agree to sign all written reports and contracts and comply with the Louisiana Real Estate License Law and rules and regulations of the commission in all respects.

4. Any fee or commission received as a result of a cooperative transaction shall be paid to the Louisiana broker

who will, in turn, compensate the out-of-state broker. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

§5103. Referral Fees

A. A licensed broker in this jurisdiction may divide or share a real estate commission with a licensed broker in another jurisdiction whenever the licensed broker in the other jurisdiction acts only as a referral agent who is not involved in the actual negotiations, execution of documents, collections of rent, management of property, or other real estate brokerage activity in a real estate transaction which involves more than the mere referral of a client or customer to the licensed broker of this jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5105. Jurisdiction over Out-of-State Activities

A. The commission shall have the power to impose any sanction permitted by R.S. 37:1430 et seq., on any licensee of this jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another jurisdiction without first having been properly licensed in that jurisdiction or otherwise having fully complied with that jurisdiction's laws regarding real estate brokerage.

B. It shall be the duty of every licensee, registrant, and certificate holder to notify the commission within 10 days by registered or certified mail or hand delivery of any sanction imposed on the licensee, registrant, or certificate holder by another jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 53. Real estate schools

§5301. Approval of schools

A. This Chapter shall apply to real estate schools seeking approval to conduct a course of education in real estate pre-license subjects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1455 (August 2006), LR 37:

§5303. Certifications; Applications and Procedures

A. Any individual or entity desiring to conduct business in this state as a real estate school shall file an application for certification with the commission.

B. The application shall be in such form and detail as prescribed by the commission and shall be accompanied by all documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.

C. The commission shall approve or deny an application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

D. The commission may deny an application for certification as a real estate school for any of the following reasons.

1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.

2. An application contains a false statement of material fact.

3. A professional license or certification held by an applicant has been revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1455 (August 2006), LR 37:

§5305. Surety Bonds

A. Applicants for certification as a real estate school shall submit proof of a 10 thousand dollar (\$10,000) surety bond issued by an insurance company that is authorized to conduct business in Louisiana.

B. Bonds shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of students who attend real estate courses offered by the real estate school.

C. Bonds shall remain effective and in force throughout the certification period of the real estate school.

D. Proof of bond renewal shall be provided to the commission annually.

E. Failure to maintain a bond shall be cause for revocation or suspension of a certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002), LR 29:2073 (October 2003), LR 32:1456 (August 2006), LR 37:

§5307. Certificates of Authority; initial and renewal certifications

A. The certification to operate as a real estate school shall be issued in the form of a certificate of authority and shall include an assigned certification number that shall be included in all advertisements of approved courses and on all forms, documents, and reports filed with the commission.

B. A certificate of authority shall not be issued or renewed for any real estate school applicant that holds a real estate broker license and whose school is designed, intended, and/or primarily used for instruction of the broker's future salesperson or broker affiliates.

C. A certificate of authority for an initial application that is submitted and approved after October 31 may be issued effective January 1 of the following year.

D. A certificate of authority shall be issued for a maximum period of one calendar year and shall expire

annually on December 31 unless an application for renewal is submitted.

E. Failure to renew a certificate of authority by December 31 shall result in the automatic suspension of all course approvals issued under the certificate of authority. The commission shall not accept any pre-license education courses for credit, if the courses were offered after the expiration of the certificate of authority.

F. Applications for delinquent renewal of a certificate of authority shall not be accepted by the commission after January 31. Failure to renew an expired Certificate of Authority during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any real estate school that becomes ineligible to renew a Certificate of Authority shall apply as an initial applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006), LR 37:

§5309. Colleges and Universities, Vocational-Technical Schools, and School Boards

A. All Louisiana state and private colleges and universities that offer a real estate course as part of a regular curriculum are exempt from obtaining a certificate of authority; however, if courses are offered through a continuing education division, the college or university shall be required to comply with the provisions of this Chapter. State vocational-technical schools and parish schools boards that provide courses in real estate shall be required to apply for a certificate of authority and shall meet the requirements of a real estate school.

B. The designation of "college" or "university" shall not be used in any manner by a real estate school, unless the school has met the standards and qualifications of such, and is approved by the state agency having such jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:53 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006), LR 37:

§5311. Designated School Director; Duties

A. All real estate schools shall designate a director, whose duty it shall be to ensure that the operations of the school, and all training locations, adhere to the requirements of the Louisiana Real Estate License Law and the rules and regulations of the commission, and who shall be held responsible to the commission for any violations thereof. The commission shall be notified in writing within 10 days if the designated director for a real estate school is changed.

B. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the commission to all staff, instructors, and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:53 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006), LR 37:

§5313. Facilities and Inspections

A. Real estate schools shall provide adequate space, seating, equipment, and instructional material to accommodate the number of enrolled students.

B. The commission may inspect any facility used by a real estate school at any time during regular business hours.

C. Real estate schools shall be subject to periodic audits and review, as determined by the commission, to ensure that courses are conducted in accordance with the provisions set forth in this Chapter and R.S. 37:1460. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.

D. If the real estate school is found deficient in any part of this Section, the commission shall prepare a report specifying the areas of deficiency.

E. Any real estate school that receives a report of deficiencies shall correct the deficiencies by the date designated by the commission and shall submit a report to the commission that outlines the corrective action.

F. Failure to respond to a report of deficiencies, in accordance with the deadline designated by the commission, may result in payment of a fine or the suspension or revocation of the certificate of authority for any school found to be in violation of this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006), LR 37:

§5315. Record Keeping

A. Real estate schools shall maintain accurate and properly indexed records on all students for at least five years after course completion and shall produce those records for inspection upon request of the commission. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

B. Real estate schools shall maintain the following records on each student:

1. complete name and address;
2. total classroom hours taken and course title;
3. dates of attendance;
4. test scores or pass/fail indications;
5. method of completion;
6. copy of student contract.

C. Real estate schools shall provide any student who requests it with a duplicate copy of his/her course completion records. The real estate school shall determine any fee associated with providing the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006), LR 37:

§5317. Tuition, Fees, and Contracts

A. Each real estate school shall enter into a written contract with each student that shall clearly set forth the tuition and fees charged by the school for a specific course of instruction and the school refund policy.

B. A copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after both parties sign the contract.

C. Any additional fees charged for supplies, materials, or required books shall be clearly itemized in the school contract, and such supplies, materials, or books shall become the property of the student upon payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006), LR 37:

§ 5319. Pre-license Instructors; Initial and Renewal Applications; \Guest Lecturers

A. No person shall act as pre-license instructor at any real estate school, and no real estate school shall hire or otherwise permit any person to act as a pre-license instructor for the school, unless that person has been certified as such by the commission. Certification as a pre-license instructor shall automatically qualify an instructor as a post-license and continuing education instructor.

B. The application to become certified as a pre-license instructor shall be in such form and detail as prescribed by the commission and shall be accompanied by all documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.

C. Applicants for a pre-license instructor certification shall provide proof of instructor experience and shall have satisfied at least one of the following qualifications:

1. bachelor's degree with a major in real estate from an accredited college or university;
2. bachelor's degree from an accredited college or university and at least two years experience in real estate brokerage;
3. real estate broker license and a minimum of five years experience in the area of proposed instruction;
4. juris Doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of proposed instruction;
5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university;
6. any qualifications determined by the commission to be the equivalent of at least one of the qualifications prescribed in Paragraphs 1-5 of this Section, or any combination thereof.

D. Upon a determination by the commission that a pre-license real estate instructor applicant has met the minimum requirements, as prescribed in §5319.C.1-6, the applicant shall be required to pass the real estate pre-license instructor assessment examination specified by the commission. The application shall not be considered complete, and a certification number shall not be issued, until such time that the applicant submits the examination results to the commission.

E. The commission shall approve or deny a pre-license instructor application within 45 calendar days after it is received. Incomplete applications, or a request for additional information, may be a cause for delay beyond 45 calendar days.

F. The commission may deny an application for certification as a pre-license instructor if:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;
2. an application contains a false statement of material fact;
3. a professional license or certification held by an applicant has been revoked;
4. the applicant fails to meet the minimum requirements prescribed in Section 5319.C.1-6;
5. the applicant fails to meet the qualifying score on the pre-license instructor assessment examination.

G. A pre-license instructor certificate shall be issued for a maximum period of one calendar year and shall expire annually on December 31, unless an application for renewal is submitted.

1. Renewal of a pre-license instructor certificate shall require annual completion of 12 hours of approved continuing education during the current certification period.

The 12 hours shall include four hours in the mandatory topic prescribed by the commission.

2. Completed continuing education hours shall not include actual instruction hours.

H. Failure to renew a pre-license instructor certificate by December 31 shall result in the following action:

1. Approval to provide real estate instruction shall be automatically suspended;
2. The commission shall not accept any education courses for credit if the courses were instructed after the expiration of the pre-license instructor certificate;
3. Delinquent applications for renewal of a pre-license instructor certificate shall not be accepted by the commission after January 31. Failure to renew during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any pre-license instructor that becomes ineligible to renew shall be required to apply as an initial applicant.

I. A guest lecturer shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;
2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;
3. a real estate licensee with at least five years experience in the area of proposed instruction.

J. Guest lecturers shall not instruct any pre-license course pertaining to the Louisiana Real Estate License Law or the commission rules and regulations.

K. Guest lecturers shall not provide more than two presentations of pre-license education for a certified real estate school in a calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real

Estate Commission, LR 32:1457 (August 2006), LR 34:1614 (August 2008), LR 37:

§5321. Prohibitions

A. It shall be prohibited for any real estate brokerage firm to operate a real estate school under the same legal entity as the real estate brokerage firm.

B. Any activity that is designed to influence or solicit a pre-license education student to work under the sponsorship of any real estate broker shall be considered recruiting and is prohibited while on the premises of a real estate school.

C. A real estate school shall not provide the name(s) of any licensee or student, whether potential or enrolled, to anyone other than the Louisiana Real Estate Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006), LR 37:

§5323. Change of Address

A. The commission shall be notified within 10 calendar days after any change in the business address or telephone number of any real estate school and the residence or business address or telephone number of any owner, director or instructor thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 28:487 (2002), LR 32:1457 (August 2006), LR 37:

§5325. School Advertising

A. Advertising by real estate schools shall not be false or misleading.

B. Advertisements shall state that the school is certified by the Louisiana Real Estate Commission and shall include the school certificate of authority number.

C. The commission may require a real estate school to furnish proof of any advertising claims. The commission may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and shall be paid for by the real estate school.

D. Certified real estate schools shall not guarantee the passing of the state real estate licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5327. Investigations and Hearings

A. The commission shall have the authority on its own motion, or following receipt of a complaint, to investigate any real estate school to determine compliance with the Louisiana Real Estate License Law and the rules and regulations of the commission.

B. If an investigation by the commission determines that a violation has occurred, the commission shall follow the provisions of R.S. 37:1456 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5329. Suspension or Revocation of a School Certificate of Authority or Pre-license Instructor Certification

A. The commission shall have the authority to impose fines, suspend, or revoke a school certificate of authority or pre-license instructor certification for the following acts committed by a school owner, director, or pre-license instructor:

1. violating any rule or regulation promulgated by the commission;

2. obtaining or attempting to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service currently or previously contracted with the commission;

3. having been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge;

4. refusal to appear or testify under oath at any hearing held by the commission;

5. falsely certifying hours of attendance for any student;

6. having a salesperson, broker, or timeshare interest salesperson license suspended or revoked by the commission;

7. recruiting students or knowingly allowing others to use classroom facilities to discuss sponsorship or potential licensees for any real estate brokerage firm;

8. failure of a real estate school to enter into a written/electronic contract with any student;

9. failure of a real estate school director to inform pre-license instructors on changes to the Louisiana Real Estate License Law or commission rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Real Estate Commission, LR 37:

§5331. Pre-license Education Courses Offered by Real Estate Schools

A. Salesperson pre-license education courses offered by real estate schools shall be structured in the following manner:

1. Real Estate 101—salesperson 90-hour course that shall include:

a. real estate principles and practices;

b. Louisiana real estate license law;

c. commission rules and regulations;

d. law of agency, as contained in Title 9 of the Louisiana Revised Statutes;

e. civil law, as it pertains to real estate transactions.

B. Broker pre-license education courses offered by real estate schools shall be structured in the following manner:

1. Real Estate 201—90-hour course on basic real estate fundamentals;

2. Real Estate 202—30-hour course that shall include, and be limited to, the following topics:

a. Louisiana real estate license law;

b. commission rules and regulations;

c. law of agency, as contained in Title 9 of the Louisiana Revised Statutes;

d. civil law, as it pertains to real estate transactions;

e. ethics and professionalism;

3. Real Estate 203—mandatory 30-hour course on broker responsibilities.

C. It shall be the responsibility of the real estate school to amend each course as necessary to provide for any applicable law or rule change that is enacted during the course approval period. A fee shall not be required when a real estate course is amended to accommodate law or rule changes.

D. In addition to pre-licensing courses, any state certified real estate school may offer post-license and continuing education courses provided that the school applies for and receives approved continuing education vendor status. No additional initial or renewal fees will be required of the school; however, filing fees for each additional course approval request will be required as provided in R.S. 37:1443. A separate Louisiana Real Estate Commission vendor number will be assigned to the school upon compliance with post-license and/or continuing education vendor requirements.

E. Real estate schools shall not issue pre-license education credit for attendance at post license education courses or continuing education courses.

F. Real estate schools shall not incorporate post-license education with pre-license education instruction.

G. Real estate schools shall not incorporate continuing education with pre-license education instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5333. Methods of Instruction; Classroom Training, Distance Education

A. Classroom training that is led by an instructor and held in a physical location, or delivered via a network, may be used to present pre-license courses and shall be in such format and detail as prescribed by the commission.

B. Distance education, for the purpose of this Chapter, shall mean any of the following methods of instruction:

1. interactive Internet-based instruction;
2. combination courses.

C. Combination courses, for the purpose of this Chapter, shall mean any distance education course that includes supplemental classroom instruction or assistance. Combination courses shall be registered with the commission as distance education and shall follow all guidelines established in this Chapter for the approval of distance education. Combination courses shall be clearly advertised as distance education. Classroom time for all instruction or assistance portions of a combination course shall be reported to the commission in accordance with §5337 of this Chapter.

D. Real estate schools that offer distance education courses shall apply for course approval as follows.

1. Distance education courses shall be submitted to the commission for content approval prior to any course offering.

2. Distance education courses that have been approved by the commission for course content shall be submitted to the Association of Real Estate License Law Officials (ARELLO) for certification of the delivery method prior to any course offering. Loss of ARELLO certification for courses approved under this Section shall automatically suspend commission approval of the course content.

3. Colleges and university academic credit courses for distance learning shall not be required to be Association of Real Estate License Law Officials (ARELLO) approved if part of a college or university curriculum. Any other distance learning courses offered to the general public outside of a curriculum program shall be ARELLO approved.

E. Final examinations for distance education courses shall consist of multiple choice questions with four possible answers (a, b, c and d) as follows:

1. a minimum of 20 questions for each two hours of continuing education credit; or

2. a minimum of 150 questions for each post licensing final exam;

3. the examination that a student submits for grading shall include a signed and dated statement that the student has personally completed the course and examination.

F. Real estate schools shall certify students as successfully completing a course only if the student completes any written assignments and passes the required examination on course content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5335. Certificates of Completion

A. Real estate schools shall issue certificates to students immediately upon completion of the course. Certificates shall contain the following information:

1. complete name of the real estate school and the certificate of authority number;
2. name of the student;
3. course title and level completed;
4. number of credit hours completed;
5. date of course completion;
6. signature of authorized school representative;
7. acknowledgment of student's successful completion of examination;
8. indication of delivery method.

B. Certificates of completion will not be accepted from any real estate school that is not in good standing with the commission on the date that the certificate is issued.

C. In lieu of the required certificate of completion, the commission may accept college or university transcripts that reflect the completion of real estate related courses approved by the commission. Such transcripts shall be issued by the college or university registrar and shall include the course title and number, the date of completion, and the final grade.

D. Colleges or universities that do not issue transcripts for courses completed through a division of continuing education shall provide a certificate of completion to students who successfully complete a course of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5337. Course Reporting Schedules and Attendance

A. Classroom course reporting schedule reports shall be submitted in such form and detail as prescribed by the commission no less than 10 days prior to the course.

B. Attendance verification reports shall be submitted in such form and detail as prescribed by the commission within 30 days after completion of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

Chapter 55. Real Estate Vendors; Post-licensing and Continuing Education

§5501. Real estate Vendor Approval; Applications and Procedures

A. This Chapter shall apply to real estate education vendors seeking approval to conduct a course of education in real estate post-license and/or continuing education subjects.

B. Any individual or entity desiring to conduct business in this state as a real estate education vendor shall file an application for certification with the commission.

C. The application shall be in such form and detail as prescribed by the commission and shall be accompanied by all documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.

D. The commission shall approve or deny a real estate education vendor application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

E. The commission may deny an application for certification as a real estate education vendor for any of the following reasons.

1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.

2. An application contains a false statement of material fact.

3. A professional license or certification held by an applicant has been revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006), LR 37:

§5503. Surety Bonds

A. Applicants for certification as a real estate education vendor shall submit proof of a five thousand dollar (\$5,000) surety bond issued by an insurance company that is authorized to conduct business in Louisiana.

B. Bonds shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of students who attend real estate courses offered by the real estate education vendor.

C. Bonds shall remain effective and in force throughout the certification period of the real estate education vendor

D. Proof of bond renewal shall be provided to the commission annually.

E. Failure to maintain a bond shall be cause for revocation or suspension of a certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1458 (August 2006), LR 37:

§5505. Real Estate Vendor Certifications; Initial and Renewal Certificates

A. The commission shall issue a real estate education vendor certificate to all applicants approved under this Chapter.

B. The commission shall assign a certificate number that shall be included in all advertisements of approved courses and on all forms, documents, and reports filed with the commission.

C. A vendor certification for an application that is submitted and approved after October 31 may be issued effective January 1 of the following year.

D. A vendor certification shall be issued for a maximum period of one calendar year and shall expire annually on December 31 unless an application for renewal is submitted.

E. Failure to renew a vendor certification by December 31 shall result in the automatic suspension of all course approvals issued under the certification, and the commission shall not accept any post-license education or continuing education courses for credit, if the courses were offered after the expiration of the certification.

F. Applications for delinquent renewal of a vendor certification shall not be accepted by the commission after January 31. Failure to renew an expired vendor certification during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any real estate vendor that becomes ineligible to renew a vendor certification shall apply as an initial applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1458 (August 2006), LR 37:

§5507. Designated Contact Person; Duties

A. All real estate education vendors shall designate a contact person, whose duty it shall be to ensure that the operations of the vendor, and all training locations, adhere to the requirements of the Louisiana Real Estate License Law and the rules and regulations of the commission, and who shall be held responsible to the commission for any violations thereof.

B. The commission shall be notified in writing within 10 days if the designated contact person for a real estate education vendor is changed.

C. The designated contact person shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the commission to all staff, instructors, and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1458 (August 2006), LR 37:

§5509. Inspections and Monitoring of Approved Vendors and Courses

A. Real estate education vendors shall provide adequate space, seating, equipment, and instructional material to accommodate the number of enrolled students.

B. The commission may inspect any facility used by a real estate education vendor at any time during regular business hours.

C. Real estate education vendors shall be subject to periodic audits and reviews, as determined by the commission, to ensure that courses are conducted in accordance with the provisions set forth in R.S. 37:1460 and this Chapter. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.

D. If the real estate education vendor is found deficient in any part of this Section, the commission shall prepare a report specifying the areas of deficiency.

E. Any real estate education vendor that receives a report of deficiencies shall correct the deficiencies by the date designated by the commission and shall submit a signed, written report to the commission that outlines the corrective action.

F. Failure to respond to a report of deficiencies, in accordance with the deadline designated by the commission, may result in payment of a fine, or the suspension or revocation of any certificate for a vendor found to be in violation of this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006), LR 37:

§5511. Record Keeping

A. Real estate education vendors shall maintain accurate and properly indexed records on all students for at least five years after course completion and shall produce those records for inspection upon request of the commission. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

B. Real estate education vendors shall maintain the following records on each student:

1. complete name, as licensed with the commission, and address;
2. course title, as approved by the commission;
3. credit hours received;
4. dates of attendance;
5. test scores or pass/fail indications.

C. Real estate education vendors shall provide any student who requests it with a duplicate copy of his/her course completion records. The real estate education vendor shall determine any fee associated with providing the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006), LR 37:

§5513. Post-license and Continuing Education

Instructors; Initial and Renewal Applications; Guest Lecturers

A. The application to become certified as a real estate post- license/continuing education instructor shall be in such form and detail as prescribed by the commission and shall be

accompanied by any documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.

B. Applicants for a post- license/continuing education instructor certification shall provide proof of instructor experience and shall have first satisfied at least one of the following qualifications:

1. college or university professor with a minimum of two years experience in real estate, finance, business, economics, or related field;
2. specialist with a degree or designation and experience teaching the subject(s) of proposed instruction;
3. licensed real estate professional with a minimum of five years experience in the area of proposed instruction;
4. any qualifications determined by the commission to be the equivalent of at least one of the qualifications prescribed in Paragraphs 1-4 of this Subsection, or any combination thereof.

C. Upon a determination by the commission that a real estate instructor applicant has met the minimum requirements, as prescribed in Subsection B of this section, the applicant shall be required to pass the real estate continuing education instructor assessment examination specified by the commission. The application shall not be considered complete until such time that the applicant submits the examination results to the commission.

D. The commission shall approve or deny a post—license/continuing education instructor application within 45 calendar days after it is received. Incomplete applications, or a request from the commission for additional information, may be cause for delay beyond 45 calendar days.

E. The commission may deny an application for certification as a post- license/continuing education instructor for any of the following reasons.

1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.

2. An application contains a false statement of material fact.

3. A professional license or certification held by an applicant has been revoked.

4. The applicant fails to meet the minimum requirements prescribed in Paragraphs B.1-4 of this Section.

5. The applicant fails to meet the qualifying score on the continuing education instructor assessment examination.

F. A post-license/continuing education instructor certificate shall be issued for a maximum period of one calendar year and shall expire annually on December 31, unless an application for renewal is submitted.

1. Renewal of a post-license/continuing education instructor certificate shall require completion of 12 hours of approved continuing education during the current certification period. The 12 hours shall include four hours in the current mandatory topic prescribed by the commission.

2. Completed continuing education hours shall not include actual instruction hours.

G. Failure to renew a post- license/continuing education instructor certificate by December 31 shall result in the following action.

1. Approval to provide real estate instruction shall be automatically suspended.

2. The commission shall not accept any education courses for credit if the courses were instructed after the expiration of the post-license/continuing education instructor certificate.

3. Delinquent applications for renewal shall not be accepted by the commission after January 31. Failure to renew during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any post-license/continuing education instructor that becomes ineligible to renew shall be required to apply as an initial applicant.

H. A post-license/continuing education guest lecturer shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;

2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;

3. a real estate licensee with at least five years of experience in the area of proposed instruction.

I. Guest lecturers shall not instruct any courses pertaining to the Louisiana Real Estate License Law, the commission rules and regulations, or the mandatory continuing education topic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5517. Change of Address

A. The commission shall be notified within 10 calendar days of any change in the business address or telephone number of any real estate education vendor and the residence or business address or telephone number of any owner, designated contact person, or instructor thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5519. Vendor Advertising

A. Advertising by estate education vendors shall not be false or misleading.

B. Advertisements shall state that the vendor is certified by the Louisiana Real Estate Commission and shall include the vendor certification number.

C. The commission may require a real estate education vendor to furnish proof of any advertising claims. The commission may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and shall be paid for by the real estate education vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5521. Investigations and Hearings

A. The commission shall have the authority on its own motion, or following receipt of a complaint, to investigate any real estate education vendor to determine compliance with the Louisiana Real Estate License Law and the rules and regulations of the commission.

B. If an investigation by the commission determines that a violation has occurred, the commission shall follow the provisions of R.S. 37:1456 and the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5523. Suspension or Revocation of a Vendor or Instructor Certification

A. The commission may impose fines, suspend or revoke a vendor or post-license/continuing education instructor certification for the following acts committed by a vendor, employee, guest lecturer, or certified post-license/continuing education instructor:

1. violating any rule or regulation promulgated by the commission;

2. having been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge;

3. refusal to appear or testify under oath at any hearing held by the commission;

4. falsely certifying hours of attendance for any student;

5. having a salesperson, broker, or timeshare interest salesperson license suspended or revoked by the commission;

6. failure of a real estate vendor contact person to inform post-license/continuing education instructors on changes to the Louisiana Real Estate License Law or commission rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§ 5525. Course Approval; Applications and Procedures

A. Courses approved by the commission for instruction by real estate education vendors shall be classed in the following categories:

1. post-license education;

2. continuing education.

B. Real estate education vendors shall file a course approval application with the commission for each course that will be offered for credit toward renewal of a real estate license. Real estate vendors shall not advertise as approved by the commission, or otherwise schedule or offer a course, prior to receiving course approval from the commission.

C. The course approval application shall be in such form and detail as prescribed by the commission and shall be accompanied by the processing fee prescribed in R.S. 37:1443.

D. The commission shall approve or deny a course approval application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

E. Each course approved by the commission shall remain active for three years and shall expire on December 31 of the third year unless a renewal application for course approval is filed with the commission. The commission shall not accept credit for a non-renewed course that is presented after the date of expiration.

F. The commission shall assign a tracking number to each approved course that shall be used with the approved course title on all forms, documents, reports, and/or correspondence filed with the commission.

G. Real estate education vendors shall not amend the title or outline of any approved course without first obtaining the written approval of the commission.

1. All requests to amend a course shall be accompanied by the new course outline and the processing fee prescribed in R.S. 37:1443.

2. It shall be the responsibility of the real estate education vendor to amend each course as necessary so as to provide for any applicable law or rule change that is enacted during the course approval period. A fee shall not be required when a real estate course is amended to accommodate law or rule changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5527. Post License Education Courses

A. Post-license education courses offered by real estate education vendors shall be developed in accordance with the content outline prescribed by the commission.

B. No person shall act as a post-license education instructor for any real estate education vendor, and no real estate education vendor shall hire, or otherwise permit, any person to act as a post-license instructor, unless that person has been certified as a real estate post-license education instructor by the commission, or is an approved guest lecturer.

C. Real estate education vendors shall not issue credit for any post-license education course unless the student has passed an examination on the course content. Post-license hours shall be secured through and reported by one approved vendor.

D. Post-license education courses shall be open to all licensees regardless of broker affiliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5529. Continuing Education Courses

A. No person shall act as a continuing education instructor for any real estate education vendor, and no real estate education vendor shall hire, or otherwise permit, any person to act as a continuing education instructor, unless that person has been certified as a real estate continuing education instructor by the commission, or is an approved guest lecturer.

B. Real estate education vendors may offer continuing education course topics that include, but are not limited to, appraisal, finance, taxes, zoning, Louisiana Real Estate License Law/commission rules and regulations, environmental quality, property management, and federal laws affecting real estate such as HUD and fair housing regulations.

C. Continuing education courses offered by real estate education vendors shall be a minimum of two hours. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a

required part of the course. Time devoted to breakfasts, luncheons, dinners, or other refreshments shall not be counted as instruction time.

D. Licensees shall not receive duplicate credit for attending the same continuing education course from the same vendor in the same year. It shall be the responsibility of the real estate education vendor to advise licensees that credit shall not be awarded for completing duplicate courses within the same license period.

E. Course work completed by licensees through non-approved providers will be considered for credit by the commission on an individual basis. Licensees seeking approval for course work obtained through non-approved providers shall apply for such approval by submitting documentation of attendance, hours completed, date of attendance, and detailed course content information.

F. Continuing education courses shall be open to all licensees regardless of broker affiliation

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5531. Mandatory Courses

A. The commission shall mandate an annual four-hour continuing education course topic and curriculum that licensees shall complete during each license period as a requirement for license renewal.

B. Real estate education vendors shall not offer the mandatory course for credit unless a course approval application has been approved by the commission.

C. There shall be no substitute curriculum for the mandatory course, including any previously approved course that is similar in name and/or content, without prior commission approval.

D. Any instructor used in the presentation of the mandatory course shall hold a current instructor certification by the commission and shall have first completed the annual *Train the Trainer* instructor workshop developed specifically for each mandatory course topic. Completion of a prior year *Train the Trainer* instructor workshop shall not be substituted for completion of the current year workshop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5533. Methods of Instruction

A. Live classroom training that is led by an instructor and held in a physical location, or delivered via a network, may be used to present post-license and continuing education courses and shall be in such format and detail as prescribed by the commission.

B. Distance education, for the purpose of this Chapter, shall mean any of the following methods of instruction:

1. interactive Internet-based instruction;
2. correspondence courses.

C. Correspondence courses, for the purpose of this Chapter shall be in such format and detail as prescribed by the commission for post-license or continuing education distance learning credit hours only. Passage of an examination on course content is a requirement for all correspondence courses.

D. Real estate education vendors that offer distance education courses shall apply for course approval as follows.

1. Distance education courses shall be submitted to the commission for content approval prior to any course offering.

2. Distance education courses that have been approved by the commission for course content shall be submitted to the Association of Real Estate License Law Officials (ARELLO) for certification of the delivery method prior to any course offering. Loss of ARELLO certification for courses approved under this Section shall automatically suspend commission approval of the course content.

E.1 Final examinations for distance education courses shall consist of multiple choice questions with four possible answers (a, b, c and d) as follows:

a. a minimum of 20 questions for each two hours of continuing education credit; or

b. a minimum of 150 questions for each post-license final exam.

2. The examination that a student submits for grading shall include a signed and dated statement that the student has personally completed the course and examination.

F. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post-license or continuing education credit.

G. Real estate education vendors shall not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached.

H. Real estate education vendors shall not grade any examination that does not contain the signed certification required in Paragraph E.2 of this Section.

I. Real estate education vendors shall certify students as successfully completing a course only if the student completes any written assignments and passes the required examination on course content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5535. Certificates of Completion

A. Real estate education vendors shall issue certificates containing the following information to students:

1. complete name of the real estate education vendor and the vendor certification number;

2. name of the student as licensed with the commission;

3. real estate license number;

4. number of credit hours completed;

5. course title as approved by the commission

6. date of course completion;

7. signature of authorized representative;

8. indication of delivery method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5537. Course Reporting; Schedules and Attendance

A. Real estate education vendors shall submit continuing education and post-license education course schedules and attendance verification reports to the commission.

B. Course schedules shall be received by the commission at least 10 calendar days prior to the beginning of each month.

C. Course schedules and attendance verification reports shall be submitted in such form and detail as prescribed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5539. Non-certified Real Estate Education Vendors

A. Non-certified real estate education vendors may request commission approval to offer continuing education courses under the following conditions.

1. Non-certified real estate education vendors shall comply with the course approval and course reporting procedures specified in Section 5537.A-C of this Chapter.

2. No more than two course approvals may be granted to each non-certified real estate education vendor within a one-year period.

3. Each course approval issued to a non-certified real estate education vendor shall be limited to a maximum of three presentations in locations that shall be specified in the request for approval. The commission shall not grant credit for any course presentation that exceeds the maximum specified in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Real Estate Commission, LR 37:

Chapter 57. Timeshares

§5701. Requirements for Processing

A. Every applicant for initial registration as a timeshare developer or timeshare salesperson shall submit to the commission a fully completed application on a form provided by the commission accompanied by the prescribed fees.

B. Every application for an initial timeshare salesperson registration shall contain the name of the developer for whom the applicant will be working following registration and shall be signed by a designated representative of that developer.

C. Applicants for registration as timeshare developers shall submit the following to the commission at the time of filing for registration:

1. sample copies of the conveyance and financing forms and, when applicable, copies of the public offering statement and a certified copy of the timeshare declaration;

2. when applicable, an affidavit, signed by the chief executive officer or managing partner of the developer and by any natural person having an ownership interest exceeding 10 percent in either the developer or entities which control it, that states under penalty of perjury that the affiant has read the timeshare declaration and all attached documents, and that they are true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5703. Receipt of Application

A. Every application shall be received and approved by the commission prior to the date the applicant engages in the business of selling timeshare interests within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5705. Bonds

A. At the time of initial application, each applicant for registration as a timeshare interest salesperson shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of \$10,000 in accordance with R.S. 37:1437.1(E).

B. A new bond or a renewal or continuation of the original bond shall be required for each registration period. If a continuous bond is filed, a new or renewal bond is not required as long as the continuous bond remains in force and effect.

C. In the event a bond is revoked or canceled by the surety company, the timeshare registration of the named bondholder shall automatically be suspended until such time as a new bond is filed with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (2000), amended by the Office of the Governor, Real Estate Commission, LR 37:

§5707. Fees

A. Registration fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5709. Automatic Suspension for Non-Renewal

A. If a developer's timeshare registration is suspended or revoked, no sales of timeshare interests in that project may be conducted by that developer, by any timeshare sales registrant working for that developer, or by any licensed real estate broker or salesperson working with that developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5711. Terminations

A. A developer who wishes to terminate an association with a sales registrant shall return the registrant's sales registration certificate to the commission along with a properly executed transfer form as provided by the commission.

B. A sales registrant who wishes to terminate an association with a developer shall request, in writing, that the developer return that registrant's sales registration certificate to the commission, and shall sign the appropriate transfer form as proof of the request.

C. A sales registrant may transfer to another developer upon submission of a property executed transfer form signed by both the registrant and a designated representative of the developer. This transfer request shall be accompanied by a new bond and appropriate transfer fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5713. Advertising

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61, repealed by the Office of the Governor, Real Estate Commission, LR 37:

§5715. Establishment of Escrow Account

A. Where applicable, the developer of each timeshare plan that has timeshare property located in Louisiana, or who maintains a sales office in Louisiana for the sale of timeshare interests, shall establish interest bearing escrow accounts in the developer's name at a financial institution in the parish where the timeshare property or sales office is located, in accordance with R.S. 9:1131.16 and 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5717. Affidavit of Authority

A. Every developer of a timeshare plan shall submit to the commission notarized affidavits attesting to the existence, location and account number of the developer's escrow accounts. The affidavits shall authorize and empower the commission or its representatives to examine, inspect, and/or copy the developer's escrow accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5719. Escrow Account Closing

A. Every developer shall notify the commission of his intention to close an escrow account at least 10 days prior to the intended closing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5721. Maintaining an Escrow Account

A. Upon revocation, suspension or lapse of registration, a developer shall nevertheless continue to maintain all escrow accounts until such time as all monies have been disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5723. Change of Address

A. Every registrant shall report in writing any change in business or residence address or telephone number to the

commission within 10 days of the change. Such notification shall be by hand delivery or certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5725. Payment to Non-Registrants

A. Timeshare registrants, in accordance with the provisions of R.S. 37:1446(A), shall not offer or pay a fee or any other compensation of any kind to any unregistered person for the purpose of obtaining any timeshare solicitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

§5727. Developer Records

A. Every developer shall retain, for at least five years, readily available and properly indexed copies of all documents which in any way pertain to the sale or solicitation of timeshare interests in which he has acted as a developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:61 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the July 20, 2011 *Louisiana Register*: The proposed rules have no known impact on family, formation, stability, or autonomy.

Public Comments

Interested parties are invited to submit written comments on the proposed regulations through August 3, 2011 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Real Estate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units. The proposed amendments represent a complete reorganization of existing Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Real estate instructors will likely incur an indeterminable increase in costs as a result of the mandated continuing education increase from 8 to 12 hours. The 12 hours of continuing education for instructors matches the number of

hours required on real estate licensees. The proposed administrative Rules will prevent real estate instructors from utilizing teaching time to meet instructor continuing education requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment in that all applicants, licensees, registrants, and certificate holders must adhere to the same policies, procedures, and standards specified in the proposed rules.

Bruce Unangst
Executive Director
1107#070

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Administration of Botox and Dermal Fillers (LAC 46:XXXIII.132)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to create LAC 46:XXXIII.132. No preamble has been prepared.

This Notice of Intent was originally published in the February 20, 2011 edition of the *Louisiana Register*. However, the board received many comments and conducted two public hearings to receive the comments, none of which were acceptable. Due to the fact that this Notice of Intent was separated from the original publication, the board is repromulgating this Notice of Intent.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§132. Administration of Botox and Dermal Fillers

A. The board does not issue permits for the administration of Botox or dermal fillers. The board does not regulate dental materials of any type. However, due to the rising utilization of these materials by dentists, the board sets forth the following requirements:

B. Before administering Botox or dermal fillers, a dentist must have either received satisfactory training in a dental institution accredited by the Commission on Dental Accreditation of the American Dental Association or successfully completed a continuing education course of instruction that includes at a minimum the following:

1. patient assessment and consultation for Botox and dermal fillers;
2. indications and contraindications for these techniques;
3. safety and risk issues for botulinum neurotoxin/dermal fillers injectable therapy;
4. proper preparation and delivery techniques for desired outcomes;
5. enhancing and finishing esthetic dentistry cases with dermal fillers;

6. botulinum neurotoxin treatment of temporomandibular joint syndrome and bruxism;

7. knowledge of adverse reactions and management and treatment of possible complications;

8. patient evaluation for best esthetic and therapeutic outcomes;

9. integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans;

10. live patient hands-on training including diagnosis, treatment planning, and proper dosing and delivery of Botox and dermal fillers.

C. Botox and dermal fillers shall only be administered in dental offices using universal precautions as required by the Federal Centers for Disease Control.

D. All dental auxiliaries are prohibited from administering either Botox or dermal fillers.

E. Continuing education courses shall be approved or sponsored by one or more of the entities set forth in LAC 46:XXXIII.1615.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Public Comments

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this Notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Administration of Botox and Dermal Fillers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in Fiscal Year 2011-12 for publication of the proposed Rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this Rule change will neither increase nor decrease revenues for the Louisiana State Board of Dentistry.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the new LAC 46:XXXIII.132, if dentists wish to administer Botox or other dermal fillers, they will be required to take appropriate training courses and will be responsible for any costs associated therewith. However, dentists with the

appropriate training may increase their income because of the additional services they may then provide to their patients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

C. Barry Ogden
Executive Director
1107#075

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Family Planning Waiver
Recipient Qualifications
(LAC 50:XXII.2301)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXII.2301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement a family planning research and demonstration project under the authority of a Section 1115 waiver (*Louisiana Register*, Volume 32, Number 8). This waiver, called the TAKE CHARGE Family Planning Waiver, provides family planning services to women from age 19 through 44 years old with income at or below 200 percent of the federal poverty level.

The department now proposes to amend the provisions of the Family Planning Waiver in order to establish provisions that will allow waiver participants in the Family Planning Waiver and the Greater New Orleans Community Health Connection (GNOCHC) Waiver to receive health care services through both waivers simultaneously.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 23. Eligibility

§2301. Recipient Qualifications

A. Family planning waiver services shall be provided to women who:

1. - 2. ...

3. are not eligible for inclusion in any other Medicaid program or State Children's Health Insurance Program (SCHIP), with the exception of participants in the Greater New Orleans Community Health Connection Waiver; and

4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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 or autonomy as described in R.S. 49:972 by ensuring continued access to primary care and family planning services.

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, August 24, 2011 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: Family Planning Waiver Recipient Qualifications

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 \$246 (\$123 SGF and \$123 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 not affect revenue collections other than the federal share of the promulgation costs for FY 11-12. It is anticipated that \$123 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 proposed Rule amends the provisions of the Family Planning Waiver in order to establish provisions that will allow waiver participants in the Family Planning Waiver and the Greater New Orleans Community Health Connection (GNOCHC) Waiver to receive family planning services through both waivers simultaneously. It is anticipated that implementation of this proposed Rule will not have economic cost or benefits to directly affected persons or non-governmental groups for FY 11-12, FY 12-13, and 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
1107#098

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Hospital Licensing Standards
Outpatient Off-Site Campuses
(LAC 48:I.9303)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9303 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2100-2115. 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 promulgated a Rule that established new regulations governing the licensing of hospitals (*Louisiana Register, Volume 29, Number 11*). The department amended the provisions of the November 20, 2003 Rule governing hospital licensing standards to establish provisions for crisis receiving centers (*Louisiana Register, Volume 36, Number 3*). The department now proposes to amend the provisions governing hospital licensing standards to allow continued operation of a state owned or operated off-site campus when its main hospital ceases to do business.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93.

Accredited—the approval by the Joint Commission on Accreditation of Healthcare Organizations, American Osteopathic Association, or Det Norske Veritas.

* * *

Off-Site Campus—all premises on which hospital services (inpatient and/or outpatient) are provided and that are not adjoining to the main hospital buildings or grounds. Each off-site campus of a hospital shall be licensed as a part of the main hospital. An off-site campus shall be located within 50 miles of the main hospital campus.

a. Exception. If a state-owned or operated hospital ceases to do business and surrenders its license, the offsite campus(es) of that hospital which provided outpatient services may be licensed as an off-site campus(es) of another state-owned and/or operated hospital, provided that the off-site campus(es) is located within 100 miles of the main

ospital campus of the state-owned and/or operated hospital.

* * *

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:

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 assuring that patients continue to have access to services rendered by off-site campuses of main hospitals that cease to operate.

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, August 24, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hospital Licensing Standards
Outpatient Off-Site Campuses**

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 \$246 (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 offsite campuses will continue to be state-operated facilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to amend the provisions governing hospital licensing standards to allow continued operation of a state owned or operated off-site campus when its main hospital

ceases to do business (we anticipate that only one hospital will qualify during the current fiscal year). It is anticipated that implementation of this proposed Rule will not have economic cost to hospitals for FY 11-12, FY 12-13, and 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
1107#099

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Intermediate Care Facilities for Persons
with Developmental Disabilities
Reimbursement Rate Reduction
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

As a result of the allocation of additional funds by the legislature during the 2009 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICFs/DD) to increase the per diem rates (*Louisiana Register*, Volume 36, Number 7).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/DD to reduce the per diem rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule governing the reimbursement methodology for non-state ICFs/DD in order to exclude certain facilities from the rate reduction (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 and the December 20, 2010 Emergency Rules.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with
Developmental Disabilities
Chapter 329. Reimbursement Methodology
Subchapter A. Non-State Facilities
§32903. Rate Determination

A. - J. ...
 K. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) shall be reduced by 2 percent of the per diem rates on file as of July 31, 2010.

1. Effective for dates of service on or after December 20, 2010, non-state ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be excluded from the August 1, 2010 rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), amended LR 37:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

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, June 29, 2011 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: Intermediate Care Facilities for
Personswith Developmental Disabilities Reimbursement
Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic savings of \$1,517,497 for FY 11-12, \$1,540,759 for FY 12-13, and \$1,586,981 for FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 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 reduce federal revenue collections by approximately \$3,432,147 for FY 11-12, \$3,557,713 for FY 12-13, and \$3,664,445 for FY 13-14. It is anticipated that \$164 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 August 1, 2010 and the December 20, 2010 emergency Rules, amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) in order to reduce the reimbursement rates and to exclude certain facilities from the rate reduction (approximately 20 facilities). It is anticipated that implementation of this proposed Rule will reduce program expenditures in the Medicaid Program by approximately \$4,949,972 for FY 11-12, \$5,098,472 for FY 12-13, and \$5,251,426 for FY 13-14.

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. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to non-state ICFs/DD. The reduction in payments may adversely impact the financial standing of these facilities and could possibly cause a reduction in employment opportunities.

Don Gregory
 Medicaid Director
 1107#100

Gregory V. Albrecht
 Chief Economist
 Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Laboratory and Radiology Services
 Reimbursement Rate Reduction
 (LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost

containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also repealed the provisions governing the reimbursement for outpatient hospital laboratory services from this Chapter as these provisions have been amended and repromulgated in LAC 50:V.Chapter 57. The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a result of the promulgation of the November 20, 2010 final Rule governing laboratory and radiology services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the January 1, 2011 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the reimbursement rates for laboratory services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

J. Effective for dates of service on or after January 1, 2011, the reimbursement rates for laboratory services shall be reduced by 2 percent of the fee amounts on file as of December 31, 2010.

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 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4334. Radiology Services

A. - G. ...

H. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

I. Effective for dates of service on or after January 1, 2011, the reimbursement rates for radiology services shall be reduced by 2 percent of the fee amounts on file as of December 31, 2010.

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 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4335. Portable Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for portable radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

G. Effective for dates of service on or after January 1, 2011, the reimbursement rates for portable radiology services shall be reduced by 2 percent of the fee amounts on file as of December 31, 2010.

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 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4337. Radiation Therapy Centers

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

G. Effective for dates of service on or after January 1, 2011, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 2 percent of the fee amounts on file as of December 31, 2010.

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 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

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, August 24, 2011 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.

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.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Laboratory and Radiology Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$2,107,595 for FY 11-12, \$2,139,919 for FY 12-13, and \$2,204,117. 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. 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 reduce federal revenue collections by approximately \$4,766,801 for FY 11-12, \$4,941,216 for FY 12-13, and \$5,089,452. It is anticipated that \$246 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 November 20, 2010 and the January 1, 2011 emergency rules, amends the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (approximately 5,215 procedure codes). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$6,874,888 for FY 11-12, \$7,081,135 for FY 12-13, and \$7,293,569 for FY 13-14.

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. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the reimbursement rates paid for laboratory and radiology services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1107#101

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - G. ...

H. Effective for dates of service on or after January 1, 2011, the reimbursement rates for emergency ambulance

transportation services shall be reduced by 2 percent of the rate on file as of December 31, 2010.

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 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), amended LR 36:2564 (November 2010), LR 37:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - E. ...

F. Effective for dates of service on or after January 1, 2011, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by 2 percent of the rate on file as of December 31, 2010.

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 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

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, August 24, 2011 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: Medical Transportation Program Emergency Ambulance Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$223,131 for FY 11-12, \$226,693 for FY 12-13 and \$233,494 for FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 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 12-13. 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 reduce federal revenue collections by approximately \$504,835 for FY 11-12, \$523,450 for FY 12-13 and \$539,153 for FY 13-14. It is anticipated that \$164 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 12-13. 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 January 1, 2011 emergency rule, amends the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (approximately 72,000 service units). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$728,294 for FY 11-12, \$750,143 for FY 12-13 and \$772,647 for FY 13-14.

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. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the reimbursement rates paid for emergency medical transportation services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1107#102

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.571)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.571 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy

management, disease management, cost sharing, and other measures as permitted under federal law.” 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, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part. XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter D. Reimbursement

§571. Non-Emergency Ambulance Transportation

A. - D. ...

E. Effective for dates of service on or after January 1, 2011, the reimbursement rates for non-emergency ambulance transportation services shall be reduced by 2 percent of the rates in effect on December 31, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

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, August 24, 2011 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.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Non-Emergency Ambulance Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$77,141 for FY 11-12, \$78,439 for FY 12-13 and \$80,793 for FY 13-14. It is anticipated that \$246 (\$123 SGF and \$123 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 12-13. 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 reduce federal revenue collections by approximately \$174,615 for FY 11-12, \$181,123 for FY 12-13 and \$186,556 for FY 13-14. It is anticipated that \$123 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 12-13. 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 January 1, 2011 emergency rule, amends the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates (approx. 827,000 units of service per year). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$252,002 for FY 11-12, \$259,562 for FY 12-13 and \$267,349 for FY 13-14.

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. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the reimbursement rates paid for non-emergency ambulance transportation services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1107#103

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
Reimbursement Rate Reduction
(LAC 50:XXVII.573)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XXVII.573 as a result of the promulgation of the November 20, 2010 final Rule governing non-emergency medical transportation services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation Subchapter D. Reimbursement

§573. Non-Emergency, Non-Ambulance Transportation

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for non-emergency, non-

ambulance medical transportation services shall be reduced by 4.5 percent of the rates in effect on July 31, 2010.

1. Friends and family providers are excluded from the rate reduction.

E. Effective for dates of service on or after January 1, 2011, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 2 percent of the rates in effect on December 31, 2010.

1. Friends and family providers are excluded from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

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 Emergency Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, August 24, 2011 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: Medical Transportation Program Non-Emergency Medical Transportation Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$188,155 for FY 11-12, \$191,186 for FY 12-13 and \$196,921 for FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 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 12-13. 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 reduce federal revenue collections by approximately \$425,736 for FY 11-12, \$441,460 for FY 12-13 and \$454,704 for FY 13-14. It is anticipated that \$164 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 12-13. 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 August 1, 2010 and January 1, 2011 emergency rules, amends the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (approx. 312,000 service units per year). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$614,219 for FY 11-12, \$632,646 for FY 12-13 and \$651,625 for FY 13-14.

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. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the reimbursement rates paid for non-emergency medical transportation services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1107#104

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**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.Chapter 100)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 100 in the Medical Assistance Program as authorized by R.S. 36:254. 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 provisions governing the nursing facility minimum licensing standards for the Nurse Aide Training and Competency Evaluation Program to establish a three-year pilot program which allowed nursing facilities to utilize medication attendants certified (MACs) to administer medications to residents, and established a registry and minimum qualifications for the certification and functions of the MACs (*Louisiana Register*, Volume 34, Number 7).

The department now proposes to amend the provisions governing the nursing facility licensing standards for the

Nurse Aide Training and Competency Evaluation Program to revise these provisions in order to regulate and assure compliance by all entities that have been approved by the department to have a training program.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 100. Nurse Aide Training and Competency Evaluation Program

Subchapter A. General Provisions

§10001. Definitions

* * *

Abuse—

1. - 2.c. ...

3. the willful infliction of injury, unreasonable confinement, intimidation or punishment which results in or which could reasonably be expected to result in physical or mental harm, pain or mental anguish. Lack of awareness or knowledge by the victim of the act which produced or which could have reasonably been expected to produce physical or mental injury or harm shall not be a defense to the charge of abuse.

*Approved Setting—*a provider entity licensed and regulated by the department, a school serving children with special needs, or a correctional facility in which the certified nurse aide performs nursing or nursing-related duties.

*Certified Nurse Aide—*an individual who has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR) 483.151-483.154, or has been determined competent as provided in 42 CFR 483.150(a) and (b), and is listed as certified and in good standing on Louisiana's nurse aide registry.

* * *

*Trainee—*an individual who is at least 16 years old and is enrolled in a nurse aide training and competency evaluation program, whether at a nursing facility or educational facility, with a goal of becoming a certified nurse aide.

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 32:2074 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter B. Training and Competency Requirements

§10011. General Provisions

A. All nurse aide training and competency evaluation programs shall be approved by the department.

B. - B.3. ...

C. Nursing facilities may provide the classroom and clinical training portion of the program but the competency evaluation shall be administered by an entity approved by the department.

D. Each training and competency evaluation program shall:

1. - 4. ...

E. Clinical instruction shall be conducted in a nursing home or a hospital-based skilled nursing facility unit.

F. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for

correcting deficiencies shall be eliminated from participation.

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 Services Financing, LR 37:

§10013. Certification Criteria for Nursing Professionals, Nursing Students and Military Personnel

A. Individuals applying for nurse aide certification shall complete the application form designated by the department and submit documentation as deemed necessary by the department to determine eligibility.

B. Registered nurses (RNs) and licensed practical nurses (LPNs) who have completed online courses shall provide an official transcript to determine eligibility to test.

1. Repealed.

C. Registered nurse (RN) and licensed practical nurse (LPN) students shall provide an official transcript and any other documentation needed to determine eligibility.

D. Registered nurses (RNs) and licensed practical nurses (LPNs) who trained in other countries, and are requesting certification to the registry, shall be required to test.

E. RN and LPN students who have completed a nursing course, or have completed sufficient course content to meet eligibility criteria for certification, shall be required to test if their request for certification is received within three years of taking the nursing course.

F. An individual who trained in another state but did not test, shall test and certify to the registry in that state before transferring to Louisiana, or shall retrain and test in Louisiana.

G. Military personnel shall provide a copy of their military transcript and any other documentation needed to determine eligibility.

H. Licensed nurses on probation or suspended status shall provide documentation as deemed necessary by the department to determine eligibility.

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 Services Financing, LR 37:

§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 37:

§10017. Coordinators, Instructors and Trainers

A. Program Coordinator. Every nurse aide training program shall have a program coordinator who provides general supervision of the training received by the nurse aide trainees.

1. The program coordinator shall be a registered nurse (RN) and shall have the following experience and qualifications:

a. - b. ...

2. The program coordinator shall supervise no more than two nurse aide training programs simultaneously and shall be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

B. Instructors. Instructors shall be RN's or LPN's and shall hold a current Louisiana nursing license. Licensed practical (vocational) nurses, under the general supervision of the coordinator, may provide classroom and clinical skills instruction and supervision of trainees if they have two years of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience is normally obtained through employment in:

a. a nursing facility;

b. a geriatrics department;

c. a chronic care hospital; or

d. other long-term care setting.

e. - m. Repealed.

2. Experience in resident care, supervision and staff education is preferred.

3. The ratio of instructors to trainees in clinical training shall not exceed 1:10 and the ratio of instructors to trainees in the classroom shall not exceed 1:23.

C. Program Trainers. Qualified resource personnel from the health field may participate as program trainers as needed for discussion or demonstration of specialized care procedures.

1. Qualified resource personnel shall have a minimum of one year of experience in their field and shall be licensed, registered and/or certified, if applicable, and may include:

a. registered nurses;

b. licensed practical/vocational nurses;

- c. pharmacists;
- d. dietitians;
- e. social workers;
- f. sanitarians;
- g. fire safety experts;
- h. nursing home administrators;
- i. gerontologists;
- j. psychologists;
- k. physical and occupational therapists;
- l. activities specialists; and
- m. speech/language/hearing therapists.

2. All program trainers shall have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

D. 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 32:2076 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10019. Training Program Responsibilities

A. Each nurse aide trainee shall be at least 16 years old.

1. - 2. Repealed.

B. Each nurse aide trainee shall be clearly identified as a trainee at all times during clinical training. Identification shall be recognizable to residents, family members, visitors and staff.

C. Each nurse aide training program shall provide all trainees with an orientation of the clinical training site of at least four hours that is not included in the required 80 hours of core curriculum. The orientation shall include but is not limited to:

- 1. an explanation of the facility's organizational structure;
- 2. the facility's policies and procedures;
- 3. discussion of the facility's philosophy of care;
- 4. description of the resident population;
- 5. employee rules; and
- 6. what constitutes abuse, neglect, and misappropriation, including the consequences imposed if found guilty of such.

D. The facility/school shall not accept a nurse aide trainee into a training program until the facility or school conducts a statewide criminal history background check which includes a check of the national sex offender public registry.

1. A trainee shall not be eligible to participate in a training program if convicted or found guilty by a court of law of:

- a. abusing, neglecting or mistreating the elderly or infirm as defined by R.S. 40:2009.20;
- b. misappropriating a resident's property; or
- c. has not had a finding of abuse, neglect, mistreatment or misappropriation of a resident's property placed on the Nurse Aide Registry or the Direct Service Worker Registry.

2. If a criminal history background check cannot be legally obtained by a training program, trainees may obtain a certified copy of their criminal history from the Louisiana State Police by requesting that a "right to review" be conducted.

E. Trainees shall not be prohibited from completing training due to:

- a. criminal history that is not related to abuse, neglect or misappropriation; or
- b. the Louisiana State Police not being able to complete a criminal history check due to the age of the trainee.

F. For facility-based training programs, the facility shall assure that trainees do not perform any care and services for which they have not trained and been found proficient by the instructor. Trainees providing services to residents shall be under the general supervision of a licensed nurse approved to work in a nurse aide training program.

1. Trainees enrolled in facility-based training programs, shall complete training and test within 60 days of hire.

2. Nursing facilities may provide the classroom instruction and clinical instruction but the competency evaluation shall be administered by an entity approved by the department.

3. A class roster as well as the beginning and ending dates of each training class shall be available for review by the department at all times. This shall be available for both classroom and clinical instruction.

G. Providers shall issue a certificate of completion to nurse aide trainees who successfully complete a training and competency evaluation program. The certificate shall contain the following:

- 1. the name of the Nurse Aide Training Program or School;
- 2. the date the program began;
- 3. the date the program ended;
- 4. the notation that this is a "DHH Approved Program";
- 5. the name of the instructor; and
- 6. the signature of the coordinator and the date signed

H. Any entity responsible for the nurse aide training and competency evaluation program shall report to the Nurse Aide Registry within 30 days the names of all individuals who have satisfactorily passed the competency evaluation.

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 32:2077 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10021. Competency Evaluation

A. Written or oral examinations shall be provided by an entity or organization approved by the department. The examination shall reflect the content and emphasis of the training program and shall be developed in accordance with accepted educational principles.

B. The written evaluation component shall be given in English unless the aide will be working in a facility in which the predominant language is something other than English. In this case, the examination may be taken in the written

predominant language used in the facility, dependent upon the availability of a translator who shall maintain the integrity of the examination.

C. A substitute examination, including an oral component, shall be developed for those nurse aides with limited literacy skills. This examination shall contain all of the content that is included in the written examination and shall include a written reading comprehension portion that shall determine competency to read job-related information.

D. Trainees of non-facility based programs shall take the competency evaluation (through skills demonstration and either written or oral examination) within 30 days after completion of the training program.

E. Trainees shall be provided a maximum of three opportunities within one year following completion of the training program to successfully complete the competency evaluation.

1. - 2. Repealed.

F. The evaluation program shall be developed and conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies listed in §10015.C.

1. - 7. Repealed.

G. For the skills training component of the evaluation program, each nurse aide training program shall develop a performance record of duties/skills taught which shall verify proficiency attained.

1. The performance record shall consist of, at a minimum:

- a. a listing of the duties/skills expected to be learned in the program; and
- b. space to note satisfactory or unsatisfactory performance of each task including:
 - i. the date of the performance; and
 - ii. the name of the instructor supervising the performance.

2. At the completion of the nurse aide training program, the nurse aide and his/her employer shall receive a copy of this record. If the individual did not successfully perform all duties/skills on this performance record, he/she shall receive training for all duties and skills not satisfactorily performed until satisfactory performance is confirmed.

H. The skills demonstration of the competency evaluation program shall consist of a minimum performance of five tasks, all of which are included in the performance record. These five tasks shall be selected for each aide from a pool of evaluation tasks which have been ranked according to degree of difficulty. A random selection of tasks shall be made with at least one task from each degree of difficulty being selected. Such evaluation tasks may include, but are not limited to:

1. making an occupied bed;
2. taking and recording a resident's blood pressure, temperature, pulse and respirations;
3. orienting a new resident to the facility;
4. performing a range of motion exercises;
5. giving a bed bath;
6. positioning a resident on his/her side; and
7. responding to a demented resident who is calling out, yelling or indicating distress or anger.

I. Task-related evaluation items shall be developed to evaluate communication and psychosocial skills. The skills

demonstration portion of the competency evaluation may be held in either a nursing facility or in a laboratory equipped for this purpose.

J. In the case of nursing facilities that provide their own training programs, the facility shall contact an approved entity to administer competency evaluation. The clinical portion of the competency evaluation shall be given in a nursing facility, but shall be administered by personnel not associated with the facility. The competency evaluation may be proctored by facility personnel if the competency evaluation is:

1. secured from tampering;
2. standardized;
3. scored by a testing, educational or other organization approved by the state or scored by the state itself; and
4. not administered or scored by facility personnel.

K. The examiner conducting the clinical competency evaluation for any individual trainee shall be approved by the department.

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 32:2077 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10023. Compliance with Federal and State Regulations

A. ...

1. - 2. Repealed.

B. Programs not meeting minimum requirements may be terminated if the program does not provide an acceptable plan for correcting deficiencies.

C. Programs not accessible or refusing to permit unannounced visits by the department shall be terminated.

D. A program that has not conducted training or certified trainees to the registry within a two year period shall be closed.

E. Operational Requirements

1. In order to be considered operational and retain approval to conduct a training program, providers shall have at least one employee on duty at the business location during the hours of operation reported on the training program application submitted to the DHH Health Standards Section.

2. All nurse aide training providers (facility based and non-facility based) shall maintain a current, operational telephone number, fax number and e-mail address and shall keep the department informed of any changes.

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 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Financing, LR 37:

§10025. Nurse Aide Responsibilities

A. A nurse aide shall be responsible for notifying the registry of current contact information such as address, telephone number, and e-mail address.

B. A nurse aide shall perform at least eight hours of nursing or nursing-related services in an approved setting during every consecutive 24-month period for pay after completion of a training and competency evaluation program to maintain certification.

C. If a nurse aide does not have proof of the required eight hours of paid employment in an approved setting in a 24-month period needed for recertification, he/she may retest with the two years immediately following the expiration. If the nurse aide fails to retest within the allotted time period, they shall retrain.

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 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter C. Nurse Aide Registry

§10033. General Provisions

- A. - A.7. ...
8. state certification number;
 9. - 9.c. ...
 - d. an accurate summary of findings only after actions on findings are final;
 10. current e-mail address; and
 11. status of certification, which includes the:
 - a. certified date;
 - b. recertified date; and
 - c. expiration date.
- B. The registry shall renew certification in accordance with the provisions of §10025 of this Chapter.

C. Employers shall use the registry to determine if a prospective hire is a certified nurse aide and if there is a finding placed on the registry that he/she has abused or neglected a resident or misappropriated a resident's property or funds.

D. If there is a final and binding administrative decision to place a finding on the registry or if there is a final conviction, guilty plea or no contest plea to a crime(s) by a nurse aide against the elderly, infirmed or a nursing facility resident, the department shall place the adverse finding on the registry. Record of the occurrence and associated findings shall remain permanently on the registry.

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 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10035. Certification by Reciprocity

A. Nurse aides may become certified by reciprocity from other states. Applicants shall, at a minimum, submit to the Nurse Aide Registry the following information either on forms or via electronic submissions approved by the department:

1. - 4. ...
5. his/her former place of employment;
6. the date of employment and termination;
7. his/her e-mail address;
8. a copy of his/her social security card; and
9. a copy of his/her official Louisiana identification, such as a driver's license, identification card, etc.

B. After verification of certification in the other state, the registry shall certify the aide in Louisiana. Likewise, the registry will be responsible for granting reciprocity to other states.

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 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter D. Provider Participation

§10045. Employer Responsibilities

A. A person shall not be employed as a nurse aide or nurse aide trainee by a nursing facility or hospital based SNF unit for more than 60 days unless he/she has satisfactorily completed an approved training and competency evaluation program.

B. A person shall not be employed as a nurse aide or nurse aide trainee if there is a final administrative or judicial court decision that the nurse aide or trainee has:

1. committed abuse, neglect or mistreatment of the elderly, infirm or nursing facility resident;
2. misappropriated a resident's property; or
3. as specified in R.S 40:1300.53.

C. The provider shall complete and send the appropriate form or approved electronic submission to the registry to verify employment or termination of a certified nurse aide. Failure to send notification to the registry within five working days of employment or termination may result in further adverse action against the provider. The provider shall maintain documentation to verify compliance.

D. All facilities shall continue to provide on-going training on a routine basis in groups and, as necessary in specific situations, on a one-to-one basis.

1. Each nurse aide shall receive and be compensated for 12 hours of on-going training per year.
2. Training may be conducted in the unit as long as it is:
 - a. directed toward skills improvement;
 - b. provided by appropriately trained staff; and
 - c. documented.

E. When a change of ownership (CHOW) occurs, the new owner or the administrator/designee is responsible for ensuring that all reporting of employment and termination to the registry is current. In the event that a request for verification of work history is received after the CHOW occurs, the current owner is responsible for compliance.

F. The facility administrator/designee is responsible for reporting employment and termination to the registry for nurse aides employed by staffing agencies. This shall be done at least monthly.

G. No nurse aide who is employed by, or who has received an offer of employment from a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.

H. If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the State shall provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

I. If a training program is facility based, the Administrator or their designee shall reconcile with the nurse aide registry at least monthly, their CNA's that are

currently employed or have been terminated. Accuracy of the information held by the registry is dependent upon the information received from the facility. Failure to maintain current data shall result in adverse action by the department.

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 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter E. Violations

§10055. Disqualification of Training Programs

A. The department prohibits nursing facilities from offering nurse aide training programs when the facilities have:

1. - 2. ...

B. The department may prohibit nursing facilities from offering nurse aide training programs when the facilities have been sanctioned with:

1. - 5. ...

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 32:2079 (November 2006).

§10057. Allegations of Nurse Aide Wrong-Doing

A. The department, through its Division of Administrative Law or successor entity, has provided for a process for the review and investigation of all allegations of wrong-doing by nurse aides employed in nursing facilities. Certified nurse aides and nurse aide trainees must not:

1. - 2. ...

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 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10059. Notice of Violation

A. When there are substantiated charges against the nurse aide, either through oral or written evidence, the department shall notify the individual(s) implicated in the investigation of the following information by certified mail:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10061. Informal Dispute Resolution

A. ...

1. The nurse aide may request an informal dispute resolution (IDR) within 15 calendar days of the receipt of the agency's notice of violation. The request for an IDR must be made to the department in writing.

2. - 2.c. ...

3. An IDR meeting shall be arranged within 20 days of the request.

4. During the IDR, the nurse aide shall be afforded the opportunity to:

a. - e. ...

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 32:2080 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter F. Administrative Hearings

§10071. General Provisions

A. Within 30 calendar days after receipt of the department's notice of violation or the notice of the results of an informal dispute resolution, the nurse aide may request an administrative hearing.

1. The request for an administrative hearing must be made in writing to the department's Division of Administrative Law or successor entity.

2. The request shall contain a statement setting forth the specific charges with which the nurse aide disagrees and the reasons for this disagreement.

3. Unless a timely and proper request is received by the Division of Administrative Law or successor entity, the findings of the department shall be considered a final and binding administrative determination.

a. Notification of the finding of abuse, neglect and/or misappropriation shall then be sent to the Nurse Aide Registry to be recorded.

B. When an administrative hearing is scheduled, the Division of Administrative Law or successor entity shall notify the nurse aide, his/her representative and the agency representative in writing.

1. - 1.c. ...

C. The administrative hearing shall be conducted by an administrative law judge from the Division of Administrative Law or successor entity as authorized by the Administrative Procedure Act, R.S. 49:950 et seq., and according to the following procedures.

1. ...

2. A transcript shall be prepared and reproduced at the request of a party to the hearing, provided he bears the cost of the copy of the transcript.

3. - 7. ...

a. The burden of producing evidence to substantiate the written allegation(s) shall be on the department and the provider of services.

C.7.b. - E.2.d. ...

F. The written proposed decision is provided to the secretary of the department. The secretary may:

1. - 3. ...

a. If the proposed decision is remanded, the administrative law judge shall submit a new proposed decision to the secretary.

G. The decision of the secretary shall be final and binding upon adoption, subject only to judicial review by the courts. A copy of the decision shall be mailed to the nurse aide at his/her last known address and to any representative thereof.

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 32:2080 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10073. Preliminary Conferences

A. Although not specifically required, the Division of Administrative Law or successor entity may schedule a preliminary conference. The purposes of the preliminary conference include, but are not limited to:

1. - 6. ...

B. When the Division of Administrative Law or successor entity schedules a preliminary conference, all parties shall be notified in writing. The notice shall direct any parties and their attorneys to appear on a specific date and at a specific time and place.

C. - C.1. ...

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 32:2081 (November 2006); amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10079. Failure to Appear at Administrative Hearings

A. If a nurse aide fails to appear at an administrative hearing, a notice/letter of abandonment may be issued by the Division of Administrative Law or successor entity dismissing the appeal. A copy of the notice shall be mailed to each party.

B. Any dismissal may be rescinded upon order of the Division of Administrative Law or successor entity if the nurse aide:

1. - 2. ...

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 32:2081 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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 not 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 37:

§10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons shall:

A.1. - B. ...

1. holds a current certificate issued by the department under this Chapter and acts under the supervision of a person who holds a current license under state law which authorizes the licensee to administer medication; or

2. ...

C. All medication attendant training and competency evaluation programs must be approved by the department.

D. ...

E. Each training and competency evaluation program shall:

1. - 4. ...

F. Clinical instruction shall be conducted in an approved nursing facility with a ratio of no more than 5:1 under the direct supervision of the instructor.

G. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for correcting deficiencies shall be eliminated from participation.

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 34:1414 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10083. Trainee Responsibilities

A. Each medication attendant trainee shall be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

B. Trainees shall take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

C. If a trainee fails to successfully complete the competency evaluation program, he or she shall re-enroll in a training program.

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 34:1415 (July 2008).

§10084. Training Curriculum

A. - C. ...

1. The core curriculum shall be a minimum of 100 hours in length with a minimum of 40 clinical hours.

2. Each unit objective shall be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

D. Minimum Curriculum. The training program shall be developed and conducted to ensure that each medication attendant, at a minimum, is able to demonstrate competency in the following areas including, but not limited to:

1. - 30. ...

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 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10085. Competency Evaluation

A. A competency evaluation shall be developed and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. Written examinations shall be provided by the training entity or organizations approved by the department. The examination shall reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

C. The entity responsible for the training and competency evaluation shall report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a medication attendant certified has successfully completed the training and competency evaluation, the training entity shall notify the registry.

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 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10086. Authorized Duties

A. The medication attendant certified may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties shall apply to medication attendant trainees under the supervision of the clinical instructor. The ratio of medication attendants certified to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. - B.12. ...

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 34:1416 (July 2008).

§10088. Provider Participation and Responsibilities

A. A nursing facility shall apply to the department to utilize medication attendants certified. Upon receipt of a facility's application, the department shall review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize medication attendants certified. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies.

C. The department may deny a facility's request to use medication attendants if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial.

D. The following information shall be provided prior to acceptance in the pilot project:

1. - 8. ...

E. A facility's application that is not complete within 90 days of receipt by the department shall be closed.

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 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10089. Allegations of Medication Attendant Certified Wrong-Doing

A. The department, through its Division of Administrative Law or successor entity, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by medication attendants certified.

B. - C. ...

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 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10090. Suspension, Revocation or Non-Renewal

A. The department may revoke, suspend or refuse to renew a certificate or reprimand a certificate holder for a violation of this Chapter.

B. - B.3. ...

C. Prior to institution of formal proceedings to revoke or suspend a permit, the department shall give written notice to the certificate holder of the facts or conduct alleged to warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to show compliance with all requirements of this Chapter.

D. If denial, revocation or suspension of a certificate is proposed, the department shall give written notice that the certificate holder must submit a written request for a formal hearing within 30 days of receipt of the notice. If not, the right to a hearing shall be waived and the certificate shall be denied, revoked or suspended.

E. If the department suspends a MAC's certificate, the suspension shall remain in effect until the department:

1. - 3. ...

F. The department shall investigate prior to making a final determination on a suspended certificate. During the time of suspension, the suspended certificate holder shall return his certificate to the department.

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures stated in §8603.G. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or does not renew a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or non-renewal continues to exist.

1. If a certificate is revoked or not renewed, the certificate holder shall immediately return the certificate to the department.

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 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10091. Evaluation of Pilot Program

A. - C. Repealed.

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 34:1418 (July 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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, August 24, 2011 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: Nursing Facility Minimum Licensing
Standards—Nurse Aide Training and
Competency Evaluation Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not result in a programmatic fiscal impact to the state general fund other than the cost of promulgation for FY 11-12. It is anticipated that \$4,100 (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 have no effect on revenue collections for FY 11-12, FY 12-13 and FY 13-14.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the nursing facility licensing standards for the Nurse Aide Training and Competency Evaluation Program to revise these provisions in order to regulate and assure compliance by all entities that have been approved by the department to have a training

program. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for directly affected persons or non-governmental groups for FY 11-12, FY 12-13 and 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
1107#105

Gregory V. Albrect
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Outpatient Hospital Services
Hospital Provider-Based Outpatient Clinics
(LAC 50:V.5111)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.5111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing outpatient hospital services in order to adopt provisions governing the duration of outpatient status for the purpose of Medicaid coverage and reimbursement (*Louisiana Register*, Volume 37, Number 6). The department now proposes to amend the provisions governing outpatient hospital services to establish Medicaid reimbursement for outpatient services rendered by off-site campuses of hospitals which operate as hospital provider-based outpatient clinics.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 51. General Provisions

§5111. Hospital Provider-Based Outpatient Services

A. In order to receive Medicaid reimbursement as a hospital provider-based outpatient facility, an off-site campus of a hospital which provides outpatient services shall meet the provider-based requirements for Medicare as established in 42 CFR 413.65, except when the provisions in §5111.B are applicable.

B. Closure of a State-Owned and/or Operated Hospital. If a state-owned and/or operated hospital ceases to do business and surrenders its license, the off-site campus of that closed hospital may be deemed to be "provider-based" for purposes of Medicaid reimbursement only when all of the following criteria are met.

1. The off-site campus shall comply with the provider-based requirements in 42 CFR 413.65 except that:

a. the off-site campus shall be deemed in compliance with 42 CFR 413.65(d)(2)(vi) if the off-site campus refers patients requiring inpatient hospital services

to either its main hospital provider campus or to the nearest available inpatient services; and

b. the off-site campus shall be deemed in compliance with 42 CFR 413.65(e)(3)(i) if they are licensed as an off-site campus of another state-owned and/or operated hospital that is within 100 miles of the off-site campus.

2. The off-site campus provides outpatient hospital 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, LR 37:

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 assuring that patients continue to have access to services rendered by off-site campuses of main hospitals.

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, August 24, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Outpatient Hospital Services
Hospital Provider-Based Outpatient Clinics**

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 \$328 (\$164 SGF and \$164 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 not affect revenue collections other than the federal share of the promulgation costs for FY 11-12. It is anticipated that \$164 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 proposed rule amends the provisions governing outpatient hospital services to establish Medicaid reimbursement for outpatient services rendered by off-site campuses of hospitals which operate as hospital provider-based outpatient clinics. The Medicaid Program currently provides reimbursement for outpatient services rendered by these clinics; therefore, we do not anticipate any change in expenditures in the Hospital Program due to this proposed Rule. It is anticipated that implementation of this proposed rule will not have economic cost to hospitals for FY 11-12, FY 12-13, and 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
1107#106

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Physician Assistants—Practice
(LAC 46:XLV.4507)**

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the Physician Assistants Practice Act, R.S. 37:1360.21-1360.38, that the board intends to amend LAC 46:XLV, Subpart 2, Chapter 45, Section 4507 of its physician assistant rules. Under the proposed amendments a supervising physician (SP) remains capable of delegating medical services that form part of the core knowledge of a PA's formal training and certification. These services, known as "core competencies," may be performed generally under SP supervision as currently defined by the Board's rules (4507.B). The proposed amendments (4507.C.3) provide that an SP who delegates any of the procedures identified in 4507.C.3 to a PA must provide a level of supervision commensurate with the risk of harm to the patient and potential for complications requiring the SP's immediate personal attention *e.g.*, direct supervision or personal supervision (4507.C.3.a-3.b). The proposed amendments also provide that the board may give on-going advice and guidance on its website as to the levels of supervision or services identified (4507.C.3) and establish a process for a primary supervising physician's (PSP's) annual evaluation and documentation of a PA's performance to include any of the list of services beyond core competencies (4507.C.4); provided, however, that if the PSP and PA are employed or contracted to a hospital that individually credentials the PA in a manner similar to physicians, the PSP need only annually review, date and sign the PA's credentials file (4507.C.5). The proposed amendments maintain the existing requirements that a SP may not serve as PSP for more than two PAs or act as an SP for more than four PAs at any one time (4507.D.1-2) and also provide that an SP

employed or contracted to a hospital may only supervise a PA similarly employed or contracted who is assigned to the same department and works in the same facility as the SP (4507.D.3).

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 45. Physician Assistants

**§4507. Authority and Limitations of Supervising
Physician**

A. The supervising physician (SP) is responsible for the responsible supervision, control, and direction of the physician assistant (PA) and retains responsibility to the patient for the competence and performance of the PA.

B. An SP may delegate medical services identified as core competencies by the National Commission on Certification of Physician Assistants ("core competencies"), under general *supervision* as defined in Section 1503.A of this Part.

C. An SP may delegate certain medical services beyond core competencies to a PA provided:

1. the SP is trained and qualified in and performs the service in the course and scope of his or her practice. If the service is provided in a hospital the SP and the PA shall be credentialed to provide the service;

2. the SP delegates the service to a PA who has obtained additional training and has documented the ability to perform the service safely and effectively; and

3. the SP provides a level of supervision appropriate to the risk to the patient and the potential for complications requiring the physician's personal attention. The level of supervision and services that may be delegated are:

a. direct supervision. An SP may not delegate any of the following medical services to a PA unless the SP provides direct supervision. Direct supervision exists where the SP is in the procedure suite or facility where the service is being provided, and is immediately available to physically assist within five minutes or less:

i. place or remove a peripheral arterial line;

ii. place or remove a peripherally inserted central catheter;

iii. remove a central venous catheter, chest tube or drain;

iv. aspirate or biopsy bone marrow;

v. perform a lumbar puncture for diagnostic purposes;

vi. perform a paracentesis or thoracentesis;

vii. close a surgical incision after completion of a surgical procedure by the SP; and

viii. harvest veins in a surgical suite;

b. personal supervision. An SP may not delegate any of the following medical services to a PA unless the SP provides personal supervision. Personal supervision exists where the SP is personally at the bedside for the entire procedure:

i. place a central venous catheter;

ii. place a Swan-Ganz (right heart) catheter, not including a coronary or left heart catheter;

iii. place an arterial catheter;

iv. place a chest tube;

- v. insert or remove an intraaortic balloon pump;
 - vi. biopsy an internal organ;
 - vii. perform an endoscopic evaluation of an internal organ or body cavity for diagnostic purposes;
 - viii. deliver a baby;
 - ix. assisting in all other surgical procedures;
- c. subject to board advice and guidance concerning the levels of supervision or services identified in Section 4507.C.3 of this Part on its website, www.lsbme.la.gov;

4. credentials file. A primary SP ("PSP") shall maintain a credentials file for each PA for whom he or she serves as a PSP and at least annually assess and document therein the PA's performance as evidenced by the PSP's dated signature. The credentials file shall include a list of services beyond core competencies that the PA may perform and with respect to each shall also document:

- a. the PA's training in the service;
- b. the PA's ability to provide or perform the service safely and effectively; and
- c. the protocols to be followed for the service;

5. a PSP who is employed or under contract with a hospital is not required to maintain a credentials file for a PA, who is also employed or under contract with the same hospital provided:

- a. that the PA is individually credentialed by the medical staff organization of the hospital, based on established criteria similar to those utilized for physicians, which takes into consideration the PA's training and qualifications to provide or perform a service beyond core competencies safely and effectively; and
- b. the PSP annually reviews, dates and signs the PA's credentials file.

D. An SP:

- 1. may not serve as a PSP for more than two PAs;
- 2. shall not act as a SP for more than four PAs simultaneously at the same time; and
- 3. employed or under contract with a hospital may only supervise PAs who are also employed or under contract with the hospital, who are assigned to the same department and work in the same facility as the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999), LR 34:246 (February 2008), LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA 70190-0250 (1515 Poydras Street, Suite 2700, New Orleans, LA 70112), (504) 568-6820, ex. 242. She is responsible for responding to

inquiries. Written comments will be accepted until 4 p.m., August 19, 2011.

Public Hearing

A public hearing will be held on August 29, 2012, at 8 a.m. at the board's offices, 1515 Poydras Street, Suite 2700, New Orleans, LA 70112. At that time all interested persons are invited to attend and orally present data, views, comments or arguments.

Robert L Marier, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Physician Assistants—Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs, the total of which are estimated to be \$410 during the current fiscal year, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the Board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pursuant to the proposed amendments, a supervising physician (SP) of a physician assistant (PA) who delegates any of the procedures identified in 4507C.3 to a PA must provide a level of supervision commensurate with the risk of harm to the patient and potential for complications requiring the SP's direct or personal supervision (4507C.3.a and b). The proposed amendments also establish a process for a primary supervising physician's (PSP) annual evaluation or review of a PA's performance (4507C.4). Finally, the amendments provide that an SP employed or contracted to a hospital may only supervise a PA similarly employed or contracted who is assigned to the same department and works in the same facility as the SP (4507D). The supervision practices provided by a small number of physicians will be affected by the proposed amendments if any SPs currently delegate any of the specific medical services which require direct or personal supervision by the rule change. With the rule change, these SPs will be unable to delegate these medical services as listed under 4507C.3 without providing the proper supervision. The Board does not anticipate the rules will have a significant effect on costs, paperwork or workload of such physicians. The Board also anticipates that an SP will have to devote some amount of time to annually assess and document a PA's performance. However, the Board does not believe that this requirement will result in any material effect on costs, paperwork or workload of SPs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.
Executive Director
1107#063

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Radiologic Technology Board of Examiners

Fusion Technology (LAC 46:LXVI.901, 1127, and 1129)

Notice is hereby given that the Louisiana State Radiologic Technology Board of Examiners (board) pursuant to the authority of the Louisiana R.S. 37:3207(B)(2) and 3220 and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its rules governing General Provisions LAC 46:LXVI.Chapter 9 (Licensure) by adding the terms "Fusion Technologist" and "Fusion Technology" to Section 901 (Definitions) and by adopting Sections 1127 and 1129 (Temporary and Limited Purpose Permits) in LAC 46:LXVI.Chapter 11 (Licensure).

The proposed Rule establishes the necessary qualification, requirements, and formalities for the issuance of temporary permits to radiologic technologists seeking to practice fusion technology under R.S. 37:2000 and 37:3208.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVI. Radiologic Technologists

Chapter 9. General Provisions

§901. Definitions

A. The following words and terms, when used in this rule shall have the following meanings, unless the text clearly indicates otherwise.

ARRT—the American Registry of Radiologic Technologists.

Board—the Radiologic Technology Board of Examiners created pursuant to R.S. 37:3200-3201.

Department—the Department of Health and Hospitals (DHH).

Fusion Technologist—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation while operating fusion technology imaging equipment or uses radioactive materials on humans for diagnostic or therapeutic purposes under prescription of a licensed practitioner.

Fusion Technology—the operation of positron emission tomography (PET) and computed tomography (CT) imaging equipment or any other hybrid imaging equipment identified and recognized by the board.

Ionizing Radiation—commonly known as x-rays or gamma rays, they remove electrons from the atoms of matter lying in their path (e.g., ionization).

JRCERT—the Joint Review Committee on Education in Radiologic Technology.

License—a certificate issued by the board authorizing the licensee to use radioactive materials or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes in accordance with the provisions of this Chapter.

Licensed Practitioner—a person licensed to practice medicine, dentistry, podiatry, chiropractic, or osteopathy in this state, or an advanced practice registered nurse licensed to practice in this state.

Licensed Radiologic Technologist (LRT)—any person licensed pursuant to this Chapter.

Nuclear Medicine Technologist—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner uses radioactive materials on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

Radiation Therapy Technologist—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for therapeutic purposes upon prescription of a licensed practitioner.

Radiographer—a person, other than a licensed practitioner, who under the direction and supervision of a licensed practitioner applies radiation to humans for diagnostic purposes upon prescription of a licensed practitioner.

Radiologic Technologist—any person who is a radiographer, a radiation therapy technologist, or a nuclear medicine technologist licensed under this Chapter who under the direction and supervision of a licensed practitioner applies radiation to humans upon prescription of a licensed practitioner.

Radiologic Technology—the use of a radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner.

Radiological Physicist—a person who is certified by the American Board of Radiology in radiological physics or one of the subspecialties of radiological physics or who is eligible for such certification.

Radiologist—a physician certified by the American Board of Radiology or the American Osteopathic Board of Radiology, the British Royal College of Radiology, or certified as a radiologist by the Canadian College of Physicians and Surgeons.

Student—any person who is enrolled in and attending a board-approved educational program or college of radiologic technology who applies radiation to humans while under the supervision of a licensed practitioner or a licensed radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 23:71 (January 1997), LR 37:

Chapter 11. Licensure

§1127. Temporary and Limited Purpose Permits

A. The board may, in its discretion, issue temporary or limited purpose permits as are, in its judgment, necessary or appropriate to the particular circumstances of the individual applicants or radiologic technologists who do not meet or possess all of the qualifications or requirements for licensing. Such a permit creates no right or entitlement to licensing or renewal of the permit after its expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 37:

§1129. Fusion Technology Temporary Permit

A. The board may issue a temporary permit to an applicant seeking to practice fusion technology for the purpose of obtaining the clinical experience requirements in order to qualify to sit for the required American Registry of Radiologic Technologists (AART) Computed Tomography (CT) certification examination, provided that the applicant:

1. possess a current unrestricted license to practice nuclear medicine technology;
2. has submitted a board approved clinical training agreement to the board;
3. has completed four AART/Board approved CE credit hours in contrast media/drug administration;
4. will perform Computed Tomography Procedures only when operating multimodality Positron Emission Tomography (PET), Single Photo Emission- Computed Tomography (SPECT), or any other hybrid imaging equipment identified by the board, and only under the direct supervision of a licensed physician, who is a credentialed diagnostic and/or nuclear medicine radiologist;
5. satisfies the applicable fees prescribed in these rules and the Radiologic Technology Practice Act.

B. The temporary permit issued under this section shall expire, and thereby become null and void and to no effect on the earliest of the following dates:

1. 12 months from the date on which it was issued;
2. the date on which the board gives notice to the permit holder of its final action granting or denying issuance of a license to practice fusion technology;

C. A permit issued under this Section which has expired may be renewed or reissued by the board for one or more successive 12 month periods, provided that prior to the expiration of the initial temporary permit:

1. the permit holder has performed successfully and competently in the required clinical training;
2. the applicant’s clinical training agreement has been renewed;
3. no grounds are known which would provide cause for the board to refuse to renew or to revoke the temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on the family has been considered. It is not anticipated that the proposed Rule will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule to: Executive Director, Louisiana State Radiologic Technology Board Examiners, at 3108 Cleary Avenue, Suite 207, LA 70002), telephone no. (504) 838-5231. The executive director is responsible for responding to inquiries.

Written comments will be accepted until 4 p.m., August 20, 2011.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 2, 2011 at 10 a.m. at the office of the Louisiana State Radiologic Technology Board of Examiners, at 3108 Cleary Avenue, Suite 207, Metairie, LA 70002. Any person wishing to attend should call to confirm that a hearing is being held.

Susan Hammonds-Guarisco, B.S.R.T.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fusion Technology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$400 in FY 12 for publication of the proposed rules in the State Register for promulgation of the rule change. There are no other costs or savings to local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

With this rule change, the Louisiana State Radiologic Technology Board (the board) is creating a temporary permit and permanent license for radiologic technicians to practice fusion technology. It is estimated that approximately five applicants will apply annually for a permanent license, thereby increasing the board’s revenue by \$250 annually (\$50 per license). In addition, the board anticipates that every applicant for a permanent license will also apply for temporary permits while their license application is pending. This will increase the board’s revenue by another \$50 annually (\$10 per permit). As such, the board estimates an increase of \$300 in revenue each year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change will allow a limited number of persons to receive licensure as “Fusion Technologists” and allow for temporary permits to practice fusion technology at the board’s discretion. Applicants for the temporary permit will have to pay a \$10 fee, and applicants for the license will have to pay a \$50 fee. This rule change will also allow practitioners to increase their revenue by expanding their practices within the radiologic field to include fusion technology.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Being licensed as a fusion technologist will create employment opportunities for those seeking to be employed specifically as fusion technologists, since they cannot practice without licensure or a permit by the board.

Susan Hammonds-Guarisco
Chairman
1107#066

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Louisiana Lottery Corporation

On-Line Lottery Games (LAC 42:XV.141)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., hereby gives notice of its intent to amend the rules and regulations pertaining to the operations of on-line lottery games, in particular LAC 42:XV.141, to allow the Louisiana Lottery Corporation to offer the following on-line lottery game: "Mega Millions."

Title 42

LOUISIANA GAMING

Part XV. Lottery

Chapter 1. On Line Lottery Games

§141. Multi-State Lottery

A. This Section authorizes the Louisiana Lottery Corporation, through an agreement with the Multi-State Lottery Association (MUSL), to offer the following games: "powerball," "daily millions," "rolldown," and "mega millions." Introduction of any new game conducted by MUSL may only be accomplished by amendment of this Section to include the game as an authorized game. The detailed information regarding the rules of the powerball game, the daily millions game, the rolldown game and the mega millions game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. The game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of powerball, daily millions, rolldown and mega millions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 21, 1994, and promulgated in *The Advocate*, October 28, 1994, amended LR 23:67 (January, 1997), LR 26:1631 (August 2000), LR 37:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Lottery Corporation, through its president, has considered the potential family impact of the proposed amendment to LAC 42:XV.141.

It is accordingly concluded that the amendment to LAC 42:XV.141 would appear to have no impact on any of the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed Rule.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Such comments

should be submitted no later than August 25, 2011, at 9 a.m. to John Carruth, Louisiana Lottery Corporation, P.O. Box 90008, Baton Rouge, LA 70879.

Public Hearing

A public hearing will be held on August 26, 2011, at 10 a.m., at the offices of the Louisiana Lottery Corporation, 555 Laurel Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendment.

Rose J. Hudson
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: On-Line Lottery Games

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Lottery Corporation was created by La. R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the corporation are funded by revenue generated by the corporation. The costs to operate the Mega Millions game, including prize expense, retailer commissions, and online vendor commissions are expenses that fluctuate directly with the volume of sales. These expenses represent approximately 58% of sales. Based on the projected net annual sales change, the change in net costs would range from essentially no change to \$4.93 million per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adding a second multi-state game (Mega Millions) to the Lottery Corporation's portfolio of games is projected to result in a change in total lottery sales ranging from essentially no change to a positive \$8.5 million per year. Based on various comparisons of performance in other states that added the Mega Millions game as an alternative to their Powerball game, Mega Millions sales gains can be essentially offset by Powerball sales reductions, or a small net increase in sales may occur.

Based on the required minimum return to the Lottery Proceeds Fund of 35% of gross proceeds, the calculated change to the Fund ranges from essentially no change to a net increase of \$2.975 million annually.

There will be no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Retailers earn 5% commission on the sale of lottery products. The projected net change in lottery sales results in a change in total retailer commissions ranging from essentially no change to a net increase of \$425,000 per year.

Lottery players as a group are projected to exhibit changes to their overall lottery ticket purchases ranging from essentially no net change to additional net total purchases of \$8.5 million per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated significant effect on competition and employment.

Rose Hudson
President
1107#049

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Hydraulic Fracture Stimulation Operations (LAC 43:XIX.118)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby gives notice of its intent to amend LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 1 General Provisions.

The recent development of the Haynesville Shale in North Louisiana is made possible through the use of multi-stage hydraulic fracture stimulation technology. This technology involves the introduction of large amounts of fluids under very high pressure into a well to create fractures in the rock which then allow oil and/or gas to flow into the wellbore. The intense development of the Haynesville Shale in Louisiana and other shale resources across the United States has created a large amount of public interest in the hydraulic fracturing process and its potential effect on the environment.

In addition, in November 2010, a review of Office of Conservation policies and regulations associated with the hydraulic fracturing process was conducted by the non-profit, multi-stakeholder organization, STRONGER, Inc. to assess the effectiveness and adequacy of current regulations. Their report, finalized in March 2011, recommended some of the changes included in the proposed amendment.

As a result of the aforementioned conditions, a proposed Rule was drafted by staff of the Office of Conservation using portions of the hydraulic fracturing regulations recently promulgated in the State of Arkansas and statutes recently passed in Texas as models.

The proposed Rule requires that a work permit be obtained from the Office of Conservation (OC) prior to initiating hydraulic fracture stimulation operations on a well. Following completion of hydraulic fracturing operations, information on fracturing fluid composition and volumes are to be reported to OC or to a publicly accessible registry.

The intent of the Rule is to provide transparency to ensure that hydraulic fracturing operations are conducted in a manner which is protective of the public health and the environment and to collect technical information on the hydraulic fracturing operations conducted in Louisiana.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§118. Hydraulic Fracture Stimulation Operations

A. The provisions of this Rule shall apply to all new wells for which an initial drilling permit is issued on or after the effective date of this Rule that are stimulated by the application of fluids, which contain proppant such as sand or man-made inert material, with force and/or pressure in order to create artificial fractures in the formation for the purpose of improving the capacity to produce hydrocarbons.

B. An application for hydraulic fracture stimulation shall be made to the district office on Form DM-4R in accordance

with the provisions of LAC 43:XIX.105 and a proper work permit shall be received from the district manager prior to beginning operations.

C.1. Following completion of the Hydraulic Fracture Stimulation Operation, the operator shall, for purposes of disclosure, report the following information on or with the Well History and Work Resume Report (Form WH) in accordance with the requirements of LAC 43:XIX.105:

a. the types and volumes of the Hydraulic Fracturing Fluid (base fluid) used during the Hydraulic Fracture Stimulation Operation expressed in gallons; and

b. a list of all additives used during the Hydraulic Fracture Stimulation Operation, such as acid, biocide, breaker, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, scale inhibitor, proppant and surfactant; and

c. for each additive type, listed under Subparagraph b above, the specific trade name and suppliers of all the additives utilized during the Hydraulic Fracture Stimulation Operation; and

d. a list of chemical ingredients contained in the hydraulic fracturing fluid that are subject to the requirements of 29 CFR Section 1910.1200(g)(2) and their associated CAS numbers;

e. the maximum ingredient concentration within the additive expressed as a percent by mass for each chemical ingredient listed under Subparagraph d;

f. the maximum concentration of each chemical ingredient listed under Subparagraph d, expressed as a percent by mass of the total volume of hydraulic fracturing fluid used.

2.a. Notwithstanding Subparagraph d, if the specific identity of a chemical ingredient and the chemical ingredient's associated CAS number are claimed to be trade secret, or have been finally determined to be entitled to protection as a trade secret under 29 CFR Section 1910.1200(i), the entity entitled to make such a claim may withhold the specific identity of the chemical ingredient and the chemical ingredients associated CAS number from the list required by Subparagraph d. If the entity entitled to make such a claim elects to withhold that information, the report must:

i. disclose the chemical family associated with the ingredient; and

ii. include a statement that a claim of trade secret protection has been made by the entity entitled to make such a claim.

b. An operator will not be responsible for reporting information that is not provided to them due to a claim of trade secret protection by the entity entitled to make such a claim.

3. Nothing in Paragraph 2 above shall authorize any person to withhold information which is required by state or federal law to be provided to a health care professional, a doctor, or a nurse.

4. The operator may furnish a statement signifying that the required information has been submitted to the Ground Water Protection Council Hydraulic Fracturing Chemical Registry or any other similar registry, provided all information is accessible to the public free of charge, to satisfy some or all of the information requirements of this Subsection.

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 37:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed rule amendment at LAC 43:XIX.118, Hydraulic Fracture Stimulation Operations on family as defined therein.

1. The proposed rule amendment will have no effect on the stability of the family.
2. The proposed rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed rule amendment will have no effect on the functioning of the family.
4. The proposed rule amendment will have no effect on family earnings and family budget.
5. The proposed rule amendment will have no effect on the behavior and personal responsibility of children.
6. Family or local government are not required to perform any function contained in the proposed rule amendment.

Public Hearing

A public hearing will be held on Tuesday, August 30, 2011 at 9:00 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. If accommodations are required under the Americans with Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within 10 working days of the hearing date. Two hours of free parking are allowed in the Welcome Center parking garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference "Proposed Amendment of LAC 43:XIX.118." Such comments must be received no later than Friday, August 12, 2011, at 4:30 p.m., and should be sent to Mr. Chris Sandoz, Office of Conservation, Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, 9th Floor, Baton Rouge, LA 70802; by email to chris.sandoz@la.gov; or by fax to (225) 342-2584.

This proposed regulation is available on the Internet at <http://dnr.louisiana.gov> and is available for inspection at the following DNR office locations from 8 a.m. until 4:30 p.m.: 617 N. Third Street, Ninth Floor, Baton Rouge, LA 70802; Brandywine III, Suite 220, 825 Kaliste Saloom Road, Lafayette, LA 70508; State Office Building, Suite 668, 1525 Fairfield Avenue, Shreveport, LA 71101; 122 St. John Street, Room 228, Monroe, LA 71201.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hydraulic Fracture Stimulation Operations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local government units anticipated due to the proposed rule amendments. The proposed rule requires that a work permit be obtained from the Office of Conservation (OC) prior to initiating hydraulic fracture stimulation operations on a well. Following completion of hydraulic fracturing operations, information on fracturing fluid composition and volumes are to be reported to OC or to a publically accessible registry.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local government units anticipated due to the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The primary groups affected by these rules changes will be Exploration and Production companies and completion contractors. The only anticipated cost increases are associated with the additional reporting requirements.

Since both pre and post hydraulic fracturing paperwork is already required via DM-4R (work permit) and WH-1 (well history and work resume reports), the additional information required by the proposed rule will simply be added to existing paperwork. In the event reporting requirements cannot be handled by existing regulatory personnel employed by the E&P Company, industry representatives estimate the incremental cost to be \$1,200 per hydraulically fractured well. In 2010, there were 817 wells drilled to the Haynesville Shale. Assuming all of these wells were hydraulically fractured results in an additional cost of \$980,000 per year for the entire E&P industry. For comparison, assuming an average cost to drill and complete a Haynesville Shale well is \$10,000,000, the percentage cost increase associated with the new requirements would be 0.012 percent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

James H. Welsh
Commissioner
1107#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction Board of Private Security Examiners

Security Officer—Definition; Registration; Insignia
(LAC 46:LIX.101, 301, and 701)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Public Safety and Corrections, Board of Private Security

Examiners gives notice that rulemaking procedures have been initiated to amend the private security examiners regulations, LAC 46:LIX.Chapters 1, 3 and 7.

The proposed Rule will amend §101, defining “security officer” pursuant to R.S. 37:3272(A)18. In addition, this Rule will amend §301.Q, which will immediately implement the removal of the \$10 administrative fee for security officer applications of temporary or emergency assignment workers.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

* * *

Security Officer—an individual who is principally employed by a contract security company whether armed or unarmed, to protect a person or persons or property or both.

1. *Security Officer’s* duties include but are not limited to the following:

- a. prevention of unlawful intrusion or entry;
- b. prevention of larceny;
- c. prevention of vandalism;
- d. protection of property or person;
- e. prevention of abuse;
- f. prevention of arson;
- g. prevention of trespass on private property;
- h. control, regulation, or direction of the flow or movements of the public, except on public streets, whether by vehicle, on foot, or otherwise;
- i. street patrol service or merchant patrol service, which is any contract security company that utilizes foot patrols, motor vehicles, or any other means of transportation in public areas or on public thoroughfares in the performance of its security functions.

2. Professions specifically excluded from this definition are:

- a. ticket takers;
- b. ushers;
- c. wrist band monitors;
- d. meeting monitors;
- e. parking attendants;
- f. crowd counters;
- g. badge checkers;
- h. informational personnel.

* * *

NOTE: In addition to the above definitions, terms outlined in these rules shall be found in R.S. 37:3272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:189 (February 1992), LR 23:587 (May 1997), LR 26:1067 (May 2000), LR 37:

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - P.2. ...

Q. An administrative fee of \$10 made payable to the board will be assessed on all initial company applications and renewal applications, and any other fees that may be assessed by the board under this rule, except those persons governed by Subsection N shall not be required to submit the administrative fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1599 (July 2005), LR 34:667 (April 2008), LR 35:2815 (December 2009), LR 37:

Chapter 7. Insignias, Markings, Restrictions

§701. Restrictions

A. - D. ...

E. The following individuals are prohibited from wearing any insignia or lettering which indicate a role or function of a security officer:

1. ticket takers;
2. ushers;
3. wrist band monitors;
4. parking attendants;
5. crowd counters;
6. badge checkers;
7. informational personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 18:195 (February 1992), LR 26:1074 (May 2000), LR 34:667 (April 2008), LR 37:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments to Department of Public Safety and Corrections, Office of Legal Affairs, c/o Allison McLeary, Attorney at Law, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through August 10, 2011.

Allison McLeary
Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Security Officer—Definition; Registration; Insignia**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units is anticipated as a result of the proposed amendment. The Board of Private Security Examiners is proposing an amendment that removes the \$10 administrative fee for temporary or emergency workers registering as a security officer, and redefines the term security officer to exclude persons whose job description is limited to ticket takers, ushers, wrist band monitors, meeting monitors, parking attendants, crowd counters, badge checkers, and informational personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in a decrease in revenue to the Board of Private Security Examiners of a minimum of \$8,960 due to removal of the \$10 administrative fee for temporary or emergency workers. It is anticipated that revenue to the board will also decrease due to the redefining of security officer to exclude certain personnel currently included in the definition. The impact resulting from this change is unknown. Security personnel included in the group to be excluded from the definition are currently required to register and are assessed a \$10 administrative fee along with a \$20 application fee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment would reduce the cost for emergency or temporary guards in that the \$10 administrative fee would not have to be paid when registering as a security officer. In addition, persons employed as ticket takers, ushers, wrist band monitors, meeting monitors, parking attendants, crowd counters, badge checkers, and information personnel will not have to register as a security guard and the \$10 application fee and \$20 registration fee would not have to be paid. Either the persons registering as a security officer or the company employing the person pays these fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be minimal impact on employment and competition in that the cost of employing guards in an emergency or temporary capacity will be reduced.

Allison McLeary
Attorney
1107#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections State Uniform Construction Code Council

Wood Structural Panel Standards
(LAC 55:VI.Chapter 3)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the establishment of minimum standards for wood structural panels used in wind-borne debris regions for protection of openings.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

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

iii. Amend chapter 16, section 1609.1.2, exceptions 1. Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13,716 mm) or less where wind speeds do not exceed 140 mph (63 m/s).

iv. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in exposure category B.

2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 40:1730.26 and La. R.S. 40:1730.28.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), LR 37:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy.

Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

6. Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. 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

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than August 16, 2011, at 4:30 p.m. to Marta Salario, 8181 Independence Blvd., Baton Rouge, La. 70806.

Public Hearing

A public hearing is scheduled for August 22, 2011 at 10 a.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Wood Structural Panel Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. These rule changes amend the most recently adopted construction codes by allowing for the use of wood structural panels (plywood) over doors and windows for the purpose of wind borne debris protection small commercial buildings instead of impact glazing.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is anticipated to be no impact on revenue collections as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The construction industry and prospective owners of small commercial buildings will be affected by the proposed changes. The proposed rule changes will result in reduced cost to the owners of small commercial buildings as it will allow, under the exception, the use of wood structural panels (plywood) for wind borne debris protection instead of the impact glazing

which can cost the small commercial building owner significantly more for smaller applications.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly affect competition or employment.

Jill P. Boudreaux
Undersecretary
1107#071

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Calcasieu Lake Oyster Harvester Permit (LAC 76:VII.533)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations relative to the Calcasieu Lake Oyster Harvester Permit. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 56:6 and R.S. 56:435.1.1.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§533. Calcasieu Lake Oyster Harvester Permit

A. Permit. Beginning July 1, 2011 and extending through June 30, 2014, any oyster taken from the Calcasieu Lake Public Oyster Area for commercial purposes during the open season shall only be taken by a person legally issued a Calcasieu Lake Oyster Harvester Permit by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. The permit shall be valid for a period beginning on October 1 of a given year and ending on December 31 of the following year. There is no cost for the permit and no more than 126 permits shall be effective at any one time. In the event that a permit is vacated, that permit may be re-issued to the next eligible applicant. The department may retain the information for an additional 30 applicants in the event that permits are vacated. This permit is only applicable for commercial harvest. Recreational fishermen may harvest one sack per person per day.

B. Eligibility. Only those persons meeting the eligibility requirements outlined in R.S. 56:435.1.1 and this Rule shall be issued a permit. To be eligible for this permit the applicant must hold current and valid licenses and permits required for the harvest of oysters, including a commercial fisherman license, an oyster harvester license, commercial oyster gear license, and vessel license. In lieu of a vessel license issued in the applicant's own name, the applicant may provide evidence of permission to use a vessel license issued in the name of another individual. As outlined in R.S. 56:435.1.1, 126 permits will be made available, and completed permit applications will be processed on a first-come-first-served basis determined by the order in which the completed permit application is received by the Department. Of the available permits, 63 shall be issued to persons who can prove through department trip-ticket landings data that he commercially harvested oysters from Calcasieu Lake

during open season at any time since January 1, 2001. The remaining 63 permits shall be issued to any person who holds all other licenses and permits required for the harvesting of oysters.

C. Applications. Permit applications shall be made available by the department and completed permit applications shall be accepted by the department from any person who qualifies to obtain a permit. The department, by public notice, shall set a date on which applications for permits will be accepted. Applications shall only be accepted from the applicant, in person, at the Baton Rouge headquarters office of the department at 2000 Quail Drive. Completed permit applications will only be processed for those persons who meet eligibility requirements as outlined in R.S. 56:435.1.1 and this Rule. Applicants must present a complete application, personal identification with photo issued by a state or federal agency, along with all qualifying licenses as stated herein.

D. Enforcement. The penalties for violation of these commission regulations pertaining to taking, possessing, recording or reporting of landings or selling oysters from Calcasieu Lake shall be as provided for in R.S. 56:435.1.1(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 and R.S. 56:435.1.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 37:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries 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 written comments on the proposed Rule to Patrick D. Banks, Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., September 1, 2011.

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.

Stephen W. Sagraera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Calcasieu Lake Oyster Harvester Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule will be carried out using existing staff and funding level. Any increase in costs, workload and paperwork to the state will be absorbed in the current budget. Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is not anticipated to impact revenue collections of state and local governmental units. However, failure to adopt this Rule could result in no Calcasieu Lake Oyster Harvester Permits being issued and a decrease in Conservation Fund revenues to the state of an estimated \$34,640 in FY 11-12.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Resident and non-resident oyster harvesters who want to harvest oysters in Calcasieu Lake will be affected by this Rule. They will have to submit a completed Calcasieu Lake Oyster Harvester Permit application in person at the Baton Rouge Headquarters office beginning on a date determined by the department. Along with their completed application, an applicant will be required to provide a photo identification issued by a state or Federal agency, all qualifying licenses necessary to harvest oysters in Louisiana, and, if applicable, prove that he/she commercially harvested oysters from Calcasieu Lake any time since January 1, 2001. Only 126 Calcasieu Lake harvest permits will be issued to qualifying applicants. The cost of the permit will be free.

Oyster harvesters who receive a Calcasieu Lake Oyster Harvester Permit will benefit from the proposed Rule. The amount of benefit an oyster harvester will receive depends on the amount of oysters that are harvested from Calcasieu Lake during the open season. No information is available at this time to estimate or determine the impact on receipts and/or income resulting from this Rule. However, trip ticket reports indicate that in 2010 a total of 928,717 pounds of oysters were harvested by 255 oyster harvesters in Calcasieu Lake with a dockside value of \$3,435,510.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is anticipated to have little or no effect on competition or employment in the public or private sectors.

Lois Azzarello
Undersecretary
1107#058

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and WMA Turkey Hunting Regulations
(LAC 76:XIX.113)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2012 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. General and WMA Turkey Hunting Regulations

A. General Regulations. Only gobblers (male turkeys) may be taken. Taking of hen (female) turkeys, including bearded hens, is prohibited. Still hunting only. Use of dogs, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot,

and approved archery equipment but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited. The running of coyote with dogs is prohibited in all turkey hunting areas during the open turkey season. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closures. No person hunting turkeys more than 200 yards from a baited area will be in violation of the turkey baiting regulation.

B. Tags

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within seven days of the kill, the hunter must report the kill. Hunters may report turkeys by calling the validation phone number or using the validation web site.

2. Turkey hunters purchasing licenses by phone or internet will be given an authorization number and a LDWF identification number that will serve as their license and tags until the physical license and tags arrive by mail. Turkey hunters who have purchased a license with tags, but have not yet received their physical license and tags, must immediately tag their kill with a possession tag before moving it from the site of the kill. The authorization number and LDWF identification number must be recorded on the possession tag. Hunters must retain documentation of any turkeys killed and upon receiving their physical tags and harvest report card, validate their kill as required in these regulations. The tags for turkeys killed prior to receiving the physical tags must be removed from the turkey harvest report card and discarded.

3. Tags removed from the turkey harvest report card prior to killing a turkey are no longer valid and if lost will not be replaced. Duplicate tags and turkey harvest report cards are available to replace lost report cards and attached tags. Hunters will be charged a fee for duplicate turkey harvest report cards and tags. Hunters that have killed a turkey prior to losing their remaining tag and harvest report

card must remove and discard the duplicate tag to account for the original tag that was used and validated. Hunters must record any previously validated turkey on the duplicate turkey harvest report card.

C. Possession of Live Wild Turkeys. No person shall take live wild turkeys or their eggs from the wild. No person shall possess captive live wild turkeys, (*Meleagris gallopavo silvestris*, *M. g. osceola*, *M. g. intermedia*, *M. g. merriami*, *M. g. mexicana*) or their eggs, regardless of origin, without a valid game breeder license. No pen-raised turkeys from within or without the state shall be liberated (released) within the state.

D. Statewide Youth and Physically Challenged Season Regulations. Only youths 17 years of age or younger or hunters possessing a Physically Challenged Hunter Permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for youth younger than 16 years of age. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their season bag limit of two.

E. Shooting Hours: one-half hour before sunrise to one-half hour after sunset.

F. Turkey Hunting Zone Descriptions

1. South Zone

a. All or portions (see areas A, B, and C descriptions) of the following parishes are open:

- i. Allen;
- ii. Ascension;
- iii. Avoyelles;
- iv. Beauregard;
- v. Calcasieu;
- vi. Catahoula;
- vii. East Baton Rouge;
- viii. East Feliciana;
- ix. Evangeline;
- x. Grant;
- xi. Iberia;
- xii. Iberville;
- xiii. Jefferson Davis;
- xiv. LaSalle;
- xv. Livingston;
- xvi. Natchitoches;
- xvii. Point Coupee;
- xviii. Rapides;
- xix. Sabine;
- xx. St. Helena;
- xxi. St. Landry;
- xxii. St. Tammany;

- xxiii. Tangipahoa;
- xxiv. Upper St. Martin;
- xxv. Vernon;
- xxvi. Washington;
- xxvii. West Baton Rouge;
- xxviii. West Feliciana; and
- xxix. Winn.

2. North Zone

a. All or portions (see areas D, E, and F descriptions) of the following parishes are open:

- i. Bienville;
- ii. Bossier;
- iii. Caddo;
- iv. Caldwell;
- v. Claiborne;
- vi. DeSoto;
- vii. East Carroll;
- viii. Franklin;
- ix. Jackson;
- x. Lincoln;
- xi. Madison;
- xii. Morehouse;
- xiii. Ouachita;
- xiv. Red River;
- xv. Richland;
- xvi. Tensas;
- xvii. Union; and
- xviii. Webster.

G. Turkey Hunting Area Descriptions

1. Area A

a. All of the following parishes are open:

- i. Beauregard;
- ii. East Baton Rouge;
- iii. East Feliciana;
- iv. Grant (Exception: see federal lands hunting schedule for Kisatchie National Forest dates);
- v. LaSalle;
- vi. Livingston;
- vii. Natchitoches (Exception: see federal lands hunting schedule for Kisatchie National Forest dates);
- viii. Rapides (Exception: see federal lands hunting schedule for Kisatchie National Forest dates);
- ix. Sabine;
- x. St. Helena;
- xi. Tangipahoa;
- xii. Vernon (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- xiii. West Baton Rouge;
- xiv. West Feliciana (including Raccourci Island);
- xv. Winn (Exception: see federal lands hunting schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are also open:

- i. Allen: north of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
- ii. Avoyelles: that portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;

iii. Calcasieu: north of I-10;

iv. Catahoula: south and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line. Also that portion lying east of LA 15;

v. Evangeline: north and west of LA 115, north of LA 106 west of LA 115 to US 167, west of US 167 south to LA 10, north of LA 10 west of US 167 to LA 13, west of LA 13 south of LA 10 to Mamou and north of LA 104 west of Mamou;

vi. Iberville: west of LA 1 (Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries);

vii. Jefferson Davis: north of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

viii. Pointe Coupee: all of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis (Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries).

ix. St. Landry: that portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River (Exception: the Indian Bayou Area, see federal lands hunting schedule for Indian Bayou Area dates);

x. Upper St. Martin: All within the Atchafalaya Basin (Exceptions: Sherburne WMA and Indian Bayou Area, see WMA turkey hunting schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see federal lands hunting schedule for Indian Bayou dates);

2. Area B

a. All of the following parishes are open:

- i. St. Tammany;
 - ii. Washington.
- b. Portions of the following parishes are open:
- i. Ascension: all east of the Mississippi River;
 - ii. Iberville: all east of the Mississippi River.

3. Area C

a. All of the following parishes are open:

- i. Concordia.
- b. Portions of the following parishes are open:
- i. Catahoula: all of the parish except for that portion located in Area A;
 - ii. Iberia: east of the West Atchafalaya Basin Protection Levee.

4. Area D

a. All of the following parishes are open:

- i. Bienville;
- ii. Claiborne (Exception: see federal lands hunting schedule for Kisatchie National Forest dates);
- iii. Jackson;
- iv. Lincoln;
- v. Union;

- b. Portions of the following parishes are also open:
 - i. Caldwell: west of Ouachita River southward to Catahoula Parish line;
 - ii. Franklin: that portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
 - iii. Madison: that portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;
 - iv. Morehouse: west of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;
 - v. Ouachita: all west of the Ouachita River. That portion east of the Ouachita River lying north of US 80 to LA 139, west of LA 139 to LA 134, north of LA 134 to the Morehouse parish line, south of the Morehouse parish line, and east of the Ouachita River;
 - vi. Richland: that portion south of US 80 and east of LA 17;
 - vii. Tensas: that portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

5. Area E

- a. All of the following parishes are open:
 - i. Caddo;
 - ii. DeSoto;
 - iii. Red River;
- b. Portions of the following parishes are open:
 - i. Bossier: all open except that portion bounded on the north by I-20, on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish Line;
 - ii. East Carroll: east of US 65 from Arkansas state line to Madison Parish line;
 - iii. Webster: All open except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish line (Exception: see federal lands hunting schedule for Kisatchie National Forest dates).

6. Area F

- a. Portions of the following parishes are open:
 - i. Caldwell: all east of the Ouachita River;
 - ii. Franklin: west of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;
 - iii. Richland: west of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;
 - iv. Tensas: east and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

7. Turkey season dates on Wildlife Management Areas, National Wildlife Refuges, Kisatchie National Forest and U.S. Army Corps of Engineers land located within Areas A, B, C, D, E, and F may vary from the season set for the

parish in which they are located. Seasons for these lands are specified in LAC 76:XIX.115.

H. WMA Turkey Hunting Regulations

1. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

2. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

3. Lottery Hunts. All or portions of some WMA seasons are designated as lottery hunts and are restricted to hunters selected by pre-application lottery. To apply for these lottery hunts, a hunter must submit a completed official application form to the Baton Rouge office by the deadline printed on the application. A non-refundable fee of \$5 must be sent with each application. Applicants for WMA youth hunts must be 17 years of age or younger and at least 8 years old on the day of the hunt. Applicants may submit only one application and may be selected for only one spring WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Hunters must abide by self-clearing permit requirements. Hunters chosen for WMA lottery hunts may be accompanied by one person. The person accompanying a lottery hunter shall not possess a firearm/bow or take a turkey, and must remain within a distance that allows normal voice contact with the lottery hunter at all times. Youths chosen for special youth only hunts may be assigned a guide on the day of the hunt provided that guides are available. One person may accompany the youth and guide, but may not hunt.

4. WMA Physically Challenged Hunt (Wheelchair Confined). Open only to hunters with a Physically Challenged Hunter Permit with wheelchair classification. During this hunt, ATVs may be used by hunters on all designated ATV trails in accordance with the Physically Challenged Hunter Permit. Hunters must abide by self-clearing permit requirements.

5. Rules Specific to Certain WMAs

a. Bens Creek: no turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

b. Sandy Hollow: no turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

c. Sherburne: all turkeys taken must be checked at the WMA headquarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2469 (November 2007), LR 35:91 (January 2009), LR 35:2478 (November 2009), LR 36:2581 (November 2010), LR 37:

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 written comments on the proposed rule to Mr. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., September 7, 2011.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Stephen W. Sagera
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General and WMA
Turkey Hunting Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Establishment of turkey hunting regulations is an annual process that is carried out using existing staff and funding levels. No increase or decrease in costs to state or local governmental units associated with implementing the proposed rule is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effects on revenue collections of state or local governmental units are anticipated from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule modifies the list of hunting areas that will be open for turkey hunting beginning with the 2012 turkey season. It groups the hunting areas to create a north and south turkey hunting zone and extends the turkey harvest time reporting requirement from 72 hours to 7 days after a turkey has been harvested.

Turkey hunters will benefit from having additional time to report their number of turkeys harvested. No additional costs or paperwork will be incurred and no impact on receipts and income to directly affected persons or non-governmental groups is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment in the public and private sectors resulting from the proposed action.

Lois Azzarello
Undersecretary
1107#060

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Turkey Seasons (LAC 76:XIX.115)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey dates and limits for the 2012 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§115. Turkey Hunting Areas, Seasons, and Bag Limits

A. Daily limit is one gobbler. Season limit is two gobblers. Turkeys taken on WMAs are part of the season bag limit. Only one turkey may be taken during spring WMA lottery hunts.

B. Turkey season will open in the South Zone on the Saturday nearest March 22 and in the North Zone the Saturday nearest March 29. The Areas A and D turkey season will be 30 consecutive days in length, the Areas B and E turkey season will be 23 consecutive days in length, and the Areas C and F turkey season will be 16 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the Saturday nearest March 22 or 29 falls the day before Easter.

C. Statewide Youth Turkey and Physically Challenged Season on private lands shall be the weekend prior to the start of each zone's regular turkey season.

D. Only those Wildlife Management Areas listed herein are open to turkey hunting. All other Wildlife Management Areas are closed.

E. 2012 Turkey Hunting Schedule

| South Zone | |
|---|---------------------|
| Area | Season Dates |
| A | March 24 - April 22 |
| B | March 24 - April 15 |
| C | March 24 - April 8 |
| Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt | March 17-18 |

| North Zone | |
|---|---------------------|
| Area | Season Dates |
| D | March 31 - April 29 |
| E | March 31 - April 22 |
| F | March 31 - April 15 |
| Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt | March 24-25 |

F. Wildlife Management Area Turkey Hunting Schedule

| WMA | Non-Lottery Hunt Dates | Lottery Hunt Dates |
|-------------|------------------------|--------------------|
| Attakapas | March 24 - April 1 | None |
| Bayou Macon | None | April 14-15 |

| WMA | Non-Lottery Hunt Dates | Lottery Hunt Dates |
|--------------------------------|------------------------|--|
| Bens Creek | March 24 - April 8 | None |
| Big Lake | March 31 - April 15 | None |
| Bodcau | March 31 - April 15 | None |
| Boeuf | March 31 - April 8 | None |
| Clear Creek | April 2 - April 22 | March 24-25 March 31 April 1 |
| Camp Beauregard | March 24 - April 1 | None |
| Dewey Wills | None | April 14-15 April 21-22 |
| Fort Polk | March 24 - April 22 | None |
| Grassy Lake | March 24 - April 1 | None |
| Hutchinson Creek | March 24 - April 22 | None |
| Jackson-Bienville | March 31 - April 15 | None |
| Lake Ramsey | March 24 - April 8 | None |
| Little River | March 24 - April 8 | None |
| Loggy Bayou | None | April 13-15 |
| Peason Ridge | March 24 - April 22 | None |
| Red River | March 24 - April 8 | None |
| Sabine | None | April 14-16 April 20-22 |
| Sandy Hollow | March 24 - April 8 | None |
| Sherburne | March 29-30 | March 24-25 March 26-28 |
| Sicily Island | None | March 24-26 March 27-29 March 30-April 1 April 2-4 April 5-8 |
| Tangipahoa Parish School Board | March 24 - April 22 | None |
| Three Rivers | March 24 - April 8 | None |
| Tunica Hills South Tract | April 9-15 | March 24-25 March 31 - April 1 April 7-8 |
| Tunica Hills North Tract | April 9-15 | March 24-25 March 31 - April 1 April 7-8 |
| Union | None | April 27-29 |
| Walnut Hills | March 24 - April 22 | None |
| West Bay | None | March 24-25 March 31 - April 1 April 7-8 |

G. Wildlife Management Area Lottery Youth Hunts

| WMA | Lottery Youth Hunt Date |
|---|-------------------------|
| Bens Creek | March 17 |
| Big Lake | March 24 |
| Bodcau | March 24-25 |
| Clear Creek | March 17 |
| Fort Polk/Peason Ridge/ Calcasieu Ranger Dist. | March 17 |
| Grassy Lake | March 17 |
| Jackson-Bienville | March 24-25 |
| Loggy Bayou | April 7-8 |
| Pearl River | April 7 |
| Pomme de Terre | April 7 |
| Sherburne | March 17-18 |
| Sicily Island | March 17 |

| WMA | Lottery Youth Hunt Date |
|--------------|-------------------------|
| Spring Bayou | April 7 |
| Tunica Hills | March 17 |
| Union | April 7-8 |
| West Bay | March 17 |

H. Non-lottery Youth Hunts

1. Bodcau WMA will be open April 21-22 (only youths may hunt).

2. Jackson-Bienville WMA will be open April 21-22 (only youths may hunt).

I. Wildlife Management Area Physically Challenged (Wheelchair Confined) Hunt

1. Jackson-Bienville WMA will be open April 23-29 to holders of valid Physically Challenged Hunter (Wheelchair Classification) Permits.

J. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 31-April 15; all remaining KNF lands, March 24-April 15 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers turkey hunting schedule: Indian Bayou Area, March 17-18 youth and physically challenged lottery only hunt, and lottery hunt only on March 24-25 and March 31-April 1. Old River Control and Lock Areas, March 24-April 8.

3. National Wildlife Refuges: Bogue Chitto NWR, March 24-April 15; Lake Ophelia NWR, March 24-April 8 hunt ends at 12:00 p.m. each day; Tensas NWR, March 24-25 (youth only), March 31-April 15; Upper Ouachita NWR, March 24 (youth lottery only).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2513 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 35:90 (January 2009), LR 35:2481 (November 2009), LR 36:2583 (November 2010), LR 37:

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 written comments on the proposed Rule to Mr. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., September 7, 2011.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the

filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Stephen W. Sagraera
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Turkey Seasons**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of turkey hunting seasons is an annual process that is carried out using existing staff and funding levels. No increase or decrease in costs to state or local governmental units associated with implementing the proposed Rule is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections from the sale of wild turkey licenses in Fiscal Year 2012 are estimated to be \$72,293.50. Failure to adopt this Rule would result in no turkey hunting seasons for 2012 and the subsequent loss of state revenue collections from the sale of turkey licenses. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the foregone sales of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 18,000 resident and nonresident sportsmen and an indeterminable number of sporting goods distributors,

retail outlets and landowners are directly affected by the proposed Rule. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial businesses through hunting lease payments and purchases of related outdoor equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, Rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Resident and nonresident turkey hunters will be required to purchase a Louisiana wild turkey license in addition to their basic and big game hunting licenses, provided they are not exempt from purchasing a turkey license or do not already possess a license that includes wild turkey hunting privileges. The costs incurred by turkey hunters for the purchase of wild turkey licenses will be \$5.50 for residents, non-resident active military, non-resident students and non-resident Louisiana natives, and \$20.50 for other non-residents. In addition, non-residents can purchase an all inclusive 1-day license to hunt turkeys for \$36.00.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 13,084 full and part-time jobs in Louisiana, a portion of which are directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Lois Azzarello
Undersecretary
1107#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

| LAC Title | Part.Section | Effect | Location LR 37 Month Page | LAC Title | Part.Section | Effect | Location LR 37 Month Page |
|-----------|---|----------|---------------------------|-----------|---|----------|---------------------------|
| 67 | V.6517,6519,6521,6523,6525,6527,6529,6531 | Repealed | Mar. 816 | 70 | II.531 | Amended | Jan. 347 |
| | V.6533,6535,6537,6539,6541,6543,6545,6547 | Repealed | Mar. 816 | | III.127,132,134,135,136,137,139,143,144,145,149 | Amended | Mar. 916 |
| | V.6549,6551,6553,6555,6557,6559,6561,6563 | Repealed | Mar. 816 | | III.148 | Adopted | Mar. 916 |
| | V.6565,6567,6569 | Repealed | Mar. 816 | | III.502,503,505,506 | Amended | Mar. 920 |
| | V.7301,7303,7305,7307,7309,7311,7313,7315 | Adopted | Mar. 816 | | | | |
| V.7317 | Adopted | Mar. 816 | 76 | V.131 | Amended | Feb. 602 | |
| 70 | I.1501,1503,1505,1507,1509,1511,1513,1515 | Adopted | | Jan. 347 | VII.116 | Adopted | Jan. 355 |
| | I.1517,1519,1521,1523,1525,1527,1529,1531 | Adopted | | Jan. 347 | VII.341 | Amended | Jan. 354 |
| | I.1533,1535,1537,1539,1541,1543,1545,1547 | Adopted | | Jan. 347 | XI.309 | Adopted | Mar. 922 |
| | I.1549 | Adopted | Jan. 347 | | | | |

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Department of Health and Hospitals Board of Veterinary Medicine

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

| Test Window Date | Deadline To Apply |
|---------------------------------|-------------------|
| November 14 - December 10, 2011 | August 1, 2011 |
| April 9 - April 21, 2012 | January 3, 2012 |

The board will also accept applications to take the Veterinary Technician National Examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows:

| Test Date | Deadline To Apply |
|---------------------------------|-------------------|
| November 15 - December 15, 2011 | October 15, 2011 |
| March 15 - April 15, 2012 | February 15, 2012 |

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Executive Director

1107#029

POTPOURRI

Department of Health and Hospitals Office of Public Health

Public Hearing-Preventive Health and Health Services Block Grant

The Department of Health and Hospitals, Office of Public Health, will hold a public hearing to receive input from the

public on the Louisiana Preventive Health Services Block Grant as administered by the agency. The attached public hearing will take place on Monday, August 25, 2011 beginning at 9:30 a.m. at 628 North Fourth Street (Bienville Building), Third Floor, Room 372, Baton Rouge, LA 70802. Copies of the grant may be obtained from Avis Richard-Griffin, Policy and Planning Section, Office of Public Health. Ms. Richard-Griffin can be contacted by email at avis.richard-griffin@la.gov or by telephone at (225) 342-9355 for additional information.

Bruce Greenstein
Secretary

1107#053

POTPOURRI

Department of Health and Hospitals Physical Therapy Board

Public Hearing—Substantive Changes to Proposed Rules Physical Therapy Comprehensive Rule Revision (LAC 46:LIV.Chapters 1-5)

The board published a Notice of Intent to promulgate rules and to repeal and reenact its rules in the December 20, 2010 edition of the *Louisiana Register*. The notice solicited views, arguments, information written comments and testimony. As a result of its analysis of the written comments and testimony received, the board proposed to amend certain portions of the proposed rules. The proposed rules will be reenacted for the purpose of codification. New rules are in the public's interest and support the board in the execution of its duty to regulate the industry and promote public safety.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter B. General Provisions

§123. Definitions [Formerly §§103, 113, 119, 303, and 305]

* * *

Graduated, Graduation or Graduate—having completed all requirements, including clinical experience, at a CAPTE accredited program for physical therapists or physical therapist assistants. If an educational program certifies that the degree is assured and will be conferred at a later date, an applicant will be considered to have graduated and become a graduate.

* * *

Provisional License—a temporary license issued to a PT or PTA graduate applicant pending results of a fixed-date examination, to a foreign-graduate PT applicant pending completion of the supervised clinical practice as required by §137, or to a PT licensed elsewhere and working temporarily

in Louisiana as part of an education seminar or athletic event under the provisions of §147.

* * *

Supervising PT of Record—the PT who performs the initial evaluation and establishes a plan of care for a patient or a PT who has most recently reevaluated or treated the patient.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2407.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 19:208 (February 1993), LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:1448 (July 2000), amended by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subchapter C. Graduates of American Physical Therapy Schools and Colleges

§129. Qualifications for License, Provisional License [Formerly §107]

- A. To be eligible for a license as a PT, an applicant shall:
1. be at least 21 years of age;
 2. be of good moral character as defined in these rules;
 3. have paid all fees required by the board;
 4. be a citizen of the US or possess valid and current legal authority to reside and work in the US duly issued by the US immigration authorities under and pursuant to the Immigration and Nationality Act (66 Stat.163) and duly promulgated regulations;
 5. possess a minimum of a bachelor's of science degree in Physical Therapy and have completed an academic education from a school duly accredited by CAPTE; as set forth in §175.
 6. have achieved a passing score on the NPTE as set forth in §169; and
 7. furnish the board with his social security number.
- B. To be eligible for a license as a PTA, an applicant shall:
1. be at least 19 years of age;
 2. be of good moral character as defined in these rules;
 3. have paid all fees required by the board;
 4. have graduated from a physical therapist assistant program accredited by CAPTE; as set forth in §175;
 5. have achieved a passing score on the NPTE as set forth in §169;
 6. be a citizen of the U.S.; and
 7. furnish the board with his social security number.
- C. The burden of satisfying the board as to the qualifications and eligibility of an applicant for licensure is upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

D. To be eligible for a provisional license as a PT or PTA, a CAPTE graduate applicant shall possess all of the qualifications for license in this Section except §129.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2409, R.S. 37:2411 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:662 (July 1991), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1443 (July 2000), amended by the Physical Therapy Board, LR 37:

Subchapter D. Graduates of Foreign Physical Therapy Schools

§137. Qualification for License, Provisional License [Formerly §115]

A. To be eligible for a provisional license as a PT, a foreign graduate shall:

1. possess all of the substantive qualifications for license specified by §129 of this Chapter, except for §129.A.5;

2. have successfully completed a physical therapy education curriculum that is substantially equivalent to eh requirements for PTs educated in U.S. physical therapy schools. Using a course work evaluation tool approved by the board, as required by §139.D, an approved credentials evaluation service shall determine the substantial equivalence of the applicant's education. Such education shall include no less than 150 total semester-hour credits including no less than 90 semester-hours credits of physical therapy education and no less than 60 semester-hour credits of general education;

3. have achieved passing scores on standardized English proficiency examinations as approved by the board if English is not the applicant's native language;

4. have acceptable documentation, with notarized English translation, that he has met the requirements to practice physical therapy in the country of education and is in good standing with, the physical therapy licensing or certifying agency in his country of education;

5. possess valid and current legal authority to reside and work in the U.S. duly issued by U.S. immigration authorities under the pursuant to the Immigration and Nationality Act (66 Stat.163) and duly promulgated regulations; and

6. furnish the board with his/her social security number. A provisional license to practice as a physical therapist in the state of Louisiana will not be issued until submission of a copy of the social security card.

B. The burden of satisfying the board's requirements and qualifications for licensure as a foreign graduate is upon the applicant. An applicant shall not be deemed to possess required qualifications unless the applicant demonstrates and evidences such qualifications in the manner satisfactory to the board.

C. To be eligible for a full license as a PT, a foreign graduate applicant shall possess all of the qualifications for license in this section and must have completed at least six months of approved supervised clinical practice as required in §331.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy

Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:1979 (September 2002), amended by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subchapter G. Examination

§159. Dates, Places of Examination [Formerly §135]

A. Once the application process, including the payment of fees is completed, the applicant will be notified of his eligibility to schedule the examination with an approved testing service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 23:1445 (July 2000), amended by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§172. CAPTE Graduate Applicants Pending Examination

A. An applicant who has graduated from a CAPTE accredited program and met the requirements of §151 may be issued a provisional license to engage in supervised clinical practice under this Rule and §330 when NPTE testing is available only on limited fixed dates.

B. A provisional license granted pursuant to this Rule shall be issued for 90 days and shall designate board approved supervisors and a single worksite. No more than one such provisional license shall be issued to an applicant.

C. A provisional license granted pursuant to this Rule entitles the holder to engage in the practice of physical therapy in the state of Louisiana only for the specified time and creates no right or entitlement to licensing or renewal of the provisional license. The holder of a provisional license issued under this Section shall practice physical therapy only at the physical location approved by the board.

D. The holder of a provisional license pending examination must schedule the licensure examination prior to the provisional license expiration date.

E. When the NPTE is available on an “on demand” or “continuous” basis to applicants, such provisional licenses will not be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A. (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subchapter J. Continuing Education

§193. Course Review Requirements

A. Courses and activities approved by the board in advance of presentation will be posted on the Board website and will indicate the hours of credit which may be earned and which classification under §194.B the course falls to generate acceptable continuing education credits for licensees.

B. Consideration of courses or activities for approved continuing education credits shall be based on the content criteria in §195 and the administrative and program criteria as set forth in the Continuing Education Policy posted on the board website.

C. Proposed continuing education courses or activities shall be submitted to the board for approval in advance of

presentation on a form provided on the board website. Sponsors of continuing education courses and activities, or licensees seeking course approval, should look to the board website for guidance on lead time required for review of submissions. Generally, courses or activities of longer duration will require more time for review than courses of short duration.

D. Courses and activities sponsored by the APTA pursuant to content criteria described in §195 will generate acceptable continuing education credits toward the biennial requirements for licensees described in §194.

E. Courses and activities sponsored by the Louisiana Physical Therapy Association and any Louisiana CAPTE accredited program, which meet the content criteria described in §195, will generate acceptable continuing education credits toward the biennial requirements for licensees described in §194. Such courses shall be submitted in advance of presentation in compliance with §193.A and B on a form provided on the board website.

F. Charges for course or activity review shall be as follows.

1. Review charge for APTA, LPTA, and Louisiana CAPTE accredited program sponsors will be waived.

2. Course Sponsor Prior Review charge for sponsors other than §193.F shall be based on course or activity requested contact hours.

a. Course or activity less than eight hours shall be assessed a review charge of \$50.

b. Course or activity greater than eight hours shall be assessed a review charge of \$75.

3. Licensees seeking course or activity prior approval for a course or activity not listed on the board website as pre-approved shall be assessed a review charge of \$20.

G. Courses or activities not approved in advance by the board may generate acceptable continuing education credits for licensees under these circumstances:

1. the licensee submits an application for approval of the course or activity using the form provided on the board website;

2. the licensee submits the application for course or activity approval within 90 days of completion; and

3. in no case will such application for course or activity approval be considered during the last 90 days of the requestor’s license term.

H. Course or activity sponsors may be required to submit to the board verified records of attendance and completion of a sponsored course or activity. No licensee shall receive credit for time not actually spent attending the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A. (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§194. Biennial Requirements [Formerly §169]

A. Unless exempted under §198, licensees shall successfully complete, document and report to the board at least 30 hours of board-approved continuing education courses or activities in the biennial renewal period. No carryover of continuing education hours from one renewal period to another shall be allowed. Continuing education will be granted in the reporting period in which the academic coursework, clinical instruction, tool, residency, or fellowship is completed.

B. The four types of approved courses or activities and requirement for each are:

1. jurisprudence—a minimum of two contact hours;
2. ethics or professionalism—a minimum of two contact hours;
3. clinical/preventive—a minimum of 18 contact hours, up to six of which may be earned by completion of a board approved self assessment tool
4. administrative—a maximum of eight contact hours may be applied during each renewal period. Additional clinical/preventive hours may be substituted for administrative.

C. No more than 15 hours of continuing education submitted to the board shall be home study, internet or online courses or by other distance learning methods. This excludes the jurisprudence requirement, if taken online.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

§195. Content Criteria [Formerly §169]

A. Course or activity content shall address physical therapy competence and practice and shall be designed to meet one of the following goals:

1. update knowledge and skills required for competent performance beyond entry level of the PT or PTA at the time the licensee entered the profession;
2. allow the licensee to enhance his knowledge and skills;
3. provide opportunities for inter-disciplinary learning;
4. extend the limits of professional capabilities and opportunities; and
5. facilitate personal contribution to the advancement of the profession.

B. Required continuing education, as defined in §123, shall include the following:

1. passage of the jurisprudence examination, which may be taken online, or attendance at a traditional board-sponsored Jurisprudence course, either of which fulfills the two hour Jurisprudence requirement;
2. a minimum of two contact hours related to ethics or professionalism;
3. a minimum of 18 contact hours of clinical/preventive courses, six of which may be a board approved self-assessment tool, or activities in increments of no less than two contact hours, including:
 - a. teaching an approved clinical/preventive course or activity. A licensee may receive two hours of credit for each contact hour approved for the course or activity, not to exceed 10 hours. This credit will be given only for the first time the course is presented, during the renewal period;
 - i. board policy regarding course approval during subsequent renewal periods will be available on the board website;
 - b. ten hours of credit for an initial certification by the American Board of Physical Therapy Clinical Specialties;

- c. one hour of credit for every two hours spent in an approved post-professional clinical residency or fellowship, not to exceed ten hours credit;

- d. coursework in a postgraduate physical therapy curriculum, or transitional DPT program from an accredited college or university will be accepted. Courses will be credited for each satisfactorily completed hour resulting in a grade of B or higher. One semester hour shall be equal to 10 contact hours;

- i. board policy regarding submission of materials to demonstrate completion will be available on the board website;

4. licensees may obtain credit for no more than eight contact hours for administrative courses or activities. Administrative courses or activities may include any combination of the following:

- a. a course or activity designed to enhance skills in management of a physical therapy practice;

- b. a maximum of five hours credit for clinical instructors serving as the primary clinical instructor for PT and PTA students or provisional licensees. One hour credit may be earned per 120 hours of clinical instruction during the renewal period. Proof of clinical instruction shall be documented on a form provided by the board and shall be signed by two of the following:

- i. clinical instructor;
 - ii. student;
 - iii. center coordinator clinical education; or
 - iv. academic coordinator clinical education.

- c. a maximum of five clinical hour credit during the renewal period for publication of scientific papers, abstracts, textbook chapters and poster or platform presentations at conferences relating to PT. Textbook chapter credit will be given only for the year of publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§313. Transfer of Patient Care

A. PT shall document the transfer of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the PT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subchapter C. Supervised Practice

§330. Supervision Requirements for CAPTE

Graduates Pending Examination

A. PT holding a provisional license pending examination shall engage in the practice of physical therapy under the supervision of a board approved supervisor.

B. Supervision of a PT with a provisional license pending examination shall include:

1. daily face to face communication between the supervising physical therapist and provisional licensee;
2. on premises observation of patient care in the provisional licensee's practice location, a minimum of 2 hours per day with a minimum total of 10 hours per week; and
3. availability of the supervisor at all times to provide advice to the provisional licensee and to the patient during physical therapy treatment given by a provisional licensee.

C. A PTA holding a provisional license pending examination shall engage in the practice of physical therapy under the supervision of a board approved supervisor. The PTA applicant holding a provisional license shall receive continuous supervision as defined in §123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§335. Supervision of Physical Therapy Technicians [Formerly §321]

A. The level of responsibility assigned to a PT technician is at the discretion of a Supervising PT of Record who is ultimately responsible for the care provided by the technician. Documentation of education or in-service training completed by the physical therapy technician shall be maintained in the technician's personnel file.

1. In all practice settings, during the provision of physical therapy services, the supervising PT shall provide continuous, in-person supervision of the physical therapy technician.

2. A physical therapy technician may assist a PTA only with those aspects of patient treatment which have been assigned to the physical therapy technician by a PT.

3. To ensure the safety and welfare of a patient, the PTA may utilize one or more physical therapy technicians for physical assistance.

B. In a physical therapy wellness setting, after conducting an appropriate screening as to suitability for wellness or preventive services, a PT may delegate the provision of specified client wellness or preventive services to a physical therapy technician who has appropriate education, training or experience to perform and/or assist in the implementation of wellness or preventive services. The PT should be available to the technician by phone or other communications device when such assistance is being provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418.F and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§339. Limitation on Supervision Ratios [Formerly §321]

A. Supervision Ratio. It is the responsibility of each PT to determine the number of PTAs he can supervise safely; however, in no case shall the number of individuals supervised by a PT on any given day exceed five, nor exceed the following limitations:

1. no more than four PTAs or technicians or any combination thereof;
2. no more than one provisional licensee; or
3. no more than five students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418.F and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§373. Violations

A. The following conduct shall also constitute violations the Practice Act and board rules:

1. allowing another person to use a licensee's wall certificate, pocket identification card, license number, or national provider identifier for any purpose other than to identify himself as the lawful holder of those credentials;

2. practicing or enabling practice by an impaired provider, a licensee shall not:

- a. engage in the practice of physical therapy while under the influence of a mood-altering substance that compromises the professional judgment or practice or has the potential to compromise the medical judgment or practice. If the board receives apparently reliable information, including but not limited to reports made pursuant to R.S. 37:1745.14, which information or report puts in question a licensee's or applicant's current fitness and ability to practice physical therapy with reasonable skill and safety to patients, the licensee or applicant shall submit to such physical or mental examination, evaluation, test, or drug/alcohol screen as requested by the executive director to determine the licensee's or applicant's fitness and ability to practice physical therapy with reasonable skill and safety to patients. Records of such examinations, evaluations, tests and screens shall be maintained by the board in confidence unless such records are admitted into the record of any adjudication proceeding before the board or subpoenaed by court order;

3. failing to assess and evaluate a patient's status;
4. performing or attempting to perform techniques or procedures for which the licensee is not qualified by education, experience, licensure or training;

5. delegating physical therapy functions or responsibilities to an individual lacking the license ability or knowledge to perform the function or responsibility involved;

6. causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of his individual dignity;

7. providing treatment interventions that are not warranted by the patient's condition or continuing treatment beyond the point of reasonable benefit to the patient;

8. practicing in a manner which evidences the failure to perform on a continuing basis in compliance with the *Minimal Standards of Acceptable and Prevailing Physical Therapy Practice* as defined in §123;

9. providing substandard care as a PTA by exceeding the authority to perform components of physical therapy

interventions selected by the Supervising PT of Record or through a deliberate or negligent act or failure to act, whether or not actual injury to any person occurred;

10. abandoning a patient without documenting the transfer of care or by inappropriately terminating the patient/practitioner relationship; or

11. documenting services provided which have not been provided as documented or billing for services which have not been provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2421 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

In accordance with La R.S. 49:968(H)(2) of the Administrative Procedure Act, a hearing will be held on August 24, 2011 at 6:30 pm at the Louisiana Physical Therapy Board office located at 104 Fairlane Drive, Lafayette, LA 70507.

Cheryl Gaudin
Executive Director

1107#055

POTPOURRI

Department of Natural Resources Office of Conservation

Advanced Notice of Proposed Rulemaking and Solicitation of Comments on Emergency Action Plans (LAC 43:XIX.Chapter 1)

As part of the ongoing efforts to promote oil and gas exploration and production activities while protecting public health, safety and the environment, the Office of Conservation is considering a regulation which would require the development of an emergency action plan (EAP) by well operators to aid in alerting and protecting the public upon detection of an accidental and uncontrolled release from a well. Although uncontrolled releases are an uncommon occurrence, they create the potential for disruption of normal activities and commerce in an affected area. An EAP requirement would be an effective tool to help ensure that an operator is prepared for an accidental release and emergency response agencies have the information they need when responding to an incident, thereby reducing the potential for impact to public health, safety and the environment.

As a result, the Department of Natural Resources, Office of Conservation is hereby seeking comments from all interested parties on the proposed rule along with information on the potential fiscal and economic impacts of such a rule on all affected parties. This information will be invaluable to this office as we move forward in the rule development process.

Written comments addressing these issues are due no later than 4:30 p.m., August 15, 2011, and should be submitted to Chris Sandoz, Engineering Division, Office of Conservation, Department of Natural Resources, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by Fax to (225) 342-2584. Persons commenting should reference this document as "Solicitation of Comments on Emergency Action Plans."

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§106. Emergency Action Plans

A. All operators that apply for a permit to drill for minerals to a depth greater than 5,000 feet and are subject to this provision shall develop a written emergency action plan (EAP) or contingency plan in accordance with the requirements of this section. Certification of compliance with these requirements shall be provided on the application for a permit to drill for minerals.

1. The purpose of the EAP shall be to provide an organized plan of action for alerting and protecting the public upon detection of an accidental and uncontrolled release from a well. The EAP shall also serve to expedite response efforts to control the release and mitigate adverse effects to the environment.

2. The EAP shall be implemented immediately upon detection of an accidental and uncontrolled release from a well.

3. The EAP shall be based on anticipated site conditions which assume an absolute open-flow rate from the well. Site-specific conditions that might exist in the affected area, but in no case less than a one mile radius area around the well, shall be considered when preparing an EAP.

a. An absolute open-flow rate shall be estimated for each proposed open-hole section or open perforations using industry recognized methodology. For purposes of this part, a worst-case scenario resulting from catastrophic loss of well control shall be assumed by the permit applicant. The estimated flow rate and fluid type for each open-hole section or open perforations along with all assumptions and parameters considered shall be reported in the EAP.

4. The plan shall include a preliminary drilling and completion time schedule which includes the anticipated dates of commencement and duration of each phase of operations. Notification is to be provided to local emergency response authorities at least 24 hours prior to commencement of drilling or completion operations.

5. The plan shall include provisions for oil spill response and containment that are consistent with the worst case flow rate(s) estimated in Subparagraph A.3.a of this Section.

6. The plan shall include instructions and procedures for alerting the general public and public safety personnel of the existence of an emergency.

7. The plan shall include procedures for requesting assistance and for follow-up action to evacuate the public from the impacted area.

8. The plan shall include a list of company contact information including names and telephone numbers for a designated project safety coordinator, operations manager/supervisor, and public relations/information officer associated with the permitted activity. A listed contact shall be designated to respond to questions and/or concerns regarding the plan.

9. The plan shall include a call list which shall include the following:

a. local company supervisory personnel; to include chief executive or chief of operations;

- b. Office of State Police hazardous materials hotline;
- c. parish sheriff and other local/municipal law enforcement agencies;
- d. National Response Center;
- e. Louisiana Department of Environmental Quality;
- f. local and state governing authorities;
- g. parish/municipal emergency response agencies;
- h. local emergency medical providers including hospitals and doctors;
- i. fire department;
- j. specialized well control and spill response contractors;
- k. local air and marine transportation providers (if applicable);
- l. district manager—Office Of Conservation;
- m. U. S. Coast Guard (if applicable).

10. The plan shall include a plat detailing a one-mile radius area around the well. The plat shall include terrain, water bodies, and the locations of private dwellings or residential areas, public facilities, schools, business locations, hospitals, public roads, and/or other similar areas where the public might reasonably be expected to occupy.

11. The plan shall include a list of the names and telephone numbers of the responsible parties for each of the possibly occupied public areas such as schools, churches, business, hospitals or other public areas or facilities within the area.

12. The plan shall include provisions for advance briefing of the public within an area. Such advance briefing shall include the following elements:

- a. the necessity for an emergency action plan;
- b. the hazards and characteristics of natural gas, condensate, crude oil and drilling fluids;
- c. the manner in which the public will be notified of an emergency;
- d. steps to be taken in case of an emergency.

13. The plan shall include additional site specific information, such as:

- a. location of evacuation routes;
- b. location and inventory of safety and life support equipment maintained by the company;
- c. location of nearby telephones and/or other means of communication;
- d. location of temporary housing , including local hotels/motels and specialized housing for the elderly and children;
- e. special provisions for emergency mass transport of citizens; and
- f. special instructions for conditions such as local terrain and the effect of various weather conditions.

14. Notification to parties identified in the contingency plan shall be implemented immediately in the case of an accidental and uncontrolled release.

15. The availability and retention of the contingency plan shall be as follows.

a. The plan shall be available for inspection by an agent of the Office of Conservation and public safety officials at the wellsite or at the nearest field office.

b. The plan shall be available to the public by request and free of charge.

c. Parties identified in the contingency plan shall be given instructions on how to obtain a copy of the plan. If a copy of the plan is requested by any of these parties, the plan is to be provided free of charge.

d. The plan shall be retained at other locations which ensure efficient activation of the plan.

16. The plan shall be kept updated to insure its current applicability and effectiveness until well abandonment.

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 37:

James H. Welsh
Commissioner

1107#033

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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 |
|-----------------------|----------------------|----------|--------------------------------|-------------|---------------|
| Leeward Operators LLC | Pilgrim Church, West | L | Oberlin RC SUA;Rice LD & LBR | 001 | 189261 |
| Leeward Operators LLC | St Martinville | L | VUA; Conoco Fee Fournet D | 005 | 34514 |
| Leeward Operators LLC | St Martinville | L | E Fournet SWD | 002 | 56681 |
| Leeward Operators LLC | St Martinville | L | VUB;Elmer Fournet Conoco Fee E | 004 | 67037 |
| Leeward Operators LLC | St Martinville | L | VUA; Conoco Fee Fournet D | 007 | 88971 |
| Leeward Operators LLC | St Martinville | L | L F Maraist SWD | 001 | 155689 |
| Leeward Operators LLC | St Martinville | L | Edgar Breaux | 001 | 167024 |
| Leeward Operators LLC | St Martinville | L | 4450 RA SUA;Conoco FEE | 002 | 176105 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|----------------------------|------------------|----------|--------------------------------|-------------|---------------|
| Leeward Operators LLC | St Martinville | L | VUB;Elmer Fournet Conoco FEE E | 005 | 176939 |
| Leeward Operators LLC | St Martinville | L | VUA;Conoco Fee-Fournet D | 008 | 180521 |
| Leeward Operators LLC | St Martinville | L | Edgar Breaux | 002 | 186374 |
| Leeward Operators LLC | St Martinville | L | VUA;Conoco Fee Fournet D | 009 | 186552 |
| Leeward Operators LLC | St Martinville | L | VUA;Conoco Fee Fournet D | 010 | 192342 |
| Leeward Operators LLC | St Martinville | L | Elmer Fournet E | 002 | 206322 |
| Leeward Operators LLC | St Martinville | L | Edgar Breaux | 004 | 213205 |
| Leeward Operators LLC | Woodlawn | L | Esther M Witherwax | 001 | 186762 |
| Petroleum Capital, L.C. | Cameron Meadows | L | Cameron Parish School Board | 002 | 215451 |
| Petroleum Capital, L.C. | Cameron Meadows | L | Cameron Parish School BD SWD | 003 | 216036 |
| Petroleum Capital, L.C. | Cameron Meadows | L | Cameron Parish School Board | 001 | 224358 |
| Petroleum Capital, L.C. | Cameron Meadows | L | Cameron Parish School Board | 004 | 235233 |
| Petroleum Capital, L.C. | Thornwell, South | L | Lacassine | 001 | 234561 |
| HC Resources, INC. | Starks | L | ILES | 001 | 209242 |
| HC Resources, INC. | Starks, West | L | UY 7 RA SUA; Etheredge | 001 | 217824 |
| W. B. White Oil Properties | Port Barre | L | S D Cochran | 003 | 42189 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|---------------------------|-------------------------------|----------|-------------------------------|-------------|---------------|
| Ozro B Phillips | Wildcat-SO LA New Orleans Dis | L | Dr W L Stevenson | 001 | 20811 |
| James C. Graves | Monroe | M | GRAVES | 001 | 143002 |
| EQUINOX OIL COMPANY, INC. | Johnsons Bayou | L | JB SU;CPSB | 002 | 75004(30) |
| Equinox Oil Company, INC. | Johnsons Bayou | L | JB SU;CPSB | 026 | 168867(30) |
| W. G. Darsey, III | Johnsons Bayou | L | Cameron Parish School Board | 001 | 174587(29) |
| Shufflin Energy | Bayou San Miguel | S | NE Blankenship | 001 | 155517 |
| Shufflin Energy | Bayou San Miguel | S | NE Blankenship | 002 | 158756 |
| Shufflin Energy | San Miguel Creek | S | Jenk RB Sue:R O Martin LBR CO | 005 | 181648 |
| Shufflin Energy | San Miguel Creek | S | Cook-Taylor | 001 | 188571 |

James H. Welsh
Commissioner

1107#034

POTPOURRI

Department of Natural Resources Office of Conservation Environmental Division

Legal Notice—Docket No. ENV 2011-09

Notice is hereby given that the commissioner of conservation will conduct a hearing at 6:00 p.m., Wednesday, August 24, 2011, at the De Soto Parish Police Jury Building located at 101 Franklin Street, Police Jury Meeting Room, Mansfield, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Select Energy Services, LLC, P.O. Box 1715, Gainesville, TX. The applicant requests approval from the Office of Conservation to construct and operate a commercial waste treatment facility for temporary storage and treatment of exploration and production waste (E and P Waste) located in Township 14 North, Range 13 West, Section 17 in De Soto Parish.

The application is available for inspection by contacting Mr. Daryl Williams, Office of Conservation, Environmental Division, eighth floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, LA. Copies of the application will be available for review at the De Soto Parish Police Jury and the De Soto Parish Main Branch Library in Mansfield, LA no later than 30 days prior to the hearing date. Verbal information may be received by calling Mr. Williams at (225) 342-7286.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, August 31, 2011 at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, LA 70804
Re: Docket No. ENV 2011-09
Commercial Facility Well Application
De Soto Parish

James H. Welsh
Commissioner

1107#073

POTPOURRI

Department of Natural Resources Office of Conservation Environmental Division

Public Hearing—Docket No. ENV 2011-10

Notice is hereby given that the commissioner of conservation will conduct a hearing at 6 p.m., Wednesday, September 7, 2011, at the Jefferson Davis Parish Police Jury Meeting Room at the Sidney E. Briscoe Jr. Building, 304 N State Street, Jennings, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of MBO, LLC d.b.a. Lacassine Oil Field Services, 1941 Gro Racca Road, Iowa, LA 70647. The applicant requests approval from the Office of Conservation to expand the facility by 30 acres to stockpile re-useable material as a major modification to their existing permitted commercial E and P waste disposal facility located in Township 09 South, Range 06 West, Section 013 in Jefferson Davis Parish.

The application is available for inspection by contacting Mr. Stephen Pennington, Office of Conservation, Environmental Division, eighth floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, LA. Copies

of the application will be available for review at the Jefferson Davis Parish Police Jury or the public library in Jennings, LA. Verbal information may be received by calling Mr. Pennington at (225) 342-7334.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Thursday, September 14, 2011 at the Baton Rouge office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, LA 70804
Re: Docket No. ENV 2011-10
Thirty Acre Facility Expansion Application
Jefferson Davis Parish

James H. Welsh
Commissioner

1107#074

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that five claims in the amount of \$22,057.10 were received for payment during the period June 1, 2011-June 30, 2011.

There were 5 paid and 0 denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

| | | |
|----------|----------|-------------|
| 2913.813 | 8932.974 | Plaquemines |
| 2916.060 | 8915.200 | Plaquemines |
| 2947.561 | 8948.391 | Plaquemines |
| 2947.890 | 9319.991 | Cameron |
| 2948.540 | 8939.192 | St. Bernard |

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) 342-0122.

Scott A. Angelle
Secretary

1107#036

CUMULATIVE INDEX
(Volume 37, Number 7)

| 2011 | |
|------------------------------------|----------|
| Pages | Issue |
| 1-437..... | January |
| 438-759..... | February |
| 760-1069..... | March |
| 1070-1324..... | April |
| 1325-1476..... | May |
| 1477-2044..... | June |
| 2045-2320..... | July |
| EO—Executive Order | |
| PPM—Policy and Procedure Memoranda | |
| ER—Emergency Rule | |
| R—Rule | |
| N—Notice of Intent | |
| CR—Committee Report | |
| GR—Governor's Report | |
| L—Legislation | |
| P—Potpourri | |

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2010-December 2010, 428
January 2011-March 2011, 1301

AGRICULTURE AND FORESTRY

Agricultural Commodities Commission

Aflatoxin, 441ER
Agricultural commodity dealer and warehouse law, 494R
Giant salvinia, 269R, 809R
Labeling of coated seeds, 269R
Landscape architect registration exam, 751P
Louisiana strawberries, 270R
Structural pest control commission, 272R

Agriculture and Environmental Sciences

Annual quarantine listing for 2011, 1304P
Bulk pesticide facilities, 2060ER
Quarantine rescissions for formosan termites, Hurricanes Katrina and Rita, 1060P

Commissioner, Office of

Aflatoxin, 441ER

Feed, Fertilizer, and Agriculture Commission

Definition of small package, 809R

Forestry, Office of

Forestry commission
Timber harvesting records, 2233N
Tree seedling prices, 2234N

Horticulture Commission

Landscape architect registration exam, 432P

Seed Commission, Office of

Agriculture chemistry lab fees, 809R
Cotton acreage reporting and collection of assessments, 923N
Laboratory testing and seed sampling fees, 356N, 1373R
Seed labeling; seed certifications; fees, 2226N

CHILDREN AND FAMILY SERVICES

Formerly Department of Social Services.

Child Welfare Section

Annual progress and services report, 1305P
Daycare services—residential licensing, 513R
Social services block grant intended use report, 1306P

Division of Programs

Child care assistance program
Employment and training (E and T) hours, 605N, 1373R
Child support enforcement
Securing and enforcing medical support obligation, 810R
Exempt earned income tax credit (EITC) payments, 1071ER, 1421N
Portability of criminal history, religious exemption, and sex offender rule, 441ER, 811R

Economic Stability and Self-Sufficiency Section

Daycare services—residential licensing, 513R
TANF caseload reduction report, 432P

Licensing Section

Child placing agencies, 816R
Class "A" regulations, 607N

CIVIL SERVICE

Civil Service Commission

Temporary suspension of merit increase authority, 924N

Ethics, Board of

Local government lobbying, 1374R
Statements filed pursuant to section 1111(e) of the code of governmental ethics, 357N, 1376R

ECONOMIC DEVELOPMENT

Business Development, Office of

Enterprise zone program, 296R
Industrial ad valorem tax exemption program, 304R
Louisiana filmmakers grant fund program, 515R
Motion picture investor tax credit program, 514R
Retention and modernization act, 514R
Sound recording production and infrastructure tax credit programs, 309R

Entertainment Industry Development, Office of

Louisiana filmmakers grant fund program, 515R
Motion picture investor tax credit program, 514R
Sound recording production and infrastructure tax credit programs, 309R

Louisiana Economic Development Corporation

Retention and modernization act, 514R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 103—Louisiana Health Education Content Standards, 1178N, 2094R

EDUCATION (continued)

- Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children, 518R
- Bulletin 111—The Louisiana School, District, and State Accountability System, 639N, 1122R, 1202N, 1864N, 2118R, 2120R
- 9-12 Transition from 2010 to 2012, 857R
- Bulletin 118—Statewide Assessment Standards and Practices, 858R, 1123R
- Bulletin 119—Louisiana School Transportation Specifications and Procedures, 1205, 2122R
- Bulletin 125—Standards for Educational Leaders in Louisiana, 861R
- Bulletin 126—Charter Schools, 867R, 1124R, 1422N
- Board of director composition, 641N, 1376R
- Bulletin 129—The Recovery School District, 310R, 642N, 876R, 1125R, 1377R
- Bulletin 131—Alternative Education Schools/Programs Standards, 925N, 2126R
- Bulletin 741—Louisiana Handbook for School Administrators, 645N
- Approval for alternative schools/programs, 933N, 2128R
- Assignment and transfer of students, 1125R
- Attendance, 1126R
- Building and maintenance, 1128R
- Carnegie credit for middle school students, 929N, 2128R
- Classroom management training, 646N, 1380R
- College and career diploma; career diploma, 1210N, 2129R
- Compulsory attendance, 931N, 2132R
- Connections process, 932N, 2131R
- Curriculum instruction, 547R, 1128R, 1212N, 2132R
- Disciplinary regulations, 1132R, 1133R
- Dropout prevention and recovery, 879R
- Electronic telecommunication devices, 1134R
- Elementary program of studies, 1134R
- Eligibility to participate in high school interscholastic athletics, 1135R
- Family and consumer sciences education, 880R
- General powers of local educational governing authorities, 1136R
- High schools, 1137R
- Home study program, 1137R
- Immunizations, 934N, 2134R
- Physical abuse of teachers and school employees by students, 1138R
- Red tape reduction waiver and local empowerment program, 1866N
- Religious studies, 935N, 2134R
- Staff misconduct, 1138R
- Student biometric information, 1139R
- Teachers' retirement system, part-time, seasonal or temporary classroom teacher, 1140R
- Textbooks, 1141R
- Uniform grading policy, 936N
- Written policies and procedures, 936N, 1141R, 1380R
- Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators, 940N, 1218N, 1869N, 2142R, 2144R
- School approval, 1221N, 2145R
- Bulletin 746—Louisiana Standards for State Certification of School Personnel, 549R
- Alternate teacher preparation programs, 556R
- Certificate endorsements, 647N, 1381R
- Early interventionist, 648N, 1381R
- Elementary mathematics specialist, 1214N, 2135R
- Louisiana teacher assistance and assessment program (LaTAAP)
- Mental health professional counselor, 880R
- Middle school specialty area endorsements, 881R
- Out-of-state (OS) certificate, 882R
- Out-of-state principal level 2 (OSP2), 882R
- Overview, 1215N, 2135R
- Requirements to add early childhood, 883R, 1561R
- School nurse, 883R
- School therapists, 884R
- Supervisor of student teaching, 1216N, 2136R
- Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs
- Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools
- Driver education; required, 1217N, 2136R
- Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation, 566R, 927N, 1141R, 2137R
- Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook, 649N
- Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities, 885R
- Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
- Regulations for students with disabilities, 937N
- Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook, 1382R
- Membership Foundation Program, student membership, 1142R
- Organization, Operations, 941N, 2139R
- State superintendent, 886R
- Student Financial Assistance Commission**
- Student Financial Assistance, Office of**
- Bylaws of the advisory committee to the student financial assistance commission, 1081ER, 1430N
- Scholarship/grant programs
- Academic year, 2ER, 654N, 1561R
- Applications, federal grant aid and ACT test, 588R
- Award amount, 358N, 1386R
- Establishing eligibility, 1327ER
- GO grant summer billing, 1388R
- John R. Justice grant program, 359N, 1387R
- LASFAC committees, 1871N
- LTC early start payments, 2062ER
- Student financial assistance commission bylaws, 1328ER
- TOPS equivalent courses, 1872N
- Tuition, 3ER, 655N, 1562R

Tuition Trust Authority
Student Financial Assistance, Office of
LATTA committees, 1873N
Tuition trust authority bylaws, 1329ER

ENVIRONMENTAL QUALITY

Environmental Protection Agency

Secretary, Office of Legal Affairs Division

2010 annual incorporation by reference of certain federal air quality regulations, 2235N
Control of emissions of smoke, 1143R
Emergency response for solid waste facilities, 1563R
Greenhouse gases, 361N, 1144R, 1147R, 1389R
Louisiana engineering review activity form, 1307P
Non-road engines, 656N, 1391R
Organic solvents; emissions, 365N, 1150R
Pm2.5 NSR implementation, 658N, 1568R, 2145R
Pollutant discharge elimination system exclusions, pesticide application, 1307P
Removal of pesticide application exemption from LPDES permitting requirements, 588R
Solid waste, 944N
Standards for the use or disposal of sewage sludge and biosolids, 751N, 1223N
Toxic air pollutant emission control program, 1222N
Waste expedited permitting, 972N

EXECUTIVE ORDERS

- BJ 10-20 Gulf Opportunity Zone Advance Refunding Bond Allocation—Louisiana Local Government Environmental Facilities and community Development Authority, 1EO
BJ 11-01 Carry Forward Bond Allocation 2010, 438EO
BJ 11-02 Bond Allocation—Local Government Environmental Facilities and Community Development Authority, 439EO
BJ 11-03 Bond Allocation—Local Government Environmental Facilities and Community Development Authority, 439EO
BJ 11-04 State of Emergency—Extension of Qualifying in the Parish of Union, 440EO
BJ 11-05 Coordinated System of Care Governance Board, 760EO
BJ 11-06 Executive Branch—Personal Services Expenditure Freeze, 1070EO
BJ 11-07 Executive Branch—Expenditure Freeze, 1325EO
BJ 11-08 Executive Branch—DOTD Guidelines for Vehicles, Trucks and Loads which haul Hay from Louisiana to Texas, 1477EO
BJ 11-09 Merit Increase Freeze—Merit Increase Freeze, 1477EO
BJ 11-10 Flags at Half Staff—Flags at Half Staff, 1478EO
BJ 11-11 Executive Branch—Bright Start, 2045EO
BJ 11-12 Executive Department—Limited Hiring Freeze, 2046EO

FIREFIGHTERS PENSION AND RELIEF FUND
Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity
Tax qualification provisions, 662N, 1392R

GOVERNOR

Administration, Division of

Cosmetology, Board of

Exam ineligibility and alternative hair design, 366N, 1150R

Facility Planning and Control

Louisiana building code, 1228N

Racing Commission

Corrupt and prohibited practices, 1393R
Mandatory health screening, 3ER, 1393R

State Travel, Office of

General travel PPM, 2048PPM

Tax Commission

Ad valorem taxation, 1071ER, 1394R
Public hearing, substantive changes to proposed rule oil and gas properties, 1308P

Architectural Examiners, Board of

Licensing; examination procedure; fees; qualifications as apprentice; bonds; funds; advertising violations; continuing education, 2147R

Titles, firm names, and assumed names, 663N

Auctioneers Licensing Board

Public hearing, substantive change to proposed rules, 1308P

Coastal Protection and Restoration Authority

2012 draft annual plan hearing, 432P
Prohibition of activities on levees and flood control structures, 1479ER

Crime Victims Reparations Board

Compensation to victims, 976N, 1605R

Elderly Affairs, Office of

State plan on aging, 319R

Financial Institutions, Office of

Broker-Dealer and investment adviser recordkeeping requirements, 666N, 2148R
Residential mortgage lending program, 589R
Supervision of salesmen and investment adviser representatives, 983N, 2149R

Home Inspectors, Board of

Licensing, education, standards of practice and code of ethics, 973N

Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 319R, 976N, 1606R

Public Defender Board

Trial court performance standards for attorneys representing parents in child in need of care and termination of parental rights cases, 321R

Trial court performance standards for attorneys representing children in delinquency, 984N, 1445N

Real Estate Appraisers Board

Appraisers, 332R
Appraisal management companies, 368N

GOVERNOR (continued)

Real Estate Commission

Real estate, 2238N

Shorthand Reporters, Board of Examiners

General requirements for certified digital reporters, 317R

State Uniform Payroll, Office of

403(b) tax shelter annuity program, 366N, 1404R

Used Motor Vehicle Commission

Licensure and established place of business, 1405R, 1612R

Veterans Affairs, Department of

Military family assistance program, 978N, 1606R

HEALTH AND HOSPITALS

Adult Protective Services, Division of

Definition of abuse and sexual abuse, 904R

Aging and Adult Services, Office of

All inclusive care for the elderly, reimbursement rate reduction, 761ER, 1003N, 1082ER, 1572R

Definition of abuse and sexual abuse, 904R

Home and community-based services waivers

Adult day health care, 1334ER, 1883N

Reimbursement rate reduction 765ER, 1095ER, 1232N, 2157R

Elderly and disabled adults

Personal assistance services, 899R

Reimbursement rate reduction, 766ER, 1235N

Louisiana physician order for scope of treatment, 709N, 1603R

Nursing facilities

Standards for payment level of care determinations, 341R

Personal care services—long-term

Policy clarifications and service limit reduction, 2082ER

Reimbursement rate reduction, 806ER, 1112ER, 1116ER, 2086ER, 2087ER

Chiropractic Examiners, Board of

Specialty advertising, unethical conduct, code of ethics, 1875N

Certified Social Worker Examiners, Board of

Social work, 1431N

Citizens with Developmental Disabilities, Office of

Home and community-based services waivers

Children's choice, service cap and reimbursement rate reduction, 1233N, 2157R

New opportunities waiver, reimbursement rate reduction, 774ER, 1244N, 2157R

Residential options waiver, 775ER, 1337ER

Supports waiver, reimbursement rate reduction 790ER, 1245N

Dentistry, Board of

Administration of botox and dermal fillers, 2264N

Administration of nitrous oxide inhalation analgesia, 1082ER

Advertising; license renewal fees; anesthesia/analgesia administration; continuing education; and dental hygienists examination, 1229N, 2150R

Automated external defibrillator; botox and dermal fillers; licensure; portable and mobile dentistry; nitrous oxide; sanctions; examination of dentist, hygienists, 667N, 1405R

Licenses; authorized duties; nitrous oxide inhalation, 590R

Dietetics and Nutrition, Board of Examiners in

Registered dietitians, 372N, 2152R

Emergency Response Network Board

Interregional transfer protocol, 751N

LERN entry criteria: trauma, LERN destination protocol: trauma, 1466P

Health Services Financing, Bureau of

Adult day health care (ADHC)

Minimum licensing standards, 1106ER, 2076ER

All inclusive care for the elderly, reimbursement rate reduction, 4ER, 761ER, 1003N, 1082ER, 1572R

Ambulatory surgical centers, reimbursement rate reduction, 5ER, 761ER, 1004N, 1083ER, 1572R

CommunityCARE program

Primary care providers

Referral exemptions, 338R

Program redesign, 6ER, 1084ER, 2063ER

Coordinated care network, 680N, 1573R

Coordinated system of care, behavioral health services, 1060P

Direct service worker registry, 1088ER, 2067ER

Disproportionate share hospitals payments, 1481ER

Low income and needy care collaborations, 10ER, 1090ER

Non-Rural Community Hospitals, 446ER

EPSDT

Dental program

Covered services and reimbursement rate reduction, 762ER, 1005N, 1598R

Reimbursement rate reduction, 12ER, 1092ER

Health services, EarlySteps reimbursement rate reduction, 13ER, 1007N, 1094ER, 1599R

Substance abuse services, 1330ER

End stage renal disease facilities, reimbursement rate reduction, 14ER, 763ER, 1008N, 1094ER, 1599R

Estate recovery, 339R

Family planning clinics, reimbursement rate reduction, 764ER, 1010N, 1600R

Family planning waiver, reimbursement rate reduction, 765ER, 1231N, 2156R

Recipient qualifications, 2265N

Federally qualified health centers diabetes self-management training, 448ER, 1483ER, 1880N

Forensic supervised transitional residential and aftercare facilities, minimum licensing standards, 380N, 1154R

Greater New Orleans community health connection waiver, 15ER, 1331ER

Home and community-based service providers

Minimum licensing standards, 1500ER

Home and community-based service providers

Minimum licensing standards, 1888N

Home and community-based services waivers

Adult day health care, 1334ER, 1485ER, 1883N

HEALTH AND HOSPITALS (continued)

- Reimbursement rate reduction 765ER, 1095ER, 1232N, 2157R
- Children's choice,
 - Allocation of waiver opportunities, 1336ER
 - Service cap and reimbursement rate reduction, 1096ER, 1233N, 2157R
- Elderly and disabled adults,
 - Personal assistance services, 18ER, 899R
 - Reimbursement rate reduction, 766ER, 1235N
- Elderly and disabled adult waiver
 - Emergency opportunities and reimbursement methodology, 1490ER
- New opportunities waiver
 - Reimbursement rate reduction, 774ER, 1244N, 2158R
 - Supports waiver, reimbursement rate reduction, 1245N
- Residential options waiver, 775ER, 1337ER
- Supports waiver, reimbursement rate reduction 790ER
- Home health program
 - Durable medical equipment, provider accreditation, 1246N, 2159R
 - Extended nursing services, reimbursement rate reduction, 21ER, 1097ER, 1247N, 2159R
- Hospital licensing standards
 - Outpatient off-site campuses, 2266N
- Inpatient hospital services
 - Low income and needy care collaboration, supplemental payments, 1308P
 - Major teaching hospitals,
 - Qualifying criteria, 449ER, 1533ER
 - Supplemental payments, 1532ER
 - Neonatal and pediatric intensive care units and outlier payment methodologies, 790ER, 1535ER
- Non-rural, non-state hospitals
 - Children's specialty hospitals, 597R
 - Low income and needy care collaboration, 22ER, 1098ER
 - Major teaching hospitals, 1099ER
 - Outlier payment methodology, 23ER, 452ER
 - Reimbursement rate reduction, 24ER, 1100ER
- Non-rural, non-state public hospitals, reimbursement methodology, 1352ER
- Pre-admission certification, 25ER, 1353ER
- Reimbursement methodology, 793ER, 1248N, 2159R
- Small rural hospitals upper payment limit, 796ER, 2069ER
- State hospitals, supplemental payments, 452ER, 1353ER
- Intermediate care facilities for persons with developmental disabilities
 - Non-state facilities
 - Reimbursement methodology, 797ER, 2070ER
 - Public facilities
 - Reimbursement methodology, 797ER, 1538ER
 - Reimbursement rate reduction, 1101ER, 2071ER, 2267N
- Laboratory and radiology services, reimbursement rate reduction, 26ER, 799ER, 1102ER, 2071ER, 2268N
- Medicaid program
 - Reimbursement rate and prescription limit reductions, 453ER
- Medical necessity criteria, 341R
- Medical transportation program
 - Emergency ambulance services, reimbursement rate reduction, 27ER, 1103ER, 2270N
 - Supplemental payments, 1539ER, 2073ER
 - Non-emergency ambulance services, reimbursement rate reduction, 28ER, 1104ER, 2271N
 - Non-emergency medical transportation, reimbursement rate reduction, 29ER, 800ER, 1105ER, 2074ER, 2273N
- Mental health rehabilitation program,
 - Provider participation requirements, 399N, 1173R
 - Reimbursement rate reduction, 29ER, 1105ER
 - Termination of parent/family intervention (intensive) services and continued treatment clarifications, 800ER, 2075ER
- Multi-systemic therapy
 - reimbursement rate reduction, 30ER, 802ER, 1108ER, 2078ER
- Nursing facilities
 - Minimum licensing standards
 - Approval of facility plans, 1541ER, 1921N
 - Nurse aide training and competency evaluation program, 2274N
 - Per diem rate reduction, 401N, 1174R
 - Reimbursement methodology
 - Direct care multiplier and fair rental value component, 1011N, 1541ER, 1922N
 - Minimum data set assessments, 31ER, 1354ER
 - Reimbursement rate reduction, 34ER, 902R
 - Standards for payment, level of care determinations, 341R
 - Transition of state-owned or operated nursing facility, 903R
- Outpatient hospital services
 - Diabetes self-management training, 454ER, 1542ER
 - Duration of outpatient status, 1012N, 1600R
 - Hospital provider-based outpatient clinics, 2284N
 - Non-rural, non-state hospitals and children's specialty hospitals, reimbursement rate reduction, 35ER, 803ER, 1109ER, 2079ER
 - Non-rural, non-state hospitals, major teaching hospitals, 1111ER
 - Small rural hospitals, upper payment limit, 805ER, 2081ER
- Personal care services—long-term, policy clarifications and service limit reduction, 2082ER
- Personal care services—long-term, reimbursement rate reduction, 37ER, 806ER, 1112ER, 1116ER, 2086ER, 2087ER
- Pharmacy benefits management program
 - Maximum allowable costs, 1357ER
 - Medication administration, influenza vaccinations, 1117ER
 - Minimum allowable costs, 38ER
 - Prescription limit reduction, 455ER, 1358ER
- Pregnant women extended services
 - Dental services, reimbursement rate reduction, 39ER, 807ER, 1117ER, 2087ER

HEALTH AND HOSPITALS (continued)

Substance abuse screening and intervention services,
1119ER, 2088ER

Professional services program

Diabetes self-management training, 456ER, 1543ER

Physician services

Obstetrics rate increase, 904R

Reimbursement methodology, supplemental
payments, 457ER, 1544ER

Prosthetics and orthotics

Osteogenic bone growth stimulators, 1013N, 1600R

Rural health clinics

Diabetes self-management training, 458ER, 1546ER,
1924N

Licensed Professional Counselors, Board of Examiners

License of title for marriage and family therapy, 706N,
1601R, 2162R

Practice of mental health counseling for serious mental
illnesses, 2089ER

Professional assistance program, 344R

Medical Examiners, Board of

Clinical laboratory personnel, licensure and
certification, 596R, 1439N

Enforcement terms; unprofessional conduct, 336R

Licensure and certification; reciprocity, 337R

Medical psychologists, general, licensure, certification
and practice, 888R, 1150R

Physician assistants—practice, 2285N

Physician consultation or collaboration with medical
psychologists, 897R

Nursing, Board of

Administration of anesthetic agents, 898R

Alternative to disciplinary proceedings, 1877N

Paperless licensing revisions, 1878N

Nursing Facility Administrators, Board of Examiners

Nursing facility administrators, 590R, 887R

Physical Therapy Board

Public hearing, substantive changes to proposed rules,
comprehensive revision, 1060P, 2304P

Public Health, Office of

Added controlled dangerous substances, 41ER, 1015N,
1359ER

Maternal and child health section

Public notice of MCH block grant, 2033P

Milk code, 1930N

Preventive health and health services block grant
hearing, 433P, 2304P

Public buildings, schools and other institutions, 1252N,
1440N, 2165R

Tuberculosis control program

Inmate health, 597R

Mandatory testing, 598R

Radiologic Technology Board of Examiners

Fusion technology, 2287N

Secretary, Office of

Community and family support system—flexible
family fund, 1926N

Speech-Language Pathology and Audiology, Board of Examiners for

Speech pathology and audiology, 671N

Veterinary Medicine, Board of

Continuing veterinary medicine education, 377N,
1152R

Fall/winter examination dates, 2304P

Prescribing and dispensing drugs

Preceptorship program, 1001N, 1571R

Wholesale Drug Distributors, Board of

Exemptions, 899R

INSURANCE

Commissioner, Office of

Rule number 9—prelicensing education, 1257N, 2168R

Rule number 10—continuing education, 1262N, 2172R

Regulation number 47—actuarial opinion and
memorandum regulation, 598R

Health, Office of

Annual HIPAA assessment rate, 1468P

LEGISLATION

House Committee on Ways and Means

Ad valorem taxation, 1303CR

Senate Committee on Health And Welfare

Legislative oversight review, physical therapy, 2035P

LOUISIANA LOTTERY CORPORATION

On-Line Lottery Games

Mega millions, 2289N

NATURAL RESOURCES

Conservation, Office of

Advanced notice of rulemaking and solicitation of
comments on emergency action plans, 2309P

Advanced notice of rulemaking and solicitation of
comments on water well registration, construction and
closure, 1313P

Hearing notice, CCS Midstream Services, LLC (docket
No. Env 2011-04), 1061P

Hydraulic fracture stimulation operations, 2290N

Legal notice, docket no. ENV 2011-05, 1317P

Orphaned oilfield sites, 433P, 755P, 1062P, 2033P,
2310P

Public hearing, docket No. ENV 2011-08, 2033P

Public hearing, docket No. ENV 2011-09, 2311P

Statewide order no. 29-B—general provisions, 1268N

Statewide orders no. 29-B and 29-B-a, 460ER, 1547ER

NATURAL RESOURCES (continued)

Surface Mining—Statewide Order 29-O-1, 2025N
Vanguard Environmental, LLC public hearing, 433P
Water well notification requirements, 711N
Water wells, 905R

Environmental Division

Public hearing—application of Heckmann water resources corporation (docket ENV 2011-07), 1538P
Public hearing—docket no. ENV 2011-10, 2312P

Secretary, office of

Fishermen's Gear Compensation Fund

Loran Coordinates, 755P, 1064P, 1317P, 1318P, 1469P, 2034P, 2312P

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Disaster remediation program, 403N, 1174R
Judicial agency residential referral facilities, 41ER, 712N, 1360ER, 1408R
Non-Medical furloughs, 720N, 1415R
Offender visitation, 1269N, 2177R
Special agents, 1276N, 2184R
Supervised release of sex offenders upon expiration of sentence, 404N, 1176R
Telephone use and policy on monitoring of calls, 599R

Gaming Control Board

Casino gaming payment interception, 406N, 1415R
Definition of Louisiana business, 1462N

Liquefied Petroleum Gas Commission

Storage and handling of liquefied petroleum gases, 913R

Private Investigators, Board of

Little Lake crude oil discharge draft settlement agreement, 2034P

Private Security Examiners, Board of

Security officer—definition; registration; insignia, 2291N

State Fire Marshal, Office of the

Commercial building energy conservation code, 1279N, 2185R
Property protection licensing, 408N
State uniform construction code, 601R, 2187R

State Police, Office of

Applicability of regulations, 1278N, 2187R
Breath and blood alcohol analysis methods and techniques, 720N, 721N, 1416R, 1417R
Collection, submission, receipt, identification, storage and disposal of DNA samples, 471ER, 722N, 1417R
Federal motor carrier regulations, 1016N, 1613R

State Uniform Construction Code Council

State uniform construction code, 913R, 2090ER
Wood structural panel standards, 2293N

REVENUE

Policy Services Division

Electronic filing mandate for reports and returns related to the sports facility assistance fund, 914R
Electronic filing requirements for oil or gas severance tax, 474ER, 1017N, 1613R

Natural gas severance tax rate, 2035P

New markets tax credit, 914R

Advanced notice of proposed rulemaking and solicitation of comments on mandatory electronic filing of corporate and individual income tax extensions and extension payments, 1469P

TRANSPORTATION AND DEVELOPMENT

Highway Construction

Access connection permits and driveway permits, 347R

Outdoor Advertising

Outdoor advertising, 916R
Tourist oriented directional signs, 920R

Professional Engineering and Land Surveying Board

General provisions, 1019N
Public hearing—substantive changes to proposed rules—general provisions, 2035P

Transportation Research Center

LTRC transportation training and education fund, 354R

TREASURY

Deferred Compensation Commission

Public employees deferred compensation plan, 723N, 1617R

Treasurer, Office of

Permissible investments, 1367ER, 2091ER

Trustees of the Louisiana State Employees' Retirement System, Board of

Election to the board of trustees, 1029N, 1614R

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

2011-2012 commercial king mackerel season, 48ER
Alligator regulations, 1281N
Assignment of HINs to undocumented vessels manufactured in Louisiana, 922R
Calcasieu lake oyster harvester permit, 2294N
Calcasieu lake public oyster area closure, 1120ER
Civil fish and wildlife values, threatened and endangered species, 1294N
Coastal sharks commercial fishery opening, 49ER
Commercial fisheries opening, 1367ER
Crab trap closure and derelict crab trap clean-up, 475ER
Deer hunting season, revisions, 2092ER
Deer management assistance program, 1033N, 2187R
Fall inshore shrimp season extension in Breton and Chandeleur Sounds, 1120ER
Fall inshore shrimp season extension in portions of zone 1, 49ER
Gag grouper, 2011-2012 recreational season, 2091ER
General and wildlife management area hunting rules and regulations, 728N
General and WMA turkey hunting regulations, 2295N
Greater amberjack commercial season closure, 1368ER
Greater amberjack recreational season closure, 1368ER
King mackerel commercial season, 476ER

WILDLIFE AND FISHERIES (continued)

Methods of payment for commercial licenses and oyster tags, 745N, 1622R
Oyster Bedding Season—CSA 1, 1560ER
Oyster leases, 1622R
Public seed grounds east of the Mississippi river and oyster lease relocation, 424N, 1624R
Recreational and commercial fisheries closure, 1369ER
Recreational and commercial fisheries opening, 1369ER
Red snapper recreational season closure, 1370ER
Reef fish—harvest regulations, 2011-2012 commercial reef fish season, 50ER
Reef fish—harvest regulations, 2011-2012 recreational reef fish season, 50ER
Reef fish—harvest regulations, gag grouper recreational season closure, 51ER
Resident game hunting season, 746N, 2206R
Shrimp season closure—Zone 1, 476ER
Special shrimp season in portion of state inside waters, 1371ER
Spring inshore shrimp season
 Additional season closure, 2092ER
 Opening dates, 1371ER
 Partial zone 2 closure, 2093ER
Spotted seatrout management measures, 354R

State outside waters
 Partial opening of shrimp season, 1120ER
Texas border waters, reciprocal agreement and black bass regulations, 1035N
Turkey seasons, 2299N
Wildlife rehabilitation program, 602R
Use of yo-yo's and trotlines in Lake Lafourche, 355R

Secretary, Office of

Atchafalaya Basin closure continuation, 1559ER
Atchafalaya Basin flooding closure, 1559ER

WORKFORCE COMMISSION

State Plumbing Board

Continuing professional education programs, 905R, 1463N

Workers' Compensation, Office of

Hearing rules, 1053N, 1625R
Medical guidelines, 51ER, 426N, 477ER, 1631R

Workforce Development

Apprenticeship law, 1037N, 2209R
Hearing notice and comment period revision labor and employment, apprenticeship law, 1318P