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Executive Orders

EXECUTIVE ORDER BJ 11-06

Executive Branch—Personal Services Expenditure Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 11 of the 2010 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government; and

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

WHEREAS, pursuant to R.S. 42:375, the Governor has the authority to prohibit or regulate the filling of vacancies in the executive branch of state government.

WHEREAS, in preparation of the budget challenges in the current and ensuing year, Executive Order BJ 2010-12 Limited Hiring Freeze related to personal services was issued on July 1, 2010, and updated periodically, remains in effect; and

WHEREAS, Acts 11 and 41 of the 2010 Regular Session of the Louisiana Legislature do not contain specific budget authority for pay increases from promotions; rewards and recognition; optional pay lump sum; optional pay base pay; advanced degrees; premium pay; incentive pay; retention pay; individual pay adjustment; on-call; shift differential; cash allowances; gainsharing; or any other methods of pay increase; and

WHEREAS, to ensure that the State of Louisiana continues prudent money management practices, the interests of the citizens of the State of Louisiana are best served by implementing an expenditure freeze on the personal services throughout the executive branch of state government;

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: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Acts 11 and 41 of the 2010 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall freeze unclassified personal services expenditures as provided in this Executive Order.

SECTION 2: All departments, and/or budget units of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through the Acts are urged and encouraged in the case of classified employees to also follow the dictates of this Executive Order.

SECTION 3: All other elected state officials or entities with constitutional authority are urged to join in this effort to preserve state services to our citizens by exercising their authority to freeze personal services expenditures as provided in this Executive Order both as to unclassified and classified salary increases.

SECTION 4: No department, agency, and/or budget unit of the executive branch of the State of Louisiana, unless specifically exempt by a provision of this Order or with express written approval of the Commissioner of Administration, shall make any expenditure of funds related to unclassified personal services for the purpose of implementing pay increases.

SECTION 5:

A. Exemptions from the prohibitions set forth in Section 4 of the Order are as follows:

1. Promotions;
2. Premium pay, shift differential pay, on-call, and cash allowances for new hires or promotions for departments, agencies, and/or budget units with existing policies for such pay;
3. Gainsharing increases as authorized by R.S. 39:87.5-.6.

SECTION 6: The Commissioner of Administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall remain in effect through June 30, 2011, unless amended, modified, terminated, or rescinded prior to that date.

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 8th day of April, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1104#118

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Division of Programs

Exempt Earned Income Tax Credit (EITC) Payments
(LAC 67:III.1975)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67: III, Subpart 3, Chapter 19, Section 1975. This emergency rule is effective upon the signature of the DCFS secretary and shall remain in effect for a period of 120 days.

Pursuant to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Section 728, P.L. 111-312) enacted on December 17, 2010, the agency must exclude as income and as resources for a period of 12 months from the month received, Federal tax refunds received after December 31, 2009, in all Federal means-tested programs. In accordance with the Food and Nutrition Services (FNS) Supplemental Nutrition Assistance Program (SNAP) policy memo dated February 07, 2011, Section 1975 of Subpart 3, Chapter 19, Subchapter I is being revised to disregard Earned Income Tax Credit (EITC) payments as a resource for a period of 12 months from the date of receipt.

Emergency action is required in this matter in order to avoid sanctions and penalties from the United States (R.S. 49:953(B)). If the agency does not follow the Federal law regarding excluding Federal tax refunds, the department may be subject to sanctions and penalties.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 3. Supplemental Nutrition Assistance Program (SNAP)

Chapter 19. Certification and Eligible Households

Subchapter I. Income and Deductions

§1975. Earned Income Tax Credits (EITC)

A. Exclude EITC as resources for 12 months from receipt.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 and P.L. 103-66, P.L. 110-246, Section 728 P.L. 111-312.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations in LR 15:74 (February 1989). Amended in LR 15:393 (May 1989). Amended by the Department of Social Services, Office of Family Support in LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), amended by the Department of Children and Family Services, LR 36:2530 (November 2010), LR 37:

Ruth Johnson
Secretary

1104#028

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 703, 907, 1103, 1305,
1307, 1503, 2503, 3101, and 3501)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, and adopted an Emergency Rule on December 10, 2010, with an effective date of January 1, 2011, that will expire on April 30, 2011. The following Emergency Rule was adopted on April 8, 2011 with an effective date of May 1, 2011.

This Emergency Rule is necessary in order to comply with the decision of the Legislative Oversight Committee hearing. The commission published a Notice of Intent to promulgate §901, Guidelines for Ascertaining the Fair Market Value of Oil & Gas Properties, specifically §901.C, the definition of Production Depth and §907, Valuation of Oil, Gas, and Other Wells, specifically Table 907.B-3, Serial Number to Percent Good Conversion Chart Horizontal Wells, in the December 20, 2010 edition of the Louisiana Register (LR 36:2762-2764). On March 14, 2011 a Legislative Oversight Committee (House Ways & Means and Senate Revenue & Fiscal Affairs) hearing was held regarding these two issues. Both committees found the two issues to be unacceptable and with no response from the governor the committee's decision was final. A Potpourri Notice is also included in this publication of the Louisiana Register.

Pursuant to the Administrative Procedure Act, this Emergency Rule shall be in effect for a maximum of one hundred twenty days or until adoption of the Final Rule, whichever occurs first.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - E.1. ...

F. Homestead Exemptions

1. General Provisions

a. - d. ...

e. No homestead exemption shall be granted on bond for deed property. However, any homestead exemption granted prior to June 20, 2003 on any property occupied upon the effective date of this Paragraph* by a buyer under a bond for deed contract shall remain valid as long as the

circumstances giving rise to the exemption at the time the exemption was granted remains applicable. See Constitutional Article 7, §20.(A)(7).

1.f. - 3.h. ...

G. Special Assessment Level

1. - 1.d. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$65,891 for tax year 2011 (2012 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), LR 37:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	0.993	1	94	.93
2009	0.985	2	87	.86
2008	1.013	3	80	.81
2007	1.053	4	73	.77
2006	1.111	5	66	.73
2005	1.162	6	58	.67
2004	1.250	7	50	.63
2003	1.293	8	43	.56
2002	1.315	9	36	.47
2001	1.323	10	29	.38
2000	1.334	11	24	.32
1999	1.358	12	22	.30
1998	1.362	13	20	.27

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	0.993	1	97	.96
2009	0.985	2	93	.92
2008	1.013	3	90	.91
2007	1.053	4	86	.91
2006	1.111	5	82	.91
2005	1.162	6	78	.91
2004	1.250	7	74	.90
2003	1.293	8	70	.89
2002	1.315	9	65	.85

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.323	10	60	.79
2000	1.334	11	55	.73
1999	1.358	12	50	.68
1998	1.362	13	45	.61
1997	1.374	14	40	.55
1996	1.396	15	35	.49
1995	1.418	16	31	.44
1994	1.469	17	27	.40
1993	1.510	18	24	.36
1992	1.539	19	22	.34
1991	1.558	20	21	.33
1990	1.589	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), LR 37:

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. - A.7. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	35.22	123.24	5.28	18.49
1,250-2,499 ft.	31.79	90.62	4.77	13.59
2,500-3,749 ft.	24.99	60.01	3.75	9.00
3,750-4,999 ft.	34.55	59.80	5.18	8.97
5,000-7,499 ft.	40.64	58.37	6.10	8.76
7,500-9,999 ft.	89.09	78.67	13.36	11.80
10,000-12,499 ft.	259.81	95.44	38.97	14.32
12,500-14,999 ft.	N/A	144.11	N/A	21.62
15,000-Deeper ft.	N/A	164.33	N/A	24.65

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	270.74	122.43	40.61	18.36
1,250-2,499 ft.	93.49	203.50	14.02	30.53
2,500-3,749 ft.	91.29	162.24	13.69	24.34
3,750-4,999 ft.	80.48	129.79	12.07	19.47

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
5,000-7,499 ft.	109.94	147.42	16.49	22.11
7,500-9,999 ft.	149.98	154.35	22.50	23.15
10,000-12,499 ft.	204.52	201.77	30.68	30.27
12,500-14,999 ft.	268.28	261.04	40.24	39.16
15,000-17,499 ft.	434.55	349.49	65.18	52.42
17,500-19,999 ft.	530.58	495.04	79.59	74.26
20,000-Deeper ft.	283.32	743.21	42.50	111.48

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1357.13	991.64	203.57	148.75
2,500 -3,749 ft.	697.85	762.11	104.68	114.32
3,750 -4,999 ft.	996.11	698.83	149.42	104.82
5,000 -7,499 ft.	495.70	647.26	74.36	97.09
7,500 -9,999 ft.	628.47	612.50	94.27	91.88
10,000 -12,499 ft.	711.48	620.87	106.72	93.13
12,500 -14,999 ft.	618.79	604.21	92.82	90.63
15,000 -17,499 ft.	426.50	626.93	63.98	94.04
17,500 - 19,999 ft.	N/A	599.36	N/A	89.90
20,000 - Deeper ft.	N/A	942.14	N/A	141.32

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region I			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	17 Year Life Percent Good
2010	240636	Higher	96
2009	239277	240635	91
2008	236927	239276	87
2007	234780	236926	82
2006	232639	234779	77
2005	230643	232638	73
2004	229010	230642	68

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	17 Year Life Percent Good
2003	227742	229009	62
2002	226717	227741	57
2001	225352	226716	51
2000	223899	225351	46
1999	222882	223898	40
1998	221596	222881	35
1997	220034	221595	31
1996	218653	220033	28
1995	217588	218652	25
1994	216475	217587	21
1993	Lower	216474	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- oil, gas and associated wells;
- oil and gas equipment (surface equipment);
- tanks (surface equipment);
- lines (oil and gas lease lines);
- inventories (material and supplies);
- field improvements (docks, buildings, etc.);
- other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B.2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Actuators—(See Metering Equipment)	
Automatic Control Equipment—(See Safety Systems)	
Automatic Tank Switch Unit—(See Metering Equipment)	
Barges - Concrete—(Assessed on an individual basis)	
Barges - Storage—(Assessed on an individual basis)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Barges – Utility—(Assessed on an individual basis)	
Barges - Work—(Assessed on an individual basis)	
Communication Equipment—(See Telecommunications)	
Dampeners—(See Metering Equipment - "Recorders")	
DESORBERS—(No metering equipment included):	
125#	109,990
300#	121,270
500#	138,000
Destroilers—(See Metering Equipment – "Regulators")	
Desurgers—(See Metering Equipment – "Regulators")	
Desilters—(See Metering Equipment – "Regulators")	
Diatrollers—(See Metering Equipment – "Regulators")	
Docks, Platforms, Buildings—(Assessed on an individual basis)	
Dry Dehydrators (Driers)—(See Scrubbers)	
Engines-Unattached—(Only includes engine & skids):	
Per Horsepower	350
Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included):	
Per Unit	40,350
Flow Splitters—(No metering equipment included):	
48 In. Diameter Vessel	19,640
72 In. Diameter Vessel	26,020
96 In. Diameter Vessel	39,880
120 In. Diameter Vessel	56,660
Fire Control System—(Assessed on an individual basis)	
Furniture & Fixtures—(Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	1,500
50 HP and less – Per HP	940
51 HP to 100 HP – Per HP	
101 HP and higher – Per HP	
Gas Coolers—(No metering equipment):	
5,000 MCF/D	31,000
10,000 MCF/D	34,910
20,000 MCF/D	108,590
50,000 MCF/D	246,360
100,000 MCF/D	403,480
Generators—Package Unit only -(No special installation) Per K.W.	230
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	21,760
4.1 to 5.0 MMCF/D	24,270
5.1 to 10.0 MMCF/D	46,780
10.1 to 15.0 MMCF/D	65,080
15.1 to 20.0 MMCF/D	88,590
20.1 to 25.0 MMCF/D	115,200
25.1 to 30.0 MMCF/D	218,810
30.1 to 50.0 MMCF/D	244,430
50.1 to 75.0 MMCF/D	304,070
75.1 & Up MMCF/D	350,850
Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	7,540
Steam Bath—Direct Heater:	9,480
24 In. Diameter Vessel - 250,000 BTU/HR Rate	11,460
30 In. Diameter Vessel - 500,000 BTU/HR Rate	16,960
36 In. Diameter Vessel - 750,000 BTU/HR Rate	20,930
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	6,440
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	8,830
Water Bath—Indirect Heater:	11,520
24 In. Diameter Vessel - 250,000 BTU/HR Rate	16,310
30 In. Diameter Vessel - 500,000 BTU/HR Rate	20,870
36 In. Diameter Vessel - 750,000 BTU/HR Rate	8,250
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	10,290
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	15,440
Steam—(Steam Generators):	17,720
24 In. Diameter Vessel - 250,000 BTU/HR Rate	20,060
30 In. Diameter Vessel - 450,000 BTU/HR Rate	31,690

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	38,070
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	
Heat Exchange Units-Skid Mounted—(See Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	16,490
Heater - Treaters - (Non-metering):	21,230
4 x 20 ft.	22,230
4 x 27 ft.	27,950
6 x 20 ft.	35,610
6 x 27 ft.	41,690
8 x 20 ft.	47,080
8 x 27 ft.	55,380
10 x 20 ft.	
10 x 27 ft.	
L.A.C.T. (Lease Automatic Custody Transfer) – See Metering Equipment)	
JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	40,930
Up to 2 MMCF/D	58,480
Up to 5 MMCF/D	140,340
Up to 10 MMCF/D	233,900
Up to 20 MMCF/D	
Liqua Meter Units—(See Metering Equipment)	
Manifolds—(See Metering Equipment)	
Material & Supplies-Inventories—(Assessed on an individual basis)	
Meter Calibrating Vessels—(See Metering Equipment)	
Meter Prover Tanks—(See Metering Equipment)	
Meter Runs—(See Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	6,370
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,990
Fluid Meters:	4,850
1 Level Control	6,260
24 In. Diameter Vessel - 1/2 bbl. Dump	8,650
30 In. Diameter Vessel - 1 bbl. Dump	4,560
36 In. Diameter Vessel - 2 bbl. Dump	5,500
2 Level Control	6,910
20 In. Diameter Vessel - 1/2 bbl. Dump	9,300
24 In. Diameter Vessel - 1/2 bbl. Dump	
30 In. Diameter Vessel - 1 bbl. Dump	
36 In. Diameter Vessel - 2 bbl. Dump	
L.A.C.T. & A.T.S. Units:	
30 lb. Discharge	30,640
60 lb. Discharge	34,910
Manifolds—Manual Operated:	24,040
High Pressure	8,120
per well	11,630
per valve	3,860
Low Pressure	
per well	
per valve	
Manifolds—Automatic Operated:	
High Pressure	43,450
per well	14,330
per valve	31,000
Low Pressure	10,470
per well	
per valve	
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Meter Runs—piping, valves & supports – no meters:	
2 In. piping & valve	6,550
3 In. piping & valve	7,360
4 In. piping & valve	8,880
6 In. piping & valve	12,390
8 In. piping & valve	18,620
10 In. piping & valve	24,800
12 In. piping & valve	31,000
14 In. piping & valve	42,220
16 In. piping & valve	55,140
18 In. piping & valve	68,300
20 In. piping & valve	88,770
22 In. piping & valve	111,870
24 In. piping & valve	136,950
Metering Vessels (Accumulators):	3,800
1 bbl. calibration plate (20 x 9)	4,090
5 bbl. calibration plate (24 x 10)	5,730
7.5 bbl. calibration plate (30 x 10)	7,130
10 bbl. calibration plate (36 x 10)	2,630
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations. per meter	350
Solar Panel (also see Telecommunications) per unit (10' x 10')	
Pipe Lines—Lease Lines	
Steel	19,060
2 In. nominal size - per mile	25,670
2 1/2 In. nominal size - per mile	32,740
3 & 3 1/2 In. nominal size - per mile	56,310
4, 4 1/2 & 5 In. nominal size - per mile	82,680
6 In. nominal size - per mile	10,470
Poly Pipe	14,090
2 In. nominal size - per mile	18,010
2 1/2 In. nominal size - per mile	30,930
3 In. nominal size - per mile	45,430
4 In. nominal size - per mile	
6 In. nominal size - per mile	
Plastic-Fiberglass	
2 In. nominal size - per mile	16,260
3 In. nominal size - per mile	27,840
4 In. nominal size - per mile	47,840
6 In. nominal size - per mile	70,230
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(Assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit - separator & 1 heater – 500 MCF/D	20,580
Class II - per unit - separator & 1 heater – 750 MCF/D	27,420
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line per horsepower rating of motor	290
Pump-Motor Unit—pump and motor only	
Class I - (water flood, s/w disposal, p/l, etc.)	350
Up to 300 HP - per HP of motor	410
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	6,730
16 D	12,630
25 D	15,790
40 D	21,050
57 D	35,140
80 D	36,550
114 D	49,180
160 D	53,390
228 D	67,480
320 D	80,110
456 D	97,010
640 D	102,620
912 D	
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(See Metering Equipment)	
Regulators: per unit	2,690
Safety Systems	
Onshore And Marsh Area	5,380
Basic Case:	6,200
well only	9,300
well & production equipment	15,500
with surface op. ssv, add	38,760
Offshore 0 - 3 Miles	23,280
Wellhead safety system (excludes wellhead actuators)	54,260
per well	34,090
production train	3,860
glycol dehydration system	5,790
P/L pumps and LACT	
Compressors	
Wellhead Actuators (does not include price of the valve)	
5,000 psi	
10,000 psi and over	
NOTE: For installation costs - add 25%	
Sampler—(See Metering Equipment - "Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	3,270
8 In. Diameter Vessel	4,680
10 In. Diameter Vessel	5,320
12 In. Diameter Vessel	1,520
1,990	
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	
12 In. Diameter Vessel	
NOTE: No metering or regulating equipment included in the above.	
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	4,790
6-5/8" OD x 5'-6"	5,210
8-5/8" OD x 7'-6"	7,310
10-3/4" OD x 8'-0"	9,820
12-3/4" OD x 8'-0"	15,790
16" OD x 8'-6"	23,330
20" OD x 8'-6"	24,560
20" OD x 12'-0"	33,100
24" OD x 12'-6"	48,300
30" OD x 12'-6"	57,420
36" OD x 12'-6"	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Separators—(No metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	5,440
24" OD x 7'-6"	5,840
30" OD x 10'-0"	12,220
36" OD x 10'-0"	5,730
Vertical 3—Phase /125 psi (Low Pressure)	6,490
24" OD x 7'-6"	9,010
24" OD x 10'-0"	12,810
30" OD x 10'-0"	14,850
36" OD x 10'-0"	8,480
42" OD x 10'-0"	10,870
Horizontal 3—Phase /125 psi (Low Pressure)	11,870
24" OD x 10'-0"	18,940
30" OD x 10'-0"	
36" OD x 10'-0"	
42" OD x 10'-0"	
Vertical 2—Phase /1440 psi (High Pressure)	3,220
12-3/4" OD x 5'-0"	4,790
16" OD x 5'-6"	9,120
20" OD x 7'-6"	11,050
24" OD x 7'-6"	16,840
30" OD x 10'-0"	21,810
36" OD x 10'-0"	34,910
42" OD x 10'-0"	41,170
48" OD x 10'-0"	62,330
54" OD x 10'-0"	77,950
60" OD x 10'-0"	5,610
Vertical 3 - Phase /1440 psi (High Pressure)	9,820
16" OD x 7'-6"	11,400
20" OD x 7'-6"	17,600
24" OD x 7'-6"	22,520
30" OD x 10'-0"	36,720
36" OD x 10'-0"	42,570
42" OD x 10'-0"	5,500
48" OD x 10'-0"	8,830
Horizontal 2—Phase /1440 psi (High Pressure)	12,050
16" OD x 7'-6"	18,540
20" OD x 7'-6"	23,510
24" OD x 10'-0"	47,710
30" OD x 10'-0"	55,020
36" OD x 10'-0"	8,480
42" OD x 15'-0"	9,480
48" OD x 15'-0"	13,800
Separators—(No metering equipment included)	19,640
Horizontal 3—Phase /1440 psi (High Pressure)	28,300
16" OD x 7'-6"	31,630
20" OD x 7'-6"	40,750
24" OD x 10'-0"	38,890
30" OD x 10'-0"	56,430
36" OD x 10'-0"	58,890
36" OD x 15'-0"	91,390
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	
36" OD x 10'-0"	
36" OD x 12'-0"	
36" OD x 15'-0"	
42" OD x 15'-0"	
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	6,020
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—No metering equipment	Per
Flow Tanks (receiver or gunbarrel)	Barrel*
50 to 548 bbl. Range (average tank size - 250 bbl.)	37.70
Stock Tanks (lease tanks)	29.30
100 to 750 bbl. Range (average tank size - 300 bbl.)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Storage Tanks (Closed Top)	
1,000 barrel	24.90
1,500 barrel	22.00
2,000 barrel	21.40
2,001 - 5,000 barrel	19.70
5,001 - 10,000 barrel	18.40
10,001 - 15,000 barrel	17.30
15,001 - 55,000 barrel	12.10
55,001 - 150,000 barrel	9.20
Internal Floating Roof	35.50
10,000 barrel	24.10
20,000 barrel	17.90
30,000 barrel	15.90
50,000 barrel	15.30
55,000 barrel	13.50
80,000 barrel	11.80
100,000 barrel	
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	46,780
Telephone & data transmission	3,510
Radio telephone	10,000
Supervisory controls:	22,810
remote terminal unit, well	580
master station	40
towers (installed):	590
heavy duty, guyed, per foot	120
light duty, guyed, per foot	180
heavy duty, self supporting, per foot	60
light duty, self supporting, per foot	
equipment building, per sq. ft.	
solar panels, per sq. ft.	
Utility Compressors	
per horsepower - rated on motor	770
Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	20,470
105 MCF/D max	29,230
250 MCF/D max	38,600
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	5,550
2' diam. x 16'	8,300
3' diam. x 10'	11,460
4' diam. x 10'	18,770
6' diam. x 10'	21,690
6' diam. x 15'	27,190
8' diam. x 10'	31,220
8' diam. x 15'	34,620
8' diam. x 20'	38,540
8' diam. x 25'	45,320
10' diam. x 20'	

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,170
Below ground	490
Air Compressors:	
1/3 to 1 H.P.	1,560
1/2 to 5 H.P.	2,630
Car Wash Equipment:	
In Bay (roll over brushes)	41,920
In Bay (pull through)	65,070
Tunnel (40 to 50 ft.)	141,640
Tunnel (60 to 75 ft.)	189,550

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Drive On Lifts:	
Single Post	7,660
Dual Post	8,620
Lights:	
Light Poles (each)	780
Lights - per pole unit	860
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	3,310
Single	4,930
Dual	5,600
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	7,550
Single	
Dual	
Read-Out Equipment (at operator of self service)	
Per Hose Outlet	1,230
Signs:	
Station Signs	3,700
6 ft. lighted - installed on 12 ft. pole	6,770
10 ft. lighted - installed on 16 ft. pole	3,080
Attachment Signs (for station signs)	3,160
Lighted "self-serve" (4 x 11 ft.)	11,210
Lighted "pricing" (5 x 9 ft.)	14,660
High Rise Signs - 16 ft. lighted - installed on:	16,400
1 pole	5,960
2 poles	3,160
3 poles	
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	
Lighted "pricing" (5 x 9 ft.)	
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,310
Tanks—(average for all tank sizes)	
Underground - per gallon	1.90

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), LR 37:

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	684,300	102,600
4,000	788,700	118,300
5,000	1,056,700	158,500
6,000	1,440,800	216,100
7,000	1,899,600	284,900
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,397,400	359,600
9,000	2,904,500	435,700
10,000	3,397,200	509,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,857,400	578,600
12,000	4,273,200	641,000
13,000	4,638,600	695,800
14,000	4,953,200	743,000
15,000	5,222,900	783,400
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,459,200	818,900
17,000	5,679,700	852,000
18,000	5,907,800	886,200
19,000	6,172,800	925,900
20,000	6,510,000	976,500
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	6,960,600	1,044,100
25,000 +	7,571,400	1,135,700

1. Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

2. Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 50,000,000	\$ 7,500,000
	200-299 FT.	100,000,000	15,000,000
	300 FT. and Deeper	200,000,000	30,000,000
IS	0-199 FT.	\$ 15,000,000	\$ 2,250,000
	200-299 FT.	\$ 25,000,000	\$ 3,750,000
	300 FT. and Deeper	\$ 30,000,000	\$ 4,500,000
MC	0-199 FT.	\$ 5,000,000	\$ 750,000
	200-299 FT.	\$ 10,000,000	\$ 1,500,000
	300 FT. and Deeper	\$ 40,000,000	\$ 6,000,000
MS	0-249 FT.	\$ 10,500,000	\$ 1,575,000
	250 FT. and Deeper	\$ 20,670,000	\$ 3,100,500

IC - Independent Leg Cantilever

IS - Independent Leg Slot

MC - Mat Cantilever

MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0- 800 FT.	\$ 45,700,000	\$ 6,855,000
801-1,800 FT.	\$ 81,875,000	\$ 12,281,300
1,801-2,500 FT.	\$ 150,000,000	\$ 22,500,000
2,501 FT. and Deeper	\$ 400,000,000	\$ 60,000,000

C.1. - C.3.b.i. ...

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	72' X 125M# 75' X 150M#	6V71	180,000	27,000
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	230,000	34,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	300,000	45,000
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	340,000	51,000
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	432,000	64,800
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	485,000	72,800
VII	117' X 215M#	(2) 8V92 (2) 12V71	515,000	77,300

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), LR 37:

Chapter 13. Pipelines

§1305. Reporting Procedures

A. - B. ...

C. Use schedules adopted by the Tax Commission and report cost per mile, calculate and extend "total replacement cost".

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 35:498 (March 2009), LR 36:778 (April 2010), LR 37:

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 168,280	\$ 25,240
4	196,690	29,500
6	229,900	34,490
8	268,710	40,310
10	314,080	47,110
12	367,100	55,070
14	429,080	64,360
16	501,520	75,230
18	586,190	87,930
20	685,160	102,770
22	800,830	120,120
24	936,030	140,400
26	1,094,060	164,110
28	1,278,760	191,810
30	1,494,650	224,200
32	1,746,980	262,050
34	2,041,920	306,290
36	2,386,650	358,000
38	2,789,580	418,440
40	3,260,540	489,080
42	3,811,000	571,650
44	4,454,400	668,160
46	5,206,410	780,960
48	6,085,390	912,810

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$ 958,220	\$ 143,730
8	969,000	145,350
10	978,300	146,750
12	995,790	149,370
14	1,021,480	153,220
16	1,055,370	158,310
18	1,097,450	164,620
20	1,147,730	172,160
22	1,206,210	180,930
24	1,272,890	190,930
26	1,347,760	202,160

Diameter (inches)	Cost per Mile	15% of Cost per Mile
28	1,430,820	214,620
30	1,522,090	228,310
32	1,621,550	243,230
34	1,729,210	259,380
36	1,845,060	276,760
38	1,969,110	295,370
40	2,101,360	315,200
42	2,241,800	336,270
44	2,390,450	358,570
46	2,547,280	382,090
48	2,712,320	406,850

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Actual Age	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

* Reflects residual or floor rate.

Note: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), LR 37:

Chapter 15. Aircraft
§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2010	0.993	1	97	.96
2009	0.985	2	93	.92
2008	1.013	3	90	.91
2007	1.053	4	86	.91
2006	1.111	5	82	.91
2005	1.162	6	78	.91
2004	1.250	7	74	.90
2003	1.293	8	70	.89
2002	1.315	9	65	.85
2001	1.323	10	60	.79
2000	1.334	11	55	.73
1999	1.358	12	50	.68
1998	1.362	13	45	.61
1997	1.374	14	40	.55
1996	1.396	15	35	.49
1995	1.418	16	31	.44
1994	1.469	17	27	.40
1993	1.510	18	24	.36
1992	1.539	19	22	.34
1991	1.558	20	21	.33
1990	1.589	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), LR 37:

Chapter 25. General Business Assets
§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. Suggested Guideline For Ascertain Economic Lives of Business and Industrial Personal Property. The following alphabetical list includes most of the principal activities and types of machinery and equipment used in business throughout this state. The years shown represent an estimate of the average economic life of the equipment as experienced by the particular business or industry. The actual economic life of the assets of the business under appraisal may be more or less than the guidelines shown. The assessor must use his best judgment in consultation with the property owner in establishing the economic life of the property under appraisal.

1. Suggested Guidelines for Ascertaining Economic Lives of Business and Industrial Personal Property

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery & Equipment	10
Feed Mill Equipment (Production Line)	20
***	***
Hospital and Nursing Home Equipment	12
High Tech (Computer Driven) Equipment	5
Hotel F&F	10
***	***
*If acquisition cost and age of service station equipment are not available, see Chapter 9, Table 907.B-2 for alternative assessment procedure.	

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2010 = 100*
2010	1	1457.4	0.993
2009	2	1468.6	0.985
2008	3	1427.3	1.013
2007	4	1373.3	1.053
2006	5	1302.3	1.111
2005	6	1244.5	1.162
2004	7	1157.3	1.250
2003	8	1118.6	1.293
2002	9	1100.0	1.315
2001	10	1093.4	1.323
2000	11	1084.3	1.334
1999	12	1065.0	1.358
1998	13	1061.8	1.362
1997	14	1052.7	1.374
1996	15	1036.0	1.396
1995	16	1020.4	1.418
1994	17	985.0	1.469
1993	18	958.0	1.510
1992	19	939.8	1.539
1991	20	928.5	1.558
1990	21	910.2	1.589
1989	22	886.5	1.632
1988	23	841.4	1.719
1987	24	806.9	1.793
1986	25	795.4	1.819
1985	26	787.9	1.836

*Reappraisal Date: January 1, 2010 - 1446.5 (Base Year)

C. ...

D. Composite Multipliers 2011 (2012 Orleans Parish)

Table 2503.D Composite Multipliers 2011 (2012 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.84	.86	.89	.91	.93	.94	.96	.97
2	.48	.68	.72	.78	.83	.86	.89	.92	.94
3	.34	.53	.58	.68	.77	.81	.86	.91	.94
4	.17	.36	.43	.57	.71	.77	.83	.91	.93
5		.26	.33	.48	.64	.73	.81	.91	.92
6		.21	.22	.38	.57	.67	.79	.91	.91
7			.21	.33	.49	.63	.78	.90	.90
8				.28	.39	.56	.71	.89	.89
9				.26	.32	.47	.64	.85	.88
10					.28	.38	.57	.79	.87

Table 2503.D Composite Multipliers 2011 (2012 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
11					.27	.32	.49	.73	.86
12						.30	.42	.68	.85
13						.27	.35	.61	.82
14							.32	.55	.77
15							.29	.49	.73
16							.28	.44	.68
17								.40	.65
18								.36	.59
19								.34	.52
20								.33	.47
21								.32	.44
22									.42
23									.41
24									.36
25									.36
26									.35

1. Data sources for tables are:

- a. Cost Index—Marshall and Swift Publication Co.
- b. Percent Good—Marshall and Swift Publication Co.
- c. Average Economic Life—various

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), LR 37:

Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - G. ...

H. Notwithstanding any provision of law to the contrary, the procedure for inspection of assessment lists in Orleans Parish shall be as follows.

1. The assessor shall prepare and make up the lists showing the assessment of immovable and movable property in Orleans Parish. The lists shall be exposed daily, except Saturday, Sunday and legal holidays, for inspection by the taxpayers and other interested persons during the period of August first through August fifteenth of each year unless August fifteenth falls on a weekend or a legal holiday, when the period shall extend until the next business day. The assessor shall give notice of such exposure for inspection in accordance with rules and regulations established by the Louisiana Tax Commission. On or before the tenth business day after the completion of public inspection, the assessor shall certify his rolls to the Board of Review.

2.a. The Board of Review shall consider all written complaints in which the taxpayer has timely filed the reports

as required by R.S. 47:2301 et seq. and R.S. 47:2321 et seq., and which have been:

i. filed on the complaint form provided by the board, through the office of the assessor.

ii. completed in conformity with the requirements of the Board of Review.

iii. received by the office of the assessor, no later than three business days after the last date on which the lists are exposed.

b. Any complaints received by the assessor's office shall be forwarded to the Board of Review within seven (7) business days after the last date in which the lists are exposed.

3. The Board of Review shall convene hearings on or before September fifteenth. The board may appoint one or more board members as hearing officers, who may conduct all required public hearings of the board with or without the presence of the other members, provided that no final action may be taken unless a quorum of the Board of Review is present. The board may make a determination to increase or decrease the assessment of real or personal property made by the assessor in accordance with the fair market or use valuation as determined by the board.

4. The Board of Review shall certify the assessment list to the Louisiana Tax Commission on or before October 20 of each year.

I. - K. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), LR 37:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2010, and ending on June 30, 2014, in connection with services performed by the Tax Commission as follows:

A.1. - E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), LR 37:

James D. "Pete" Peters
Chairman

1104#023

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws of the Advisory Committee to the Student
Financial Assistance Commission (LAC 28:V.221)

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)].

The proposed rulemaking will change the composition of the membership of the Commission's Advisory Committee and the method of selection of some of the members.

This Emergency Rule is 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 this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective March 22, 2011, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (AC11128E)

Title 28

EDUCATION

Part V. Student Financial Assistance—Higher

Education Loan Program

Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission

Subchapter C. Membership and Officers of the Committee

§221. Membership

A.1. The committee shall be composed of eight voting members, who shall be the financial aid director or his/her designee representing the Louisiana State University System, the Southern University System, the University of Louisiana System, the Louisiana Community and Technical College System, the Professional Schools, the Louisiana Association of Independent Colleges and Universities, and proprietary schools selected by the Louisiana Career College Association; a student member through September 30, 2010; and beginning October 1, 2011, one active public high school counselor and one active non-public high school counselor appointed by the Louisiana School Counselor Association.

A.2. - B.7.b. ...

8. Student—Through September 30, 2010

a. A student member shall be selected by the financial aid officer who is a member of the Advisory Committee beginning with the member from the Louisiana

State University System and rotating in the order of members listed above.

b. Student members shall serve one year terms and may not serve two consecutive terms.

c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.

9. High School Counselors—Beginning October 1, 2011

a. One active public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be one year.

b. One active non-public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be two years.

C. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008), LR 37:

George Badge Eldredge
General Counsel

1104#003

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Dentistry

Administration of Nitrous Oxide Inhalation Analgesia
(LAC 46:XXXIII.1509)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Louisiana State Board of Dentistry to use emergency procedures to establish rules, and under the authority of R.S. 37:760(6), the board of dentistry hereby declares that an emergency action is necessary in order to allow students graduating from the Louisiana State University School of Dentistry in May of 2011 to be granted permits to administer nitrous oxide inhalation analgesia to their patients, thus providing a higher level of care. This Emergency Rule becomes effective on April 20, 2011, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information concerning this Emergency Rule, you may contact Mr. C. Barry Ogden, Executive Director at (504) 568-8574.

This Emergency Rule is available on the internet at www.doa.state.la.us/osr/osr.htm, and is available for inspection at the board office from 8:00 AM until 4:30 PM Monday through Friday, 365 Canal Street, Suite 2680, New Orleans, LA 70130. Copies of this emergency rule may also be requested via telephone.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

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:

C. Barry Ogden
Executive Director

1104#048

DECLARATION OF EMERGENCY

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

All Inclusive Care for the Elderly
Reimbursement Rate Reduction
(LAC 50:XXIII.1301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXIII.1301 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, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the Program of All Inclusive Care for the Elderly (PACE) to: 1) remove the requirement that eligibility decisions be approved by the state administering agency; 2) revise PACE disenrollment criteria; 3) allow for service area specific rates instead of one statewide rate; and 4) clarify when the obligation for patient liability begins (*Louisiana Register*, Volume 33, Number 5).

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for a PACE organization to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). Due to a continuing budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for PACE organizations to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 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 the Program of All Inclusive Care for the Elderly to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIII. All Inclusive Care for the Elderly

Chapter 13. Reimbursement

§1301. Payment

A. - J.3. ...

K. Effective for dates of service on or after August 1, 2010, the monthly capitated amount paid to a PACE organization shall be reduced by 2 percent of the capitated amount on file as of July 31, 2010.

L. Effective for dates of service on or after January 1, 2011, the monthly capitated amount paid to a PACE organization shall be reduced by 3.09 percent of the capitated amount on file as of December 31, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004), amended LR 33:850 (May 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, 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

1104#054

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Ambulatory Surgical Centers
Reimbursement Rate Reduction
(LAC 50:XI.7503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.7503 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 ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 36, Number 10). 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 ambulatory surgical centers to 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:XI.7503 as a result of the promulgation of the October 20, 2010 final Rule governing ambulatory surgical centers (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which further reduced the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 37, Number 1). This

Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 4.4 percent of the fee amounts on file as of July 31, 2010.

F. Effective for dates of service on or after January 1, 2011, the reimbursement for surgical services provided by an ambulatory surgical center 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 35:1889 (September 2009), amended LR 36:2278 (October 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

1104#055

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 now proposes to amend the provisions of the January 1, 2011 Emergency Rule in order to clarify these provisions, and to revise the formatting of LAC 50:I.2911 as a result of the promulgation of the January 20, 2011 final Rule governing the CommunityCARE Program. This action is being taken to ensure that these provisions are promulgated in a clear and concise manner.

Effective April 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 1, 2011 Emergency Rule 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

1104#050

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 proposes to amend the provisions governing the DSW Registry in order to create a more manageable and efficient DSW process.

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. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2010-11.

Effective April 20, 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

RegistrySubchapter 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

1104#050

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Low Income and Needy Care Collaboration
(LAC 50:V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2503 and adopts §2713 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department amended the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the provisions of the January 20, 2010 Emergency Rule to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of uninsured individuals by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments.

TITLE 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2503. Disproportionate Share Hospital Qualifications

A. - A.5....

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.;

7. effective January 20, 2010, be a hospital participating in the Low Income and Needy Care Collaboration as defined in §2713.A.; and

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 27. Qualifying Hospitals

§2713. Low Income and Needy Care Collaboration

A. Definitions

Low Income and Needy Care Collaboration Agreement—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

B. In order to qualify under this DSH category in any period, a hospital must be party to a Low Income and Needy Care Collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals

qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

K. Effective for dates of service on or after January 1, 2011, all parties that participate in Medicaid DSH payments under this Section, either as a qualifying hospital by receipt of Medicaid DSH payments or as a state or local governmental entity funding Medicaid DSH payments, must meet the following conditions during the period of their participation:

1. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

2. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

3. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

4. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

5. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the Low Income and Needy Care Collaboration Agreement.

6. A participating hospital may not return any of the Medicaid DSH payments it receives under this Section to the governmental entity that provides the non-federal share of the Medicaid DSH payments.

7. A participating governmental entity may not receive any portion of the Medicaid DSH payments made to a participating hospital under this Section.

L. Each participant must certify that it complies with the requirements of §2713.K by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

M. Each qualifying hospital must submit a copy of its Low Income and Needy Care Collaboration Agreement to the department.

N. The Medicaid DSH payments authorized in LAC 50:V.Subpart 3 shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1104#076

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Dental Program, Reimbursement Rate Reduction
(LAC 50:XV.6903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50: XV.6903 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 in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to reduce the reimbursement fees (*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 EPSDT dental services to further reduce the reimbursement rates. In addition, this emergency rule also amended the provisions governing the covered services and reimbursement methodology for the EPSDT Dental Program to include an additional dental procedure (*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.6905 as a result of the promulgation of the September 20, 2010 final Rule governing EPSDT dental 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 EPSDT dental services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis and Treatment

Chapter 69. Dental Services

§6905. Reimbursement

A. - D.3. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement fees for EPSDT dental services 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 following oral evaluation services:
 - a. periodic oral examination;
 - b. oral examination—patients under three years of age; and
 - c. comprehensive oral examination—new patient;
2. 65 percent for the following annual and periodic diagnostic and preventive services:
 - a. radiographs—periapical, first film;
 - b. radiograph—periapical, each additional film;
 - c. radiograph—panoramic film;
 - d. prophylaxis—adult and child;
 - e. topical application of fluoride—adult and child (prophylaxis not included); and
 - f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);
3. 50 percent for the following diagnostic and adjunctive general services:
 - a. oral/facial images;
 - b. non-intravenous conscious sedation; and
 - c. hospital call; and

4. 58 percent for the remainder of the dental services.
- F. Removable prosthodontics and orthodontic services are excluded from the August 1, 2010 rate reduction.

G. Effective for dates of service on and after January 1, 2011, the reimbursement fees for EPSDT dental services 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. 67.5 percent for the following oral evaluation services:
 - a. periodic oral examination;
 - b. oral Examination—patients under 3 years of age; and
 - c. comprehensive oral examination—new patients;
2. 63.5 percent for the following annual and periodic diagnostic and preventive services:
 - a. radiographs—periapical, first film;
 - b. radiographs—periapical, each additional film;
 - c. radiographs—panoramic film;
 - d. diagnostic casts;
 - e. prophylaxis—adult and child;
 - f. topical application of fluoride, adult and child (prophylaxis not included); and
 - g. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);
3. 73.5 percent for accession of tissue, gross and microscopic examination, preparation and transmission of written report;
4. 70.9 percent for accession of tissue, gross and microscopic examination, including assessment of surgical margins for presence of disease, preparation and transmission of written report;
5. 50 percent for the following diagnostic and adjunctive general services:
 - a. oral/facial image;
 - b. non-intravenous conscious sedation; and
 - c. hospital call; and
6. 57 percent for the remainder of the dental services.

H. Removable prosthodontics and orthodontic services are excluded from the January 1, 2011 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 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:2040 (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

1104#075

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and
Treatment Health Services
EarlySteps Reimbursement Rate Reduction
(LAC 50:XV.7107)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.7107 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 during the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services to increase the reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program (*Louisiana Register*, Volume 35, Number 1). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which reduced the reimbursement rates paid for certain EPSDT health services rendered in the EarlySteps Program (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Early and Periodic Screening, Diagnosis and Treatment health services provided through the EarlySteps Program to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services to Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 71. Health Services

§7107. EarlySteps Reimbursement

A. - B.2.e. ...

C. Effective for dates of service on or after January 1, 2011, the reimbursement for certain Medicaid-covered health services rendered in the EarlySteps Program shall be

reduced by 2 percent of the rate in effect on December 31, 2010.

1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:

- a. audiology services;
- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this 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 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 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, Louisiana 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#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

End Stage Renal Disease Facilities
Reimbursement Rate Reduction
(LAC 50:XI.6901 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.6901 and §6903 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 end stage renal disease (ESRD) facilities to reduce the reimbursement

rates (*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 ESRD facilities 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:XI.6901-6903 as a result of the promulgation of the September 20, 2010 final Rule (*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 ESRD facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for end stage renal disease facilities to reduce the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 9. End Stage Renal Disease Facilities
Chapter 69. Reimbursement

§6901. General Provisions

A. End stage renal disease (ESRD) facilities are reimbursed a hemodialysis composite rate. The composite rate is a comprehensive payment for the complete hemodialysis treatment in which the facility assumes responsibility for providing all medically necessary routine dialysis services.

B. – D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement to ESRD facilities shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after January 1, 2011, the reimbursement to ESRD facilities 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 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), LR 36:2040 (September 2010), LR 37:

§6903. Medicare Part B Claims

A. – D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after January 1, 2011, the reimbursement to ESRD facilities for Medicare Part B claims 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, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:2040 (September 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

1104#073

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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 amend 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 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, Office of Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver to redefine and

clarify the provisions of the waiver relative to the target population, the request for services registry, the comprehensive plan of care, and support coordination services (*Louisiana Register*, Volume 34, Number 10). The October 20, 2008 Rule also amended the provisions governing the reimbursement methodology to reduce the comprehensive ADHC rate paid to providers as a result of adding support coordination as a separate service since these services were traditionally reimbursed as part of the comprehensive ADHC rate. These provisions were repromulgated in December 2009 to correct an error of omission in the publication (*Louisiana Register*, Volume 34, Number 12).

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 the Adult Day Health Care Waiver to reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs (*Louisiana Register*, Volume 36, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends the provisions governing the Adult Day Health Care Waiver to reduce the reimbursement rates.

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:

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

1104#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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 amend 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 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 for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Children's Choice Waiver in order to reduce the reimbursement rates, and to amend the provisions governing family training to clarify the service description and the components of the service that qualify for Medicaid reimbursement (*Louisiana Register*, Volume 36, Number 10).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Children's Choice Waiver to reduce the service cap and to further reduce the reimbursement rates paid for waiver services (*Louisiana Register*, Volume 36, Number 8). The department subsequently amended the provisions of the August 1, 2010 Emergency Rule governing the service cap in order to revise the effective date of the service cap reduction (*Louisiana Register*, Volume 36, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 1, 2010 Emergency Rule to revise the formatting of LAC 50:XXI.12101 as a result of the promulgation of the October 20, 2010 final Rule (*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 the medical assistance programs.

Effective April 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the reimbursement methodology for Children's Choice Waiver services to reduce the reimbursement rates.

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:

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), LR 36:2280 (October 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

DECLARATION OF EMERGENCY

**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 amends 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 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, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program to increase the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 34, Number 4).

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 nursing services covered in the Home Health Program in order to reduce the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for extended nursing services in the Home Health Program to reduce the reimbursement rates.

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:

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#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.953)

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates and to provide for a supplemental Medicaid payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. – N.2.b....

3. Effective for dates of service on or after January 1, 2011, all parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation:

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the Low Income and Needy Care Collaboration Agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its Low Income and Needy Care Collaboration Agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

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

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

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

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

Bruce D. Greenstein
Secretary

1104#068

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Major Teaching Hospitals
(LAC 50:V.1333)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.1333 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 35, Number 10). The department amended the provisions of the October 1, 2009 Emergency Rule in order to revise which fiscal year's claims data the quarterly payments will be based on (*Louisiana Register*, Volume 36, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20,

2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective May 18, 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 non-rural, non-state hospitals designated as major teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1333. Major Teaching Hospitals

A. Effective for dates of service on or after October 1, 2009, a quarterly supplemental payment shall be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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

a. be designated as a major teaching hospital by the department in state fiscal year 2009;

b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2008 dates of service; and

c. have provided at least 4,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2008 dates of service.

2. Payments shall be distributed quarterly and shall be calculated using the Medicaid paid days for service dates in state fiscal year 2009 serving as a proxy for SFYs 2010 and 2011 service dates.

3. Payments are applicable to Medicaid service dates provided during each quarter and shall be discontinued for the remainder of the state fiscal year in the event that the maximum payment cap is reached or by June 30, 2011, whichever occurs first.

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:

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

Bruce D. Greenstein
Secretary

1104#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Reduction
(LAC 50:V.953, 955, 959 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V. 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 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 (SFY) 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 11). The November 20, 2010 Rule also amended the reimbursement methodology for inpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients.

As a result of a budgetary shortfall in SFY 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also amended the provisions governing the appeals procedure that address the criteria for qualifying loss. The department promulgated an Emergency Rule which amended the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:V.953, §955, §959 and §967 as a result of the promulgation of the November 20, 2010 final Rule governing inpatient hospital 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 inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the

provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the 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) inpatient 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 May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

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:

§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:

§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:

§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, amended LR 36:2562 (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

1104#067

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 protect the health and welfare of Medicaid recipients and to insure continued provider participation in the Medicaid Program.

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 April 20, 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

1104#066

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 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing amends 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 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 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 Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 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.

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:

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

1104#065

DECLARATION OF EMERGENCY

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 amends 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 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 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 Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates.

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 36:2594 (November 2010), amended 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

1104#064

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for 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 Emergency Rule is being promulgated to continue the provisions of the January 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$97,865 for state fiscal year 2010-2011.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency ambulance 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

§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 30, 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:

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

1104#063

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 2011, the Department of Health and Hospitals, Bureau of Health 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 rate (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency

Rule This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 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.

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 34:879 (May 2008), 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

1104#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program
Reimbursement Rate Reduction (LAC 50:XV.901)

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

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, the 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 receiving 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.

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for mental health rehabilitation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 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

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.

H. Effective for dates of service on or after January 1, 2011, the reimbursement rates for Mental Health Rehabilitation services shall be reduced by 3.3 percent of the rates 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 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 36:2564 (November 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

1104#061

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 proposes to amend LAC 48:I.4203, §4207, §4227, §4245, and §4267 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.41-2120.46, and pursuant to Title XIX of the Social Security Act. This 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 now proposes to amend the provisions governing the minimum licensing standards for ADHC centers to revise and clarify the staffing and transportation requirements. 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 MST 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:XV.25701 as a result of the promulgation of the November 20, 2010 final Rule governing MST services (*Louisiana Register*; Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which further reduced the reimbursement rates paid for MST services (*Louisiana Register*; Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 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.

E. Effective for dates of service on or after January 1, 2011, the reimbursement rates for multi-systemic therapy services shall be reduced by 3 percent of the rates 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 35:247 (February 2009), amended LR 36:1250 (June 2010), LR 36:2565 (November 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

1104#060

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 50:V.5313, 5317, 5513, 5517,
5713, 5719, 6115 and 6119)

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

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 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). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing 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 8). The August 1, 2010 Emergency Rule was amended 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).

Due to a continuing budgetary shortfall, 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 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - D. ...

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.

F. Effective for dates of service on or after January 1, 2011, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 2 percent of the fee schedule on file as of December 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 allowable cost as calculated through the cost report settlement process.

D. Effective for dates of service on or after January 1, 2011, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 2 percent of the fee schedule on file as of December 31, 2010.

1. Final reimbursement shall be 86.15 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 36:2042 (September 2010), amended LR 37:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - D. ...

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.

F. Effective for dates of service on or after January 1, 2011, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 2 percent of the fee schedule on file as of December 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.

D. Effective for dates of service on or after January 1, 2011, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 2 percent of the fee schedule 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 36:2042 (September 2010), amended LR 37:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - D. ...

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.

F. Effective for dates of service on or after January 1, 2011, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 2 percent of the fee schedule on file as of December 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.

D. Effective for dates of service on or after January 1, 2011, the reimbursement paid to non-rural, non-state hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 2 percent of the fee schedule 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 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. ...

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.

F. Effective for dates of service on or after January 1, 2011, 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 2 percent of the rates effective as of December 31, 2010. Final reimbursement shall be at 69.71 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.

D. Effective for dates of service on or after January 1, 2011, 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 2 percent of the rates effective as of December 31, 2010.

1. Final reimbursement shall be 86.15 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

1104#058

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Major Teaching Hospitals (LAC 50:V.6533)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.6533 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for outpatient hospital services rendered by acute care hospitals (*Louisiana Register*, Volume 22, Number 1). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 35, Number 10). The department amended the provisions of the October 1, 2009 Emergency Rule in order to revise which fiscal year's claims data the quarterly payments will be based on (*Louisiana Register*, Volume 36, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective May 18, 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 non-rural, non-state hospitals designated as major teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 65. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§6533. Major Teaching Hospitals

A. Effective for dates of service on or after October 1, 2009, a quarterly supplemental payment shall be issued to qualifying non-rural, non-state acute care hospitals for outpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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

- a. be designated as a major teaching hospital by the department in state fiscal year 2009;
- b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2008 dates of service;
- c. have provided at least 4,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2008 dates of service; and
- d. provided at least 20,000 Medicaid outpatient paid visits for state fiscal year 2008 dates of service.

2. Payments shall be distributed quarterly based on Medicaid paid claims data from service dates in state fiscal year 2009.

3. Payments are applicable to Medicaid service dates provided during each quarter and shall be discontinued for the remainder of the state fiscal year in the event that the maximum payment cap is reached or by June 30, 2011, whichever occurs first.

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:

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

Bruce D. Greenstein
Secretary

1104#059

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 now proposes to amend the provisions of the December 20, 2010 Emergency Rule to further clarify the provisions of the Rule. This action is being taken to ensure that these provisions are promulgated in a clear and concise manner.

Effective April 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the

Office of Aging and Adult Services amend the provisions of the December 20, 2010 Emergency Rule 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.

C.2. - C.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

1104#052

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 now proposes to amend the January 1, 2011 Emergency Rule in order to revise the reimbursement rates paid for shared long-term personal care services. This action is being taken to ensure that these provisions are promulgated in a clear and concise manner.

Effective April 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions of the January 1, 2011 Emergency Rule 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

1104#053

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program
Medication Administration
Influenza Vaccinations
(LAC 50:XXIX.123, 991 and 993)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.123 and §991 and adopts §993 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of the influenza vaccine for all Medicaid recipients, and to provide reimbursement for the cost of the influenza vaccine for Medicaid recipients 19 years of age and older (*Louisiana Register*, Volume 36, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to the influenza vaccine.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program to allow reimbursement for the influenza vaccine and administration of the vaccine.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§123. Medication Administration

A. Influenza Vaccine Administration. The department shall provide coverage for administration of the influenza vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and
2. the pharmacist is Medicaid enrolled.

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 36:1783 (August 2010), amended LR 37:

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

- A. ...
- B. Effective for dates of service on or after January 1, 2011, the reimbursement for administration of the influenza vaccine for all recipients shall be reimbursed at \$15.22 for subcutaneous or intramuscular injection, \$10.90 for nasal/oral administration or billed charges, whichever is the lesser amount. This fee includes counseling, when performed.

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 36:1783 (August 2010), amended LR 37:

§993. Vaccine Reimbursement

- A. Effective for dates of service on or after January 1, 2011, the influenza vaccine for recipients aged 19 and over shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, 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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1104#057

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 reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended 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).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which further reduced the reimbursement rates for dental services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 2, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for dental services 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 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.

F. Effective for dates of service on or after January 1, 2011, 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. 67.5 percent for the comprehensive periodontal evaluation exam;
2. 63.5 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. 57 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

1104#056

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, proposes to adopt provisions to establish Medicaid coverage for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women. 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 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. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$100,768 for state fiscal year 2010-2011, of which \$25,434 will be transferred from the Office of Behavioral Health to the Bureau of Health Services Financing in order to satisfy the state general fund match amount.

Effective April 1, 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

1104#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Calcasieu Lake Public Oyster Area Closure

In accordance with the emergency provisions of R.S. 49:953 and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set oyster seasons and R.S. 56:435.1.1 which provides that the Wildlife and Fisheries Commission shall fix the oyster harvest in Calcasieu Lake and may open or close the season as biological data indicate a need and may manage East Cove and West Cove separately and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 5, 2010 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency actions as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered, the secretary hereby declares that the oyster season in the east side of the Calcasieu Lake public oyster area (Department of Health and Hospitals harvest area 29) shall close at one-half hour after sunset on March 25, 2011.

The west side of the Calcasieu Lake public oyster area (Department of Health and Hospitals harvest area 30) shall remain open to the harvest of oysters until further notice.

The oyster resource in harvest area 29 has been adversely impacted by recent harvest levels. Within the past week, the Department of Wildlife and Fisheries enforcement agents have encountered numerous oyster harvesting violations within harvest area 29. As a result agents have seized oysters and fishing equipment. These waters are being closed to protect the remaining oyster resource.

Robert J. Barham
Secretary

1104#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fall Inshore Shrimp Season Extension in Breton and Chandeleur Sounds

In accordance with the emergency provisions of R.S. 49:953 and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the Secretary of the Department of Wildlife and Fisheries the powers, duties and authority to set seasons, and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 5, 2010 which authorized the Secretary of the Department of Wildlife and Fisheries to change the closing dates of the 2010 Fall Inshore Shrimp Season if biological and technical data indicate the need to do so, the Secretary of the Department of Wildlife and Fisheries does hereby declare that the 2010 fall inshore shrimp season in the open waters of Breton and Chandeleur Sounds as described by the double-rig line [R.S. 56:495.1(A)2] shall be extended until further notice.

Current fisheries independent sampling data indicate that sufficient quantities of marketable white shrimp remain in Breton and Chandeleur Sounds and this extension of the shrimp season should provide added economic opportunity to shrimpers while limiting risk to early recruiting brown shrimp.

Robert J. Barham
Secretary

1104#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Partial Opening of Shrimp Season in State Outside Waters

In accordance with the emergency provisions of R.S. 49:953 and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the right to set special shrimp seasons for all or part of the state waters based upon the best biological and technical data presented to the Commission which indicates that marketable shrimp in sufficient quantities are available for harvest, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on December 2, 2010

which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the Secretary hereby declares:

That portion of state inside waters from the eastern shore of Bayou Grand Caillou northward to the intersection of Bayou Grand Caillou and the Houma Navigational Canal thence northward along the eastern shore of the Houma Navigation Canal westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island shall open to shrimping at 6:00 am April 18, 2011 and close to shrimping at 6:00 am April 23, 2011, and that state outside waters from the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude westward to the western shore of Freshwater

Bayou at 92 degrees 18 minutes 33 seconds west longitude shall reopen to shrimping at 6:00 am April 18, 2011.

Recent biological samples taken by Office of Fisheries biologists in that portion of state inside waters to open indicate that marketable shrimp in sufficient quantities are available for harvest and this special shrimp season should pose minimal detriment to developing brown shrimp populations and recent biological samples taken in those state outside waters to open indicate that small white shrimp which have over-wintered in these waters from December through the present time have reached marketable sizes and the closure is no longer necessary. These waters shall remain open to shrimping until further notice.

Robert J. Barham
Secretary

1104#020

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.708 and 709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §708. Using a Graduation Rate in the Subgroup Component and §709. Failing the Subgroup Component. 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, Chapter 7, provide detail for the subgroup portion of the Louisiana School and District Accountability System to include the additional academic indicator for schools with a twelfth grade to be evaluated consistent with procedures required by the U.S. Department of Education. The changes will also include the establishment of annual targets for schools and subgroups within schools, removal of "confidence intervals" as required by the U.S. Department of Education, and establishment of waiver procedures for schools entering School Improvement 1 under certain conditions.

Title 28 EDUCATION

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

Chapter 7. Subgroup Component

§708. Using a Graduation Rate in the Subgroup Component

A. - B. ...

C. The additional academic indicator (AAI) calculation shall comply with High School Graduation Rate: *Non-Regulatory Guidance* (December 22, 2008) published by the U. S. Department of Education.

1. For subgroup accountability purposes, Louisiana high schools shall use an increasing target for the additional academic indicator.

2. For subgroup accountability purposes, Louisiana's high school annual targets shall increase annually as shown in the following table.

Louisiana Annual Graduation Rate Targets						
2009	2010	2011	2012	2013	2014	2015
63.0%	64.3%	65.6%	66.9%	68.2%	69.5%	70.8%
2016	2017	2018	2019	2020	2021	2022
72.2%	73.5%	74.8%	76.1%	77.4%	78.7%	80.0%

3. For subgroup accountability purposes, each Louisiana school that enrolls students in ninth grade or higher and offers at least a regular diploma shall have annual targets calculated by the LDE that begin with the school's 2007 graduation rate and increase by equal increments (rounded to 1 decimal place) to reach 80.0 percent in 2022.

4. The increment each school must improve each year to maintain its progress toward the 2022 goal is the "annual improvement step."

D. Confidence intervals shall not be applied to any graduation rate considerations beginning with the 2010 accountability decisions.

E. Determining if a school or subgroup within a school has made AYP as it relates specifically to graduation rate is accomplished by answering a series of Yes/No questions. When an answer is "yes," a school or subgroup has made AYP (related to graduation rate) and no further answers are required for the specific school or subgroup.

1. Does the cohort have fewer than 40 members?

2. Has the cohort met or exceeded an 80.0 percent graduation rate?

3. Has the cohort met or exceeded the state annual target?

4. Has the cohort met or exceeded the school annual target?

5. Has the cohort met or exceeded 110 percent of the annual improvement step (defined in Paragraph C.4).

F. If at the end of the series of 5 questions a "yes" is not provided, the cohort has failed AYP.

G. A school (or subgroup) that exceeds the state's target with its 2009 graduation rate shall use the state targets as school targets. New schools shall have targets based on their second year graduation rates and the number of years remaining until 2022.

H. An LEA may request a 1 year waiver of sanctions in fall 2010 for a school that enters SI 1 because of 2 consecutive years of AYP failure due to only graduation rate if the school and all subgroups in the school have a 3 year weighted average graduation rate that exceeds the school's annual target.

1. The LEA is responsible for initiating the waiver request and providing data to the LDE.

2. If a school passes AYP the following year, the waiver is extended 1 year.

3. If after receiving a waiver the school fails AYP either of the next 2 years, the school shall be labeled SI 2 and implement sanctions for SI 1 and SI 2, if the failure is because of graduation rate.

I. In 2010 and 2011, the "whole school" graduation rate shall be evaluated using the steps delineated in this Section

J. In 2010 and 2011, any school or subgroup in the school that must use the safe harbor provisions and grad rate as an AAI will use the steps delineated in this Subsection.

K. In 2012 and future years, all subgroups and the whole school shall be evaluated using the steps delineated in this Subsection regardless of safe harbor considerations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007), LR 36:2243 (October 2010), LR 37:1122 (April 2011).

§709. Failing the Subgroup Component

A. - B. 2. ...

3. beginning in fall 2010 using 2009 graduation data met one of the 5 criteria in §708.F, above for the whole school.

4. beginning in fall 2011 using 2010 graduation data met one of the 5 criteria in §708.F, above for the whole school and each subgroup within the school with sufficient data for a valid and reliable decision.

Note: If a school in which all subgroups have passed the subgroup component does not pass the additional academic indicator, it shall not pass the subgroup component.

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:2256 (October 2004), LR 32:1026 (June 2006, LR 33:2594 (December 2007), LR 37:1123 (April 2011).

Catherine R. Pozniak
Executive Director

1104#086

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:CXI.305, 1813, and 1817)

Editor’s Note: Sections 305, 1813 and 1817 are being repromulgated due to codification errors. The original Rule can be viewed in its entirety on pages 858-861 of the March 20, 2011 edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §305. Test Security Policy, §315. Emergencies During Testing, §701. Overview of Assessment Programs in Louisiana, §1700. Sunset Provision, §1810. Geometry Test Structure, §1813. Performance Standards, §1817. EOCT Achievement Level Descriptors, §1823. Rescores, §1829. EOC Transfer Rules, §1831. College and Career Diploma, §1900. Sunset Provision, §2000. Sunset Provision, §3307. Limited English Proficient Students, §3501. Approved Home Study Program Students, and §3511. Migrant Students.

The document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new and edited policy guidelines in the statewide assessment programs Chapter 3, Test Security; Chapter 7, Assessment Program Overview; Chapter 17, Integrated LEAP (iLEAP); Chapter 18, End-of-Course Tests (EOCT); Chapter 19, LEAP Alternate Assessment, Level 1 (LAA 1); Chapter 20, LEAP Alternate Assessment, Level 2 (LAA 2); Chapter 33, Assessment of Special Populations;

and Chapter 35, Assessment of Students in Special Circumstances. New policy language updates and edits were made to chapters 3, 7, 18, 33, and 35. New policy language additions were made to Chapters 17, 18, and 19.

Title 28

EDUCATION

Part CXI. Bulletin 118 Statewide Assessment Standards and Practices

Chapter 3. Test Security

§305. Test Security Policy

A. - 3.k. ...

4. Each school district as described in this policy shall develop and adopt a district test security policy that is in compliance with the state's test security policy. A copy of the policy and a Statement of Assurance regarding the LEA's test security policy must be submitted annually to the LDE, Division of Assessments and Accountability. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

4.a. - 17. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011).

Subchapter D. Achievement Levels and Performance Standards

§1813. Performance Standards

A. - B.2. ...

3. Geometry Scaled-Score Ranges

English II	
Achievement Level	Scaled-Score Ranges
Excellent	731-800
Good	700-730
Fair	665-699
Needs Improvement	600-664

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011).

Subchapter E. Achievement Level Descriptors

§1817. EOCT Achievement Level Descriptors

A. - B. ...

C. Geometry Achievement Level Descriptors

Excellent	
Students at this achievement level generally have exhibited the ability to:	
1.	define and use trigonometric ratios to solve problems involving right triangles;
2.	understand and apply the Pythagorean Theorem in multi-step problems;
3.	calculate permutations and combinations to solve multi-step, real-world problems;
4.	solve problems in coordinate geometry involving distances;

5.	simplify radical expressions;
6.	compare inductive reasoning strategies;
7.	write equations of parallel lines;
8.	solve real-life and mathematical problems involving angle measure using parallel and perpendicular relationships; and
9.	find arc lengths of circles.
Good	
Students at this achievement level generally have exhibited the ability to:	
1.	solve multi-step problems using properties of radii, chords, secants, and tangents of a circle;
2.	write an equation of a line of best fit;
3.	calculate the probability of a simple, conditional event;
4.	solve real-world and mathematical problems involving volume and surface area of spheres;
5.	write conditional statements and make logical conclusions;
6.	build a function that models a relationship between two quantities;
7.	perform and/or analyze dilations of geometric figures;
8.	use similarity criteria for triangles to solve multi-step problems;
9.	make conjectures using properties of quadrilaterals; and
10.	analyze and use proportional relationships to solve real-world and mathematical problems.
Fair	
Students at this achievement level generally have exhibited the ability to:	
1.	use the Triangle-Sum Theorem to solve simple real-world and mathematical problems;
2.	calculate the volume of a solid when given a diagram;
3.	calculate a missing side length using similar triangles;
4.	identify a geometric solid when given a set of attributes;
5.	describe or interpret patterns in measurement data;
6.	derive a rule for a pattern in a number sequence;
7.	use angle relationships to find the measure of a missing angle;
8.	solve one-step, real-world problems using proportional reasoning;
9.	identify the type of transformation performed on a geometric figure;
10.	use discrete math (elections, fair games, flow maps, color maps, etc.) and a given set of conditions to determine possible outcomes; and
11.	identify a correct informal proof.
Needs Improvement	
Students at this achievement level are generally working toward the ability to:	
1.	use angle relationships to find the measure of a missing angle;
2.	solve one-step, real-world problems using proportional reasoning;
3.	identify the type of transformation performed on a geometric figure;
4.	use discrete math (elections, fair games, flow maps, color maps, etc.) and a given set of conditions to determine possible outcomes; and
5.	identify a correct informal proof.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:216 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011).

Catherine R. Pozniak
Executive Director

1104#085

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools (LAC 28:CXXXIX.1101)

Editor's Note: Section 1101 is being repromulgated due to a codification error. The original Rule can be viewed in its entirety on pages 867-876 of the March 20, 2011 edition of the *Louisiana Register*.

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: Chapters 1 - 35. The update will amend the Bulletin to bring it into compliance with updates made to law. The update will enhance the current charter application process to require that the due diligence review include an examination of nonprofit and management organization performance, including the performance of schools operated within the state that have closed. Additionally, there will be a set of required timelines for the voluntary relinquishment of charter schools and possible penalties for not adhering to these timelines. Charter schools will also be required to notify the board when a contract with a management organization is terminated and provide a plan for the continued operation of the school. If such a plan is deemed inadequate, the Recovery School District can be given interim authority to operate the school. Failure to adhere to the requirements may lead to the non-profit board being disqualified from operating another charter school in Louisiana for up to five years. Lastly, it will require board approval for changes in over 60 percent of a charter school board of directors as material amendments and require that the charter school notify the board of any non-material amendments made to the charter.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 11. Ongoing Review of Charter Schools

§1101. Charter School Evaluation

A. - B.3 ...

C. BESE shall receive a report on the review of Type 2, Type 4, and Type 5 charter schools in January of each year. This annual review will be used in charter contract extension determinations.

1. During its renewal term, each charter school will be subject to regular site visits and contract review on a schedule established by the Department of Education.

a. A charter school under long-term renewal (five or more years), whose academic performance declines for three consecutive years, will be subject to a formal evaluation and contract review by LDOE. Based on the results of its evaluation, the department may recommend one of the following actions:

- i. the charter school be placed under a Memorandum of Understanding (MOU) that outlines specific recommendations for improving performance; or
- ii. revocation.

D. - D.1. ...

2. Charter schools are required to administer all state assessments and are subject to the Louisiana School and District Accountability System. The evaluation of a charter school's performance in its early years differs from the evaluation of existing public schools because the data necessary for certain types of accountability determinations to be made does not yet exist. However, data produced in a charter school's first years of existence is used in a manner that enables chartering authorities to track student performance by the assignment of an assessment index. An assessment index represents student performance on state assessments, as opposed to student performance on state assessments combined with other data like attendance and dropout rates. Each charter school will receive an assessment index until sufficient data exists for the school to receive a school performance score (SPS). Each charter school will receive its assessment index or school performance score (SPS), as applicable, when scores are released statewide.

D.3. - E. ...

1. Charter schools are required to engage in financial practices, financial reporting, and financial audits as set forth in charter school law, this bulletin, and the charter. The requirements imposed by law, regulation, and contract ensure the proper use of public funds and the successful fiscal operation of the charter school.

E.2. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:871 (March 2011), re promulgated LR 37:1124 (April 2011).

Catherine R. Pozniak
Executive Director

1104#084

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District—Manner of Operation of Failed Schools (LAC 28:CXLV.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District: Chapter 7. Manner of Operation of Failed Schools*. The policy aligns the Recovery School District with BESE Bulletin 741, *Louisiana Handbook for School Administrators*, and outlines the fiscal and internal management of the Recovery School District. Chapter 7 outlines the manner in which the Recovery School District may operate failing schools. It provides that the Recovery School District may operate the schools as direct run schools, as Type 5 charters, or as a University Partnership School.

Title 28

EDUCATION

Part CXLV. Bulletin 129—The Recovery School District Chapter 7. Manner of Operation of Failed Schools

§701. Direct-Operation

A. BESE may authorize that a school transferred from an LEA to the RSD be operated directly by the RSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5 (A)(1), R.S. 17:10.5(B), 17:10.7(A) (1), R.S. 17:10.7(B), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1125 (April 2011).

§703. Type 5 Charter School

A. BESE may direct that a school transferred from an LEA to the RSD be operated by a nonprofit organization holding a charter for a Type 5 charter school, under the auspices of the RSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5 (A) (1), R.S. 17:10.5(B), R.S. 17:10.7(A)(1), R.S. 17:10.7(B)(1), R.S. 17:1990(A)(2); and R.S. 17:3973 (2)(b) (v)(aa).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1125 (April 2011).

§705. University Partnership School

A. BESE may direct that a school transferred from an LEA to the RSD be operated by the RSD in partnership with a University Partnership School, under the auspices of the RSD.

B. In providing for the operation of schools within its jurisdiction, at any time the RSD seeks participation by a college or university or a consortium of colleges and universities to provide for the operation of any school or group of schools, then colleges and universities that historically were established to provide education for African American students in the state shall be included in any opportunity to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.5(B), R.S. 17:10.7(A)(1), R.S. 17:10.7(B)(1)R.S. 17:1990(A)(2), and R.S. 17:1990(B)(2)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1125 (April 2011).

Catherine R. Pozniak
Executive Director

1104#087

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Assignment and Transfer of Students (LAC 28: CXV.1109)

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: §1109. Assignment and Transfer of Students*. This policy revision to Section 1109, required

by Act 699 of the 2010 Regular Legislative Session, prohibits school districts from denying admission to students of suitable age residing in the geographical boundaries of the school district.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 11. Student Services

§1109. Assignment and Transfer of Students

A. - C.2. ...

D. No city, parish, or other local public school board shall deny admission or readmission to school of any student of suitable age who resides within the geographic boundaries of the school system unless such student is legally excluded from attending school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:105; R.S. 17:221.2; R.S. 17:221.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1126 (April 2011).

Catherine R. Pozniak
Executive Director

1104#089

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Attendance (LAC 28: CXV.1103 and 1105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to *Bulletin 741—Louisiana Handbook for School Administrators*: §1103. Compulsory Attendance and §1105. Types of Absences. The policy revisions to Section 1103 and 1105, required by Acts 644 and 666 of the 2010 Regular Legislative Session, relate to the options for students who drop out of school, parental notification of absences, students who are employed to render artistic or creative services, and clarification of definitions of the types of absences.

**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. Students between the ages of 17 and 18 may withdraw from school prior to graduation with the written consent of their parents, tutors, or legal guardians. A parent, tutor, or legal guardian who has given written consent for a student under his or her control or charge to withdraw from

school prior to graduation, or 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 eighteen years of age, who withdraws from school prior to graduating from high school and who has been ruled to be a truant, pursuant to the provisions of Chapter 15 of Title VII of the Louisiana Children's Code, by a court of competent jurisdiction can be ordered by the court to exercise one of the following options within 120 days of leaving school.

a. Reenroll in school and make continual progress toward completing the requirements for high school graduation.

b. Enroll in a high school equivalency diploma program and make continual progress toward completing the requirements for earning such diploma.

c. Enlist in the Louisiana National Guard or a branch of the United States Armed Forces, with a commitment for at least two years of service, and earn a high school equivalency diploma during such service period.

2. The parent, tutor, or other person responsible for the school attendance of a student who is under age 18 and who is enrolled in school beyond his sixteenth birthday may request that the student be allowed to attend an alternative education program or a career and technical education program. In the case of a student who has no parent, tutor, or other person responsible for his school attendance, the superintendent of the LEA may act on behalf of the student in making such a request. Upon such request, the superintendent of the LEA in which the student is enrolled shall be responsible for determining whether the student remains in the regular school setting or attends an alternative education program or a career and technical education program, and for developing and implementing an individualized plan of education for such student.

3. The compulsory attendance law does not prohibit a student who is at least 16 years of age and who meets the criteria in §2703 from attending an effective adult education program approved by BESE. A parent, tutor, or other person responsible for the school attendance of a child who is at least 16 years of age but under age 18 and who is enrolled in and is fulfilling the attendance requirements of an adult education program that is approved by BESE shall be considered to be in compliance with the compulsory attendance law.

C. - E.4. ...

F. The LEA shall provide educational and related services to exceptional students in accordance with the IEP for no fewer than 177 days, or the equivalent (63,720 minutes), during the normal 182-day school cycle.

G. Elementary students shall be in attendance a minimum of 167 six hour days or 60,120 minutes a school year. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 30,060 minutes (equivalent to 83.5 six hour school days), per semester or 60,120 minutes (equivalent to 167 six hour school days) a school year for schools not operating on a semester basis.

1. To receive Carnegie credit for a course, the minimum amount of time students must be present shall be as follows:

- a. 10,020 minutes for a six-period schedule;
- b. 8,589 minutes for a seven-period schedule; and
- c. 7,515 minutes for an eight-period or 4x4 block schedule;
- d. for other schedule configurations, students must attend a minimum of 7,515 minutes.

2. Students in danger of failing due to excessive absences may be allowed to make up missed time in class sessions held outside the regular class time. The make-up sessions must be completed before the end of the current semester and all other policies must be met.

H. Each LEA shall develop and implement a system whereby the principal of a school, or his designee, shall notify the parent or legal guardian in writing upon or before a student's third unexcused absence or unexcused occurrence of being tardy, and shall hold a conference with such student's parent or legal guardian. This notification shall include information relative to the parent or legal guardian's legal responsibility to enforce the student's attendance at school and the civil penalties that may be incurred if the student is determined to be habitually absent or habitually tardy. The student's parent or legal guardian shall sign a receipt for such notification.

I. Tardy shall include but not be limited to leaving or checking out of school unexcused prior to the regularly scheduled dismissal time at the end of the school day but shall not include reporting late to class when transferring from one class to another during the school day.

J. Exceptions to the attendance regulation shall be the enumerated extenuating circumstances below that are verified by the Supervisor of Child Welfare and Attendance or the school principal/designee where indicated. These exempted absences do not apply in determining whether a student meets the minimum minutes of instruction required to receive credit:

1. extended personal physical or emotional illness as verified by a physician or nurse practitioner licensed in the state;
2. extended hospital stay in which a student is absent as verified by a physician or dentist;
3. extended recuperation from an accident in which a student is absent as verified by a physician, dentist, or nurse practitioner licensed in the state;
4. extended contagious disease within a family in which a student is absent as verified by a physician or dentist licensed in the state; or
5. observance of special and recognized holidays of the student's own faith;
6. visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year;
7. absences verified and approved by the school principal or designee as stated below:
 - a. prior school system-approved travel for education;

b. death in the immediate family (not to exceed one week); or

c. natural catastrophe and/or disaster.

K. For any other extenuating circumstances, the student's parents or legal guardian must make a formal appeal in accordance with the due process procedures established by the LEA.

L. Students who are verified as meeting extenuating circumstances, and therefore eligible to receive grades, shall not receive those grades if they are unable to complete makeup work or pass the course.

M. Students participating in school-approved field trips or other instructional activities that necessitate their being away from school shall be considered to be present and shall be given the opportunity to make up work.

N. If a student is absent from school for two or more days within a 30-day period under a contract or employment arrangement to render artistic or creative services for compensation as set forth in the Child Performer Trust Act (R.S. 51:2131, et seq.) the employer shall employ a certified teacher, beginning on the second day of employment, to provide a minimum of three education instruction hours per day to the student pursuant to the lesson plans for the particular student as provided by the principal and teachers at the student's school. There must be a teacher to student ratio of one teacher for every 10 students.

Note: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3-4; R.S. 17:226.1; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011).

§1105. Types of Absences

A. The days absent for elementary and secondary school students shall include non-exempted, excused; exempted, excused, unexcused absences and suspensions.

B. Non-exempted, excused absences are absences incurred due to personal illness or serious illness in the family (documented by acceptable excuses, including a parental note) which are not considered for purposes of truancy, but which are considered when determining whether or not a student is eligible to make up work and tests, receive credit for work completed, and receive credit for a course and/or school year completed.

C. *Exempted, Excused Absences*—absences which are not considered for purposes of truancy and which are not considered when determining whether or not a student is eligible to make up work and tests, receive credit for work completed, and receive credit for a course and/or school year completed.

D. *Unexcused Absence*—any absence not meeting the requirements set forth in the excused absence and extenuating circumstances definitions, including but not limited to absences due to any job (including agriculture and domestic services, even in their own homes or for their own parents or tutors) unless it is part of an approved instructional program. Students shall be given failing grades in those days missed and shall not be given an opportunity to make up work.

E. *Suspension*—a non-exempted absence in which a student is allowed to make up his work and is eligible for consideration for credit provided it is completed satisfactorily and in a timely manner. The absence is considered when determining whether or not a student may or may not be promoted, but is not considered for purposes of truancy. Students absent from school as a result of any suspension shall be counted as absent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:226; R.S. 17:235.2; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 36:482 (March 2010), LR 37:1127 (April 2011).

Catherine R. Pozniak
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1104#090

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Building and Maintenance (LAC 28: CXV.1501)

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*: §1501. Building and Maintenance. This policy revision, required by Act 413 of the 2009 Regular Legislative Session, requires school districts to adopt and implement policies for the inspection of fire safety and prevention equipment and establishes minimum requirements for the policies.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 15. Plant Operations and Maintenance
§1501. Building and Maintenance**

A. - F.3. ...

G. Each LEA shall adopt and implement policies providing for inspections by qualified persons of all fire safety and prevention equipment, including fire alarm and smoke detection devices, at least twice during each school year and to require that all necessary actions be taken in a timely manner to assure that all such equipment is in good working order and meets the need for which it is intended.

1. The policy, at a minimum, shall provide that:

- a. any employee who performs an inspection shall have received appropriate training;
- b. documentation of the employee’s training shall be included in his/her personnel file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 24.5; R.S. 17:81; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005), amended LR 37:1128 (April 2011).

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1104#091

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28: CXV.2318, 2319, and 2363)

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, §2319. The Career Diploma, and §2363. Social Studies. These policy revisions, required by Act 327 of the 2010 Regular Legislative Session, require all students who enter the ninth grade on or after July 1, 2011 to complete one unit of credit in Civics, which shall include a section on Free Enterprise. Also, entering ninth graders in 2011-2012 will no longer be required to complete 1/2 credit of Free Enterprise. Students who enter the ninth grade prior to 2011 shall be allowed to complete one credit of Civics or 1/2 credit of Civics and 1/2 credit of Free Enterprise.

**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.2.c. ...

3. 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.*

4. - 5.a. ...

C. Minimum Course Requirements

1. For incoming freshmen prior to 2008-2009, the minimum course requirements for graduation shall be the following.

English	4 units
Shall be English I, II, and III, and English IV or Business English or Senior Applications in English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or Integrated Mathematics I (1 unit). The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics. (Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I	

(E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics.	
Science	3 units
Shall be the following: 1 unit of Biology; 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I; 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective; Students may not take both Integrated Science and Physical Science; Agriscience I is a prerequisite for Agriscience II and is an elective course.	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

2. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

English	4 units
Shall be English I, II, and III, and English IV or Senior Applications in English	
Mathematics	4 units
Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry or Applied Geometry The remaining unit(s) shall come from the following: Algebra II, Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute.	
Science	3 units
Shall be the following: 1 unit of Biology; 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I; 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	

Social Studies	3 units
Shall be the following: 1 unit of American History; 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise*; 1 unit from the following: World History, World Geography, Western Civilization, or AP European History. *Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.	
Health Education	1/2 unit
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Education for Careers or Journey to Careers*	1 unit
Electives	7 units
Shall include the minimum courses required to complete a Career Area of Concentration*	
TOTAL	24 units
*Take effect for incoming freshmen in 2010-2011 and beyond	

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.

English	4 units
Shall be English I, II, III, and English IV	
Mathematics	4 units
Algebra I, Applied Algebra I, or Algebra I-Pt. 2 Geometry or Applied Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.	
Science	4 units
Shall be the following: 1 unit of Biology; 1 unit of Chemistry; 2 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. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. A student completing a Career 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 fourth required science unit: Advanced Nutrition and Foods; Food Services II; Allied Health Services II; Dental Assistant II; Emergency Medical Technician-Basic (EMT-B); Health Science II; Medical Assistant II; Sports Medicine III; Advanced Electricity/Electronics; Process Technician II; ABC Electrical II; Computer Service Technology II; Horticulture II;	

Networking Basics; Routers and Routing Basics; Switching Basics and Intermediate Routing; WAN Technologies; Animal Science; Biotechnology in Agriscience; Environmental Studies in Agriscience; Equine Science; Forestry; Horticulture; Small Animal Care/Management; Veterinary Assistant; Oracle Academy Course: DB Programming with PL/SQL.	
Social Studies	4 units
Shall be the following: 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; * 1 unit of American History; 1 unit from the following: World History, World Geography, Western Civilization, or AP European History; 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies. NOTE: Students may take two half credit courses for the fourth required social studies unit. 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 fourth required social studies unit: Advanced Child Development; Early Childhood Education II; Family and Consumer Sciences II; ProStart II; T & I Cooperative Education (TICE); Cooperative Agriculture Education; Administrative Support Occupations; Business Communication; Cooperative Office Education; Entrepreneurship – Business; Lodging Management II; Advertising and Sales Promotion; Cooperative Marketing Education I; Entrepreneurship – Marketing; Marketing Management; Marketing Research; Principles of Marketing II; Retail Marketing; Tourism Marketing; CTE Internship; General Cooperative Education II; STAR II.	
*Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.	
Health Education	1/2 unit
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language or 2 Speech courses	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. 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: Advanced Clothing and Textiles; ABC Carpentry II TE;	

ABC Electrical II TE; ABC Welding Technology II; Advanced Metal Technology; Advanced Technical Drafting; Architectural Drafting; ABC Carpentry II - T&I; ABC Welding Technology II - T&I; Cabinetmaking II; Commercial Art II; Cosmetology II; Culinary Occupations II; Custom Sewing II; Graphic Arts II; Photography II; Television Production II; Upholstery II; Welding II; ABC Carpentry In Agriscience; ABC Electricity in Agriscience; ABC Welding Technology Agriscience; Agriscience Construction Technology; Agriscience Power Equipment; Floristry; Landscape Design and Construction; Introduction to Business Computer Applications; Accounting II; Business Computer Applications; Computer Multimedia Presentations; Desktop Publishing; Keyboarding Applications; Telecommunications; Web Design I and II; Word Processing; Digital Media II.	
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 37:1128 (April 2011).

§2319. The Career Diploma

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

3. Remediation and retake opportunities will be provided for students who do not pass the GEE or, LAA 2 tests, 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*.

4. - 5.a. ...

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma shall be the following.

English	4 units
Shall be: English I; English II; The remaining unit shall come from the following Technical Reading and Writing; Business English;	

Business Communications; Using Research in Careers (1/2 credit); American Literature (1/2 credit); Film in America (1/2 credit); English III; English IV; Senior Applications in English; a course developed by the LEA and approved by BESE.	
Mathematics	4 units
Shall be One of the following: Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or Applied Algebra I (1 unit). The remaining units shall come from the following: Geometry or Applied Geometry; Technical Math; Medical Math; Applications in Statistics and Probability; Financial Math; Math Essentials; Algebra II; Advanced Math—Pre-Calculus; Discrete Mathematics; course(s) developed by the LEA and approved by BESE.	
Science	3 units
Shall be: Biology I; 1 unit from the following physical science cluster: Physical Science; Integrated Science; Chemistry I; ChemCom; Physics I; Physics of Technology I. The remaining unit shall come from the following: Food Science; Forensic Science; Allied Health Science; Basic Body Structure and Function; Basic Physics with Applications; Aerospace Science; Earth Science; Agriscience II; Physics of Technology II; Environmental Science; Anatomy and Physiology; Animal Science; Biotechnology in Agriculture; Environmental Studies in Agriculture; Health Science II; EMT—Basic; an additional course from the physical science cluster; course(s) developed by the LEA and approved by BESE. NOTE: Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course.	
Social Studies	3 units
Shall be: American History; 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise;* The remaining unit shall come from the following: Child Psychology and Parenthood Education; Law Studies; Psychology; Sociology; World History; World Geography; Western Civilization; Economics; American Government; African American Studies; course developed by the LEA and approved by BESE. *Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.	

Health Education	1/2 unit
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Career/Technical Education	7 units
Education for Careers or Journey to Careers Six credits required for a career Area of Concentration.	
TOTAL	23 units

2. - 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), amended LR 37:1130 (April 2011).

§2363. Social Studies

A. Social Studies Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of social studies are required. They shall be American History, 1/2 unit of Civics or AP American Government, and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; one of the following: World History, World Geography, Western Civilization, or AP European History; and one additional social studies course.

a. Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

b. A student completing a Career 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 fourth required social studies unit:

- i. Advanced Child Development;
- ii. Early Childhood Education II;
- iii. Family and Consumer Sciences II;
- iv. ProStart II;
- v. T and I Cooperative Education (TICE);
- vi. Cooperative Agriculture Education;
- vii. Administrative Support Occupations;
- viii. Business Communication, Cooperative Office Education;
- ix. Entrepreneurship—Business;
- x. Lodging Management II;
- xi. Advertising and Sales Promotion;
- xii. Cooperative Marketing Education I;
- xiii. Entrepreneurship—Marketing;
- xiv. Marketing Management;
- xv. Marketing Research;
- xvi. Principles of Marketing II;
- xvii. Retail Marketing;
- xviii. Tourism Marketing;

- xix. CTE Internship;
- xx. General Cooperative Education II; and
- xxi. STAR II.

2. Louisiana Basic Core Curriculum. For students completing the basic core curriculum and for incoming freshmen prior to 2008-2009, three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics or AP American Government, and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.

a. Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

3. The social studies course offerings for the college and career diploma shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
AP European History	1
African American Studies	1
Approve IBC-related courses for those students who meet the requirement	1 each

B. Social Studies Requirements for the Career Diploma

1. For students completing the Career Diploma, three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics, and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; and one additional social studies course.

a. Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

2. The social studies course offerings for the career diploma shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
African American Studies	1
Child Psychology and Parenthood Education	1
Course(s) developed by the LEA and approved by BESE	1

C. Economics may be taught by a teacher certified in business education.

D. Free Enterprise and the 1 credit Civics course shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

- 1. income;
- 2. money management;

- 3. spending and credit;
- 4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.3; R.S. 17:274; R.S. 17:274.1; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), amended LR 36:1495 (July 2010), LR 37:1131 (April 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Disciplinary Regulations (LAC 28: CXV.1301)

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*: §1301. Disciplinary Regulations. This policy revision to Section 1301, required by Act 755 of the 2010 Regular Legislative Session, requires school districts to adopt a student code of conduct and to include in the code of conduct rules related to cyberbullying.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. - J. ...

K. Each LEA shall adopt a student code of conduct for the students in its school system.

1. Such code of conduct shall be in compliance with all existing rules, regulations, and policies of the board and of BESE and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

2. Except for the parishes of Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, and Tangipahoa, each LEA shall adopt and incorporate into the student code of conduct a policy prohibiting the harassment, intimidation, and bullying of a student by another student, including any intentional gesture or written, verbal, or physical act that:

a. a reasonable person under the circumstances should know will have the effect of harming a student or damaging his property or placing a student in reasonable fear of harm to his life or person or damage to his property; and

b. is so severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student.

3. Any student, school employee, or school volunteer who in good faith reports an incident of harassment, intimidation, or bullying to the appropriate school official in accordance with the procedures established by local board

policy shall be immune from a right of action for damages arising from any failure to remedy the reported incident.

4. Cyberbullying

a. The governing authority of each public elementary and secondary school to conduct (by not later than Jan. 1, 2011) shall review the student code of conduct mandated by present law and amend such code as may be necessary to assure that the policy prohibiting the harassment, intimidation, and bullying of a student by another student specifically addresses the nature, extent, causes, and consequences of cyberbullying.

b. The term "cyberbullying" means harassment, intimidation, or bullying of a student on school property by another student using a computer, mobile phone, or other interactive or digital technology, or harassment, intimidation, or bullying of a student while off school property by another student using any such means when the action or actions are intended to have an effect on the student when the student is on school property.

c. Beginning on Jan. 1, 2011, and continuing thereafter, the governing authority of each public elementary and secondary school shall inform each student in writing within 10 days after enrolling in school of the prohibition against harassment, intimidation, and bullying, including cyberbullying, of a student by another student; the nature and consequences of such actions; and the process and procedures for reporting an incident involving the prohibited actions.

d. Each such governing authority, by not later than Jan. 1, 2011, must adopt a policy establishing procedures for the investigation of reports involving the prohibited actions.

e. Each public elementary and secondary school governing authority must use the DOE behavior incidence checklist to document the details of each reported incident or harassment, intimidation, and bullying, including cyberbullying.

f. Each school governing authority shall report all such documented incidents to the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224; R.S. 17:416; 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1132 (April 2011).

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Executive Director

1104#092

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Discipline
(LAC 28:CXV.1301 and 1302)

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*: §1301. Disciplinary Regulations and §1302. Disruptive Behavior. These policy revisions, required by Act 240 of the 2009 Regular Legislative Session, describe the types of behavior for which a teacher may call

for the removal of students from the classroom and they prescribe requirements for parental notification and involvement.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. Each local educational governing authority shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, or on the street or road while going to and from school, or during intermission and recess.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

B. - K.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224; R.S. 17:252; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1133 (April 2011).

§1302. Disruptive Behavior

A. A teacher may have a student immediately removed from his/her classroom and placed in the custody of the principal or his/her designee:

1. when the student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher;

2. when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher;

3. when a student violates the school's code of conduct; or

4. when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, throwing objects, inciting other students to misbehave, or destroying property.

B. The principal or his designee shall advise the student of the particular misconduct of which he/she is accused and the student shall be given an opportunity to explain his version of the facts.

C. The principal or his/her designee then shall conduct a counseling session with the student as may be appropriate to establish a course of action to identify and correct the behavior.

D. The principal or his designee shall provide oral or written notification to the parent or legal guardian of any student removed from the classroom. Such notification shall include a description of any disciplinary action taken.

E. The principal or his/her designee may provide oral or written feedback to the teachers initiating the removal of students from the classroom. The principal and his/her designee may also provide to such teachers guidance and support on practicing effective classroom management, including, but not limited to positive behavior supports.

F. Each LEA may adopt a policy that requires the parent or guardian of a student removed from the classroom for disruptive behavior to attend after school or Saturday intervention sessions with the student.

1. The LEA may refer a parent who fails to attend such session to the court of competent jurisdiction.

2. Each time a parent is referred to the court of competent jurisdiction, the court may impose a fine of not less than \$25 and not more than \$250, 40 hours of court-approved school or community service activities, or a combination of 40 hours of court-approved school or community service activities an attendance at a court-approved family counseling program by both a parent or legal guardian and the student, and may suspend any recreational license issued by the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1133 (April 2011).

Catherine R. Pozniak
Executive Director

1104#093

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Electronic Telecommunication Devices (LAC 28:CXV.1141)

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*: §1141. Electronic Telecommunication Devices. This policy revision, required by Act 214 of the 2009 Regular Legislative Session, requires local school systems to adopt and implement policies applicable to school system employees relative to electronic communication by an employee at the school to a student enrolled at the school.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1141. Electronic Telecommunication Devices

A. - B. ...

C. Each LEA shall develop, adopt, and implement policies, procedures and practices applicable to school employees relative to electronic communications by an employee at a school to a student enrolled at that school.

1. The policies, procedures, and practices shall:

a. define electronic communication and recognize the multiple means available for making such a communication, including specified forms of both direct communication and indirect communication;

b. require that all electronic communication by an employee to a student relative to the educational services provided use a means of communication provided by the LEA;

c. prohibit the use of the means of provided by the LEA to electronically communicate with a student that is not

related to the education services provided, except communication with an immediate family member if such communication is specifically authorized by the LEA;

d. specify that the occurrence of any electronic communication made by an employee to a student, or vice versa, using a means other than one provided by the LEA shall be reported by the employee:

i. provides that records of any such reported communication be maintained by the LEA for one year;

e. specify that it is a duty of LEA employees to comply with the policies and provide that a failure to comply may result in disciplinary action and may constitute willful neglect of duty;

f. establish and provide for the imposition of consequences for a violation of the policies, including but not limited to termination of employment;

g. provide a means for the timely reporting and investigation of an alleged failure to comply with policies and for concluding such an investigation and resolving the allegation;

h. provide a means whereby any alleged failure to comply with the policies that also may be a violation of state or federal law is reported to the proper authorities;

i. provide a means to assure that all LEA employees are informed fully of the policies, procedures, and practices, and the possible consequences for a failure to comply;

j. provide a means to assure that a parent or guardian is fully informed of the policies, procedures, and practices;

k. provide a means for a parent or guardian to request that the child not be contacted through electronic communication by any school employee unless the purpose of such communication is directly related to the child's educational services and is sent and received by more than one student at the school.

2. No school board or board member shall be civilly liable for any electronic communication that is prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81; R.S. 17:239.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 37:1134 (April 2011).

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1104#094

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Elementary Program of Studies (LAC 28:CXV.2313 and 2347)

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*: §2313. Elementary Program of

Studies and §2347. Health Education. These policy revisions, required by Act 321 of the 2010 Regular Legislative Session, require public schools to provide grade appropriate instruction relative to dating violence in select health classes.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§2313. Elementary Program of Studies

A. - F.7.a. ...

8. Schools shall provide grade appropriate instruction relative to dating violence to students in seventh and eighth grade health classes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17.1; R.S. 17: 24.8; R.S. 17:81; R.S. 17:154-154.1; R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1135 (April 2011).

§2347. Health Education

A. - E.2. ...

3. JROTC I and JROTC II shall include instruction in CPR, adoption awareness, the safe haven relinquishments law, and content relative to dating violence as required by state law.

F. Health Education shall include 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”;
2. dating violence warning signs;
3. characteristics of healthy relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:1135 (April 2011).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Eligibility to Participate in High School
Interscholastic Athletics (LAC 28: CXV.3319)

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*: §3319. Eligibility to Participate in High School Interscholastic Athletics. This policy revision

to Section 3319, required by Act 691 of the 2010 Regular Legislative Session, provides for the eligibility of home study students to participate in interscholastic sports at the secondary level.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 33. Home Study Programs

§3319. Eligibility to Participate in High School

Interscholastic Athletics

A. A student participating in a BESE approved home study program will be eligible to participate in interscholastic athletic activities at a high school that is a member of the Louisiana High School Athletic Association (LHSAA) as follows.

1. Such student shall be subject to the same residency or attendance zone requirements as other students participating in the athletic activity.

2. The student's parent or legal guardian shall make a written request, not later than the first 11 days of the school year, for the student to participate in interscholastic athletic activities to the principal of the school providing the activity.

3. The principal of the school providing the athletic activity shall approve or disapprove such written request within 30 days after receipt by the principal of all information and documentation requested by the principal (which shall be limited to information and documentation that is required of other students relative to participation in the athletic activity) from the student or the student's parent or legal guardian, or both.

4. A decision by the principal to approve or disapprove the written request for the student to participate shall be final.

5. No person, individually or on behalf of any other person, shall have a cause of action arising from a denial by a public school principal of participation by a home study student in interscholastic athletics at the school or, if the student is allowed by the principal to participate in accordance with proposed law, from any refusal or denial of further participation by the student in interscholastic athletics at the school.

6. After a decision is made by the principal to approve a request for the student to participate, the student then shall participate in any tryouts for such activity at the same time and in the same manner as other students who want to participate in the same activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176(G) and 17:236.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1135 (April 2011).

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1104#096

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—General Powers of Local Educational Governing Authorities (LAC 28: CXV.303)

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*: §303. General Powers of Local Educational Governing Authorities. This policy revision to Section 303, required by Acts 552, 705, and 720 of the 2010 Regular Legislative Session, relates to the requirements for school board members to obtain continuing education, to the employment of the local public school superintendent, and to the authority of the superintendent and the school board for personnel matters.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§303. General Powers of Local Educational Governing Authorities

A. Each city and parish school board shall determine the number and location of schools to be opened, and the number and selection of teachers and other certified personnel from recommendations made by the local superintendent.

B. Each city, parish, and other local school board is authorized to adopt rules and regulations for its own governance that are consistent with law and with the regulations of BESE.

1. Each member of a city and parish school board shall receive a minimum of six hours of training and instruction annually in the school laws of this state, in the laws governing the school boards, and in educational trends, research, and policy. Such training shall also include education policy issues, including but not limited to the minimum foundation program and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools, early childhood education, school discipline, and harassment, intimidation, and bullying. Training shall also include instruction in Louisiana Open Meeting Laws and the Louisiana Public Bid Law. In an LEA that has one or more schools identified as an academically unacceptable school or a school in need of academic assistance as defined by BESE, at least two of the required hours shall focus on the improvement of schools identified as failing schools as defined by BESE.

2. The training may be received from a postsecondary education institution, the DOE, or the local school board central office staff, the Louisiana School Board Association (LSBA) provided that the instruction and the method for demonstrating attendance are pre-approved by the Louisiana School Board Association or at any conference presented by the National School Boards Association or by the Council of the Great City Schools, provided that verification of

attendance by the school board member at the training is obtained.

3. Each school board member's attendance shall be reported by the instructor to the Louisiana School Board Association. Each school board member who completes required instruction shall receive a certificate of completion and a copy of such certificate shall be entered into the minutes of the school board on which the member serves.

4. The superintendent of the school system on which the school board member serves shall be responsible for verifying that any training or instruction received by the school board member as set forth in this Section meets the necessary requirements.

5. Distinguished School Board Member

a. A school board member who has received a certificate of completion for the initial 16 hours of training and instruction and has also received an annual certificate of completion of the required training for three subsequent consecutive years shall receive the designation of "Distinguished School Board Member."

b. DOE will issue each such member an appropriate certificate attesting to such designation.

c. A member in office on Jan. 1, 2011, who has prior service on the board may receive the designation if he completes 16 hours of training during 2011 and completes the required training for the subsequent three consecutive years.

d. At least annually, the school system superintendent shall transmit to the newspaper which is the official journal of the school board a press release detailing the information for his school board that is posted on the LSBA website relative to training hours and subject matter completed by each school board member and to include in such press release information concerning each member who has been designated a "Distinguished School Board Member."

C. - L. ...

M. No board member shall act in an individual capacity to use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any personnel decision including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee.

N. No board member shall use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53; R.S. 17:54; R.S. 17:81; 17:81.2; 17:81.4-8; R.S. 17:100.2; R.S. 17:104; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 35:1474 (August 2009), LR 35:1876 (September 2009), LR 37:1136 (April 2011).

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1104#097

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High Schools (LAC 28: CXV.2317)

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*: §2317. High Schools. These policy revisions, required by Act 660 of the 2010 Regular Legislative Session, require districts to develop a policy whereby students shall be allowed to accelerate their academic progress, complete all high school graduation requirements established by BESE, and receive a high school diploma in less than four years. Students who enter the ninth grade prior to 2011 shall be allowed to complete one credit of Civics or 1/2 credit of Civics and 1/2 credit of Free Enterprise.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction §2317. High Schools

A. - D. ...

E. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high school graduation requirements; however, in those instances in which BESE authorizes an LEA to impose more stringent academic requirements, a school system diploma may be denied.

F. Each LEA shall develop an early graduation program allowing students to accelerate their academic progress, complete all state graduation requirements, and receive a high school diploma in less than four years.

1. The early graduation program may include distance education (§2395), dual enrollment (§2327), and Carnegie credit earned in middle school (§2321).

2. LEAs shall not have any policies or requirements that would prevent students from graduating in less than four years.

G. Each school shall follow established procedures for special requirements for high school graduation to allow each to address individual differences of all students.

H. Prior to the beginning of the school year, students in the career diploma pathway may switch to the college and career diploma pathway provided they have the consent of their parent or guardian and meet one of the following requirements.

1. The student has met all the requirements for promotion to the ninth grade established by BESE and the LEA for the college and career diploma program.

2. If the student was promoted to the career diploma program without having passed the English language arts or mathematics component of the eighth grade LEAP test, then the student must meet one of the requirements below.

3. If the student scored *Unsatisfactory* on the English language arts component eighth grade LEAP test, the student must successfully pass the eighth grade LEAP placement test for English language arts or the English II end-of-course test.

4. If the student scored *Unsatisfactory* on the mathematics component eighth grade LEAP test, the student must successfully pass the eighth grade LEAP Placement test for math or the Algebra I end-of-course Test.

H. Prior to the beginning of the school year, students in the college and career diploma pathway may switch to the career diploma pathway provided they meet the following requirement.

1. Every student who seeks to pursue a career diploma shall have the written permission of his/her parent or other legal guardian on the career diploma participation form after a consultation with the school guidance counselor or other school administrator. The student and parent must be informed of the advantages and disadvantages of the different diploma pathways. The signature of the student and parent or guardian indicates that a determination has been made that the pursuit of a career diploma is appropriate and in the best interest of the student. The school principal shall also sign the form acknowledging that appropriate counseling has taken place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:154; R.S. 17:1944; R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011).

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1104#098

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Home Study Program (LAC 28: CXV.3309 and 3311)

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*: §3309. Curriculum and §3311. Testing. The policy revision to Section 3309, required by Act 677 of the 2010 Regular Legislative Session, provides that a high school diploma awarded by an approved home study program shall be recognized by educational institutions and governmental entities in the same manner as one awarded by an approved nonpublic school. The changes to Section 3311 are required by changes to the state testing programs and policies.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 33. Home Study Programs §3309. Curriculum

A. - B. ...

C. A high school diploma awarded by a home study program approved by BESE shall be deemed by all public postsecondary education institutions, all state departments, agencies, boards, and commissions, and all other state and local governmental entities to have all the rights and

privileges afforded to a high school diploma awarded by a state-approved nonpublic school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:1137 (April 2011).

§3311. Testing

A. A parent of a child in home study may request of the LEA superintendent or the state superintendent, that the child be administered the LEAP, iLEAP, or GEE tests under the following conditions:

1. date of the test shall be on such dates as determined by the LEA superintendents or state superintendent;
2. a fee of up to \$35 may be charged to cover actual costs of administering, scoring, and reporting the results of the tests;
3. the examination shall be administered with the same instructions and under similar conditions as provided to students enrolled in public schools;
4. a certified teacher shall administer the test;
5. the parent shall be provided the student's score and whether the student passed the examination by meeting the state performance standard for LEAP.

B. Students enrolled in state-approved home study programs are not eligible to participate in LAA 1, LAA 2, ELDA, or EOC tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 37:1138 (April 2011).

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1104#099

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Physical Abuse of Teachers and School Employees by Students (LAC 28: CXV.521)

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*: §521. Physical Abuse of Teachers and School Employees by Students. This policy revision to Section 521, required by Act 404 of the 2010 Regular Legislative Session, requires districts to adopt rules and regulations regarding the physical abuse of public school employees by students, and includes some requirements for the rules and regulations.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§521. Physical Abuse of Teachers and School Employees by Students

A. LEAs shall adopt rules and regulations to implement the following requirements regarding the physical abuse of

public school teachers and other school employees by students.

1. An accurate record shall be kept of incidents of such abuse.
2. LEAs shall provide appropriate equipment to protect teachers and other school employees from such abuse.
3. Support services shall be provided to teachers and other school employees which afford them the opportunity to discuss the stress caused by such abuse.
4. Any teacher or other school employee who has been the victim of such abuse shall be provided the opportunity to seek another position for which he is certified within the same parish in which he will not have contact with the student(s) involved, provided that there is another position available.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1138 (April 2011).

Catherine R. Pozniak
Executive Director

1104#100

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Staff Misconduct (LAC 28: CXV.502)

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*: §502. Staff Misconduct. This policy revision, required by Act 223 of the 2009 Regular Legislative Session, relates to the procedures and requirements for disclosure of information regarding sexual misconduct, abuse and neglect by applicants for public school employment.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§502. Staff Misconduct

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

1. The statement shall provide procedures for the disclosure of information by the applicant's current or previous employer, if such employer is the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, or the Louisiana Special Education Center, relative to all

instances of abuse or neglect of students, as such terms are defined in Children's Code Article 603, as committed by the applicant, if any.

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

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

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

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

6. The statement shall provide procedures for the disclosure of information by the applicant of all instances of sexual misconduct with and abuse or neglect of any student committed by the applicant, if any, and such procedures shall include written notification by the school board, on any application forms provided to the applicant, of the disclosure requirements.

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

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

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

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

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

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

9. The statement shall include:

a. all actual cases of sexual misconduct with a minor or student by the applicant;

b. all investigations of sexual misconduct by the applicant with a minor or student that occurred within thirty-six months prior to the applicant's resignation, dismissal, or retirement from school employment;

c. all actual or investigated cases of abuse or neglect of a minor or student by the applicant.

10. Any applicant who knowingly and willfully violates the provisions of this Section shall be guilty of a misdemeanor offense and shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:81.9; R.S. 17:587.1; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:444 (March 2009), amended LR 35:1099 (June 2009), LR 37:1138 (April 2011).

Catherine R. Pozniak
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1104#101

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Student Biometric Information
(LAC 28: CXV.1149)

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*: §1149. Student Biometric Information. This policy revision to Section 3319, required by Act 691 of the 2010 Regular Legislative Session, provides for the eligibility of home study students to participate in interscholastic sports at the secondary level.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1149. Student Biometric Information

A. Biometric information is defined as any noninvasive electronic measurement and evaluation of any physical characteristics that are attributable to a single person, including fingerprint characteristics, eye characteristics, hand characteristics, vocal characteristics, facial characteristics, and any other physical characteristics used to electronically identify that person with a high degree of certainty.

B. Any LEA that collects such information shall develop, adopt, and implement policies that govern the collection and use of such information that, at a minimum shall:

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Teachers’ Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher (LAC 28:CXV.515)

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*: §515. Teachers’ Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher. This policy revision to Section 515, required by Act 921 of the 2010 Regular Legislative Session, relates to the Teachers’ Retirement System of Louisiana and the rehiring of retirees.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§515. Teachers’ Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher

A. - B.l.d. ...

C. Rehired Retirees

1. R.S. 11:710 prohibits anyone other than a "retired teacher" from receiving a retirement benefit pursuant to present law while reemployed, provides that anyone other than a "retired teacher" shall have his benefit suspended during reemployment, and defines "retired teacher" under the new law as:

a. any retired member who returns to work full-time or part-time as a classroom teacher offering instructional services to any student in grades K-12 in a "critical shortage area";

b. any other retired member reemployed on or before June 30, 2010;

c. any retired member who returns to active service as a full-time certified speech therapist, speech pathologist or audiologist whose position of employment requires a valid Louisiana ancillary certificate approved and issued by the state DOE in a school district where a shortage exists.

2. In order for a person who qualifies as a retired teacher because he teaches in a shortage area to receive benefits during the period of her or his reemployment, requires the superintendent and the personnel director of the employing school to certify to the BESE and the TRSL board of trustees that a shortage of teachers exists in the area in which the retired teacher was hired to teach. For speech therapists, speech pathologists, and audiologists in a shortage area, the employer is required to certify that a shortage of such persons exists.

3. Prior to certification, for any full-time teaching position, the employer shall advertise the position twice in the official journal of the school's governing authority and

1. require written permission from the student's parent or other legal guardian, or the student if he or she is age 18 or older, prior to the collection of any biometric information. It requires a form created for the express purpose of obtaining the required permission and requires that the granting of permission shall not be included as a part of any form used for enrollment purposes or other form required by the school's governing authority for any other purpose;

2. require written permission from the student's parent or other legal guardian, or the student if he or she is age 18 or older, prior to the collection of any biometric information. It requires a form created for the express purpose of obtaining the required permission and requires that the granting of permission shall not be included as a part of any form used for enrollment purposes or other form required by the school's governing authority for any other purpose;

3. provide that any biometric information collected from a student shall be used only for identification or fraud prevention purposes;

4. ensure that a student's biometric information shall not be disclosed to a third party without the written permission of the student's parent or other legal guardian, or the student if he or she is age 18 or older, unless the disclosure is required by court order;

5. provide for the secure storage, transmission, and protection of all biometric information from unauthorized disclosure;

6. encrypt student biometric information using an algorithmic process which transforms data into a form in which there is a low probability of assigning meaning to such information without use of a confidential process or key;

7. ensure that the use of a student's biometric information is discontinued upon:

a. the student's graduation or withdrawal from school; or

b. receipt of a written request to discontinue use of such information from the student's parent or other legal guardian, or the student if he or she is age 18 or older;

8. provide that all biometric information collected from a student be destroyed within 30 days after use of such information is discontinued;

9. provide that a student shall not be refused or denied any services due to the failure to provide written consent and that the collection of student biometric information must comply with all applicable state and federal law and requirements, including the federal Family Educational Rights Privacy Act of 1974 (FERPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1139 (April 2011).

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Executive Director

1104#102

non-retirees shall be given hiring preference over retirees, unless fewer than three applicants have applied for the position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:162(C); R.S. 11:710.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), amended LR 37:1140 (April 2011).

Catherine R. Pozniak
Executive Director

1104#103

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Textbooks (LAC 28: CXV.1703)

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*: §1703. Textbooks. This policy revision, required by Act 328 of the 2010 Regular Legislative Session, relates to the use of state funds to purchase textbooks and computer hardware.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 17. Instructional Support

§1703. Textbooks

A. - B. ...

C. State funds appropriated through the MFP may be used to buy books on the state-adopted textbook lists and academically related ancillary materials or computer hardware according to the state guidelines.

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8, R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), amended LR 37:1141 (April 2011).

Catherine R. Pozniak
Executive Director

1104#104

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. These policy revisions, required by Acts 214 and 413 of the 2009 Regular Legislative Session and Acts 404

and 498 of the 2010 Regular Legislative Session, require school districts to have policies and procedures to address employee electronic communication with students, fire safety inspections, physical abuse of public school teachers and employees, and collection of student biometric information.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - B. ...

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

1. - 19. ...

20. the electronic communications by an employee at a school to a student enrolled at that school (refer to §1141);

21. the inspection by qualified persons of all fire safety and prevention equipment, including fire alarm and smoke detection devices (refer to §1501);

22. the physical abuse of public school teachers and other school employees by students (refer to §521);

23. the collection of student biometric information (refer to §1149).

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 37:1141 (April 2011).

Catherine R. Pozniak
Executive Director

1104#105

RULE

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation—Program Operations (LAC 28: XLIX.513)

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*: §513. Program Operations. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. Due to changes from the 2010 Legislative session pertaining to the Child Nutrition Program, it was imperative to revise Chapter 5 in Bulletin 1196. These changes affect the policy in denying meals to 'public elementary school students.' These revisions will consolidate necessary changes to Child Nutrition Programs; therefore, making Bulletin 1196 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 5. Free and Reduced Price Meals

§513. Program Operations

A. - B.1. ...

C. Denying Meals to Students for Failure to Pay

1. General

a. The SFA is not obligated to continue providing meals without receiving payment. The students' ability to pay is determined through the free and reduced price meal application process. Those students not eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal.

2. Denying Meals to Public Elementary School Students

a. If the governing authority of a public elementary school adopts a policy of denying a scheduled meal to an elementary school child for the reason that the child's parent or guardian has failed to pay for the meal, it shall implement the following procedures to provide for safeguards to the child's health and the child's ability to learn.

i. Prior to withholding a meal from the child, the school shall do each of the following:

(a). provide actual notification to the child's parent or legal guardian as to the date and time after which meals may be denied, the reason for such denial, any action that may be taken by the parent or legal guardian to prevent further denial of meals, and the consequences of the failure to take appropriate actions to prevent such denial, including that the school governing authority shall contact the Department of Children and Family Services upon the third instance of such denial during a single school year, as provided in Clause iii of this Paragraph;

(b). verify with appropriate school staff that the child does not have an Individual Education Plan that requires the child to receive meals provided by the school to ensure that neither the child's health nor learning ability will be negatively affected by denying the child meals during school hours.

ii. If the school denies a scheduled meal to a child, the school shall provide a sandwich or a substantial and nutritious snack item to the child as a substitute for the meal denied.

iii. Upon the third instance during a single school year of the same elementary school child being denied a meal during school hours, the school governing authority shall contact the office of community services within the Department of Children and Family Services to report the failure of the parent or guardian to pay for meals which has resulted in repeated denials of meals during school hours.

b. If the governing authority of a public elementary school adopts a policy of denying a scheduled meal to an elementary school child for the reason that the child's parent or guardian has failed to pay for the meal, it shall implement additional procedures to ensure compliance with the nondiscrimination provisions of R.S. 17:195(A).

c. If the governing authority of a public elementary school adopts a policy of denying a scheduled meal to an

elementary school child for the reason that the child's parent or guardian has failed to pay for the meal, the governing authority shall document each instance that a child is denied a meal in the elementary school under its authority and shall report annually to the state superintendent of education, to the House Committee on Education, and to the Senate Committee on Education relative to the number of instances of denials of meals to children during school hours, the reason for the denial of meals to the child, the age and grade of each child so denied, and whether the child qualifies for free and reduced price lunch programs.

d. No governing authority of a public elementary school shall implement a policy that bans the use of charitable funds donated by school employees or the use of other charitable funds to pay for a child's meal in the event that he is subject to the denial of a meal during school hours.

3. Discrimination against any individual by a nutrition program provider because of his inability to pay and the publishing of the name of any such individual is prohibited. Any public school employee who discloses such information, except as reasonably necessary in the conduct of his official duties, shall be subject to the penalties, upon conviction, of a fine of not more than \$100, or imprisonment for not more than 90 days, or both. School employees are prohibited from disclosing such information to any student for any reason.

D. - E.13.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2130 (December 2001), amended LR 29:2025 (October 2003), LR 32:1425 (August 2006), LR 37:1142 (April 2011).

Catherine R. Pozniak
Executive Director

1104#106

RULE

Board of Elementary and Secondary Education

Membership Foundation Program—Student Membership
(LAC 28:I.1107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Louisiana Administrative Code, Title 28, Part I, §1107. MFP: Student Membership Definition. Louisiana Administrative Code, Title 28, Part I, Section 1107.C contains the Minimum Foundation Program Student Membership Definition. The current Minimum Foundation Program Formula includes students within the Office of Juvenile Justice schools. The membership definition is being aligned with the current Minimum Foundation Program Formula.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 11. Finance and Property

§1107. Minimum Foundation Program

A. - B.1. ...

C. MFP: Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish/city and other local school system, recovery school district school, LSU and Southern Lab school, and Office of Juvenile Justice school shall adhere to the following.

a. - b.ix. ...

x. Students receiving educational services at any elementary and secondary school operated by the Office of Juvenile Justice (OJJ) in a secure care facility, considered to be a public elementary or secondary school, will be included in the base membership count of OJJ. The base membership count for OJJ is identified as average daily membership and is calculated by dividing the number of days the students are under the guidance and direction of teachers by the total instructional days during the specified school year.

D. - D.1.e. ...

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011).

Catherine R. Pozniak
Executive Director

1104#120

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Control of Emissions of Smoke (LAC 33:III.1101, 1106 and 1107)(AQ310)

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.1101 (AQ310).

LAC 33:III.1101.B currently states that the emission of smoke from any combustion unit other than a flare shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, and rapping of precipitators may have an opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

This rulemaking modifies LAC 33:III.1101.B so that the "six-minute period in any 60 consecutive minutes" during which opacity may be in excess of 20 percent is not limited to activities involving the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, or rapping of precipitators. This change would render LAC 33:III.1101.B consistent with other state regulations that address opacity (e.g., LAC 33:III.1311.C, 1311.D, 2301.D.4.a, and 2531.F.1).

LAC 33:1101.B currently references LAC 33:III.1503.D.2, Table 4 for the appropriate analytical

method to verify compliance with the aforementioned opacity limitation. However, Table 4 lists both Method 9 and Method 22 of 40 CFR 60, Appendix A. Method 9 is appropriate for the determination of the opacity of emissions and for qualifying observers for visually determining opacity of emissions, whereas Method 22 requires only the determination of whether visible emissions occur and does not require the determination of opacity levels.

This rulemaking moves the identification of the applicable test methods and procedures from Chapter 15 into Chapter 11 (as LAC 33:III.1106) and specifies that opacity shall be determined using the procedures set forth in Method 9 with some modifications pertaining to the observer training requirements. As an alternative to Method 9, an owner or operator may elect to use the analytical procedures of Method 22 and assume that any smoke observed is greater than 20 percent opacity for purposes of demonstrating compliance.

Finally, this rulemaking establishes an opacity limitation during start-up and shutdown (as defined in LAC 33:III.111) at LAC 33:III.1101.C and provides for an exemption for combustion units that combust only natural gas or other gaseous fuel. Such an exemption is consistent with LDEQ air permit language which states that compliance with LAC 33:III.1101.B is assured through "using sweet natural gas as fuel."

This Rule will provide consistency within state air regulations.

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 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. ...

B. Control of Smoke. Except as specified in LAC 33:III.1105, the emission of smoke generated by the burning of fuel or combustion of waste material in a combustion unit, including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that such emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

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 by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1143 (April 2011).

§1106. Test Methods and Procedures

A. Opacity shall be determined using Method 9 of 40 CFR Part 60, Appendix A.

B. As an alternative to the method set forth in Subsection A of this Section, an owner or operator may elect to use a continuous opacity monitoring system (COMS) meeting the requirements outlined in 40 CFR 60.13(c) and (d).

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 37:1143 (April 2011).

§1107. Exemptions

A. ...

B. The opacity standards set forth in LAC 33:III.1101 do not apply to the following:

1. combustion units when combusting only natural gas, carbon monoxide, hydrogen, and/or other gaseous fuels with a carbon to hydrogen molecular ratio of less than 0.34 (e.g., CH₄ equals 0.25, H₂ and CO equal zero). For mixtures of gaseous fuels, the molecular ratio shall be computed based on the volume percent (at standard conditions) of carbon monoxide, hydrogen, and each organic compound in the fuel gas stream;

2. combustion units subject to a federal standard promulgated pursuant to Section 111 or 112 of the Clean Air Act that limits average opacity to less than or equal to 20 percent, except for one six-minute period or less per hour;

3. recovery furnaces subject to LAC 33:III.2301.D.4;

4. biomedical waste incinerators subject to LAC 33:III.2511.E.2.f;

5. refuse incinerators subject to LAC 33:III.2521.F.8.e; and

6. crematories subject to LAC 33:III.2531.F.1.

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011).

§1111. Exclusion

Any person claiming exclusion from the application of this Chapter under this provision shall apply to the administrative authority for exclusion in accordance with R.S. 30:2056 of the act. The applicant shall furnish such information as the administrative authority may reasonably require to enable it to make a determination. The administrative authority may make such determination and apply such conditions as may be appropriate to the activity in question. A person granted an exclusion under this provision may be required to furnish the administrative authority with plans satisfactory to the administrative authority for implementing any reasonable control measures which may be developed or which otherwise become available.

A. - 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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1144 (April 2011).

Herman Robinson, CPM
Executive Counsel

1104#016

RULE

**Department of Environmental Quality
Office of the Secretary**

Greenhouse Gases
(LAC 33:III.111, 211, 223, 501,
503, 523, 537, and 2132)(AQ315)

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.111, 211, 223, 501, 503, 523, 537, and 2132 (AQ315).

This Rule removes carbon dioxide (CO₂) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants". These thresholds will be revised to be based on emissions of criteria and toxic air pollutants.

On April 2, 2010, EPA published a final Rule entitled "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs" (75 FR 17004). Under the terms of this action, greenhouses gas (GHGs) become "subject to regulation," and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.501.B.5, Item C.3 currently specifies that emissions of carbon dioxide (CO₂) "need not be included in a permit application." Information concerning potential emissions of GHGs, which includes CO₂, will be necessary in order to assess major source status and applicability of the PSD program. GHGs also include nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Further, as a consequence of GHGs becoming a "regulated" pollutant, revisions to other state air quality regulations will be necessary. This is because thresholds for small source permits, exemptions, insignificant activities, and General Condition XVII activities are dependent on a source's emissions of "regulated pollutants" or "regulated air pollutants". Moreover, whether a source can be classified as a small business is also based, in part, on its emissions of "regulated pollutants." Affected provisions include LAC 33:III.211.B.13.e, 223.Note 15, 501.B.2.d.i, 501.B.4.a.i, 501.B.5, 503.B.2, 523.A.1.b, 537.A.General Condition XVII, and 2132.A.Small Business Stationary Source.4 and 5.

Absent this regulatory change, fuel-burning equipment and other sources/activities emitting GHGs could no longer be considered as insignificant activities or General Condition XVII activities, nor could the facilities from which such emissions originate qualify for an exemption from the need to obtain an air permit, for a small source permit, or as a small business if they were otherwise eligible. The basis and rationale for this Rule are to ensure LDEQ can require CO₂ emissions data in air permit applications and to preserve existing thresholds within the air quality regulations once GHGs become "subject to regulation" on January 2, 2011. 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 1. General Provisions

§111. Definitions

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

* * *

Criteria Pollutant—any compound for which an ambient air quality standard has been listed in LAC 33:III.Chapter 7; however, *volatile organic compounds*, as defined in this Section, shall be included as a surrogate for ozone.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:1101 (June 2009), LR 36:1773 (August 2010), LR 37:1145 (April 2011).

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. - B.13.d.iii....

e. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted source is not a *Part 70 source* as defined in LAC 33:III.502. The permitted source must also emit or have the potential to emit less than 25 tons/year of any criteria pollutant, and less than 10 tons per year of any toxic air pollutant. For permit applications with processes specifically listed in the fee schedule that would also qualify for the small source permit fee, the permit fee shall be the lesser of these listed fees.

14. - 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 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007), LR 37:1145 (April 2011).

§223. Fee Schedule Listing

Table 1. - Table 2.Note 14a. ...

Note 15. Applications must be accompanied by a certificate of eligibility authorized by the department's Small Business Technical Assistance Program. Final determination of a facility's eligibility is to be made by the administrative authority or his designee and may be based on (but not limited to) the following factors: risk assessment, proposed action, location, etc. For the purpose of this Chapter a small business is a facility which: has 50 employees or fewer; is independently owned; is a small business concern as defined pursuant to the Small Business Act; emits less than 5 tons/year of any single hazardous air pollutant and less than 15 tons/year of any combination of hazardous air pollutants; emits less than 25 tons/year of any criteria pollutant; has an annual gross revenue that does not exceed \$5,000,000; is not a major stationary source; and does not incinerate, recycle, or recover any off-site hazardous, toxic, industrial, medical, or municipal waste.

Note 16. - Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

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 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:1145 (April 2011).

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.i. ...

(a). five tons per year for each criteria pollutant as defined by the Clean Air Act;

2.d.i.(b). - 4.a. ...

i. the source emits and has the potential to emit no more than 5 tons per year of any criteria pollutant;

4.a.ii. - 5. ...

Table 1. Insignificant Activities List

<p>A. Based on Size or Emission Rate Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:</p>
<p>1.external combustion equipment with a design rate greater than or equal to 1 million btu per hour, but less than or equal to 10 million btu per hour, provided that the aggregate criteria pollutant emissions from all such units listed as insignificant do not exceed 5 tons per year;</p>
<p>2.storage tanks less than 250 gallons storing organic liquids having a true vapor pressure less than or equal to 3.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;</p>

Table 1. Insignificant Activities List
3. storage tanks less than 10,000 gallons storing organic liquids having a true vapor pressure less than 0.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
4. - 5. ...
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
7.
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate criteria or toxic air pollutant emissions from all such tanks listed as insignificant do not exceed 5 tons per year;
9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, Subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided that the aggregate emissions from all such operations listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act.
B. - B.46. ...
C. Based on Type of Pollutant Emissions of the following pollutants need not be included in a permit application:
1. - 2. ...
3. nitrogen; and
4. hydrogen.
D. Exemptions Based on Emissions Levels The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate.
a. The emissions unit emits and has the potential to emit no more than 5 tons per year of any criteria or toxic air pollutant.
b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant.
c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant.
d. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

State or federal regulations may apply.

B.6. - C.13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1145 (April 2011).

§503. Minor Source Permit Requirements

A. - B.1. ...

2. Small Source Permit. The owner or operator of a stationary source which is not a *Part 70 source* as defined in LAC 33:III.502 may apply for a small source permit provided the source emits and has the potential to emit less than 25 tons per year of any criteria pollutant and 10 tons per year of any toxic air pollutant.

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 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), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1146 (April 2011).

§523. Procedures for Incorporating Test Results

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

b. increases in permitted emissions will not exceed 5 tons per year for any criteria or toxic air pollutant;

A.1.c. - B.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008), LR 37:1146 (April 2011).

§537. Louisiana General Conditions

A. ...

Table 1. Louisiana Air Emission Permit General Conditions
I. - XVI. ...
XVII. Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must:
1. generally be less than 5 TPY of criteria and toxic air pollutants;
2. be less than the minimum emission rate (MER);
3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or
4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example).
This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with

Table 1. Louisiana Air Emission Permit General Conditions
all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.
XVIII. - XX. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:660 (April 2009), amended LR 37:1146 (April 2011).

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows.

* * *

Independent Small Marketer of Gasoline (ISBM)—a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under this Section, unless such person:

- a. is a refiner; or
- b. controls, is controlled by, or is under common control with, a refiner; or
- c. is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with, a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or
- d. receives less than 50 percent of his annual income from refining or marketing of gasoline. The term *refiner* shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. Control of a corporation means ownership of more than 50 percent of its stock.

* * *

Small Business Stationary Source—a stationary source that:

- a. is owned or operated by a person that employs 100 or fewer individuals;
- b. is a small business concern as defined in the Small Business Act;
- c. is not a major stationary source;
- d. does not emit 50 tons or more per year of any criteria or toxic air pollutant; and
- e. emits less than 75 tons per year of all criteria or toxic air pollutants.

* * *

B. - I. ...

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682

(December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:1890 (September 2008), LR 34:2397 (November 2008), LR 37:1147 (April 2011).

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Executive Counsel

1104#013

RULE

**Department of Environmental Quality
Office of the Secretary**

Greenhouse Gas (GHG) Tailoring
(LAC 33:III.502 and 509)(AQ314ft)

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.502.A and 509.B (AQ314ft).

This Rule is identical to federal regulations found in June 3, 2010, FR 75, Part 106, pages 31606-31607, 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).

On June 3, 2010, the Environmental Protection Agency (EPA) promulgated a Rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (Tailoring Rule) (75 FR 31514). The final Rule establishes a separate major source threshold and Prevention of Significant Deterioration (PSD) significance level for greenhouse gases (GHGs) in the form of carbon dioxide equivalents (CO₂e). This action will amend LAC 33:III.502.A and 509.B to adopt the federal thresholds.

On April 2, 2010, EPA published a final Rule entitled "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs" (75 FR 17004). Under the terms of this action, GHGs become "subject to regulation" and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.509.B currently defines "major stationary source" and "significant," in relevant part, as follows:

Major Stationary Source—

- a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;
- b. or stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section;

* * *

Significant—

* * *

- b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that

Subparagraph a of this definition does not list, any emissions rate;

Consequently, in the absence of thresholds specifically tailored to GHGs, the Title V and PSD major source threshold would be 100 or 250 tons per year (depending on the source category), and any increase in GHG emissions resulting from a physical change or change in the method of operation at a major source would trigger PSD review.

According to the Tailoring Rule, this would greatly increase the number of required permits, impose undue costs on small sources, overwhelm the resources of permitting authorities, and severely impair the functioning of the programs (75 FR 31514). The basis and rationale for this Rule is to adopt the federal major stationary source threshold and PSD significance level for GHGs. 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

§501. Definitions

A. - C.13. ...

14. If there is a change in federal law or the United States Court of Appeals for the District of Columbia Circuit or the United States Supreme Court issues an order which limits or renders ineffective the regulation of greenhouse gases from stationary sources under Part C of Title I (Prevention of Significant Deterioration of Air Quality) or Title V (Permits) of the Clean Air Act, the regulation of greenhouse gases under the corresponding programs in this Chapter shall be limited or rendered ineffective to the same extent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1148 (April 2011).

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

CO₂ Equivalent Emissions (CO₂e)— the emitted amount of greenhouse gases (GHGs) computed by multiplying the mass amount of emissions for each of the six GHGs by its associated global warming potential, published in Table A-1 to Subpart A of 40 CFR Part 98—Global Warming Potentials, and summing the resultant value for each. (See *greenhouse gases (GHGs)*.)

* * *

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride

Major Source—for the purposes of determining the applicability of 40 CFR Part 70 or of LAC 33:III.507, any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties, that are under common control of the same person (or persons under common control), and that are described in Subparagraph a, b, or c, d of this definition:

a. - a.ii. ...

b. any stationary source that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant (except for GHGs) excluding any air pollutant regulated solely under Section 112(r) of the Clean Air Act. Fugitive emissions of a stationary source shall be considered in determining whether it is a major source under this Subparagraph:

i. - ii. ...

c. any major stationary source as defined in Part D (Nonattainment) of Title I of the Clean Air Act, including any source defined as a major stationary source under LAC 33:III.504.K;

d. as of July 1, 2011, any stationary source that directly emits or has the potential to emit 100 tpy or more of GHGs on a mass basis (i.e., no global warming potentials applied) and 100,000 tpy or more of CO₂e.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1148 (April 2011).

§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.

* * *

CO₂ Equivalent Emissions (CO₂e)—the emitted amount of greenhouse gases (GHGs) computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in Table A-1 to Subpart A of 40 CFR, Part 98—Global Warming Potentials, and summing the resultant value for each.

* * *

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide,

nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant (except for GHGs) subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant (except for GHGs) subject to regulation under this Section;

c. as of July 1, 2011, any stationary source listed in Table A of this definition which emits, or has the potential to emit, 100 tpy or more of *GHGs* on a mass basis (i.e., no global warming potentials applied) and 100,000 tons per year or more of *CO2e*; or any stationary source not listed in Table A that emits, or has the potential to emit, 250 tpy or more of *GHGs* on a mass basis and 100,000 tons per year or more of *CO2e*; or

d. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a, b, or c of this definition if the change would constitute a major source by itself;

e. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

f. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

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
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 ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy

Pollutant	Emission Rate
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy
<i>GHGs</i> and <i>GHGs</i> as <i>CO₂e</i> ⁵	0 tpy and 75,000 tpy, respectively ⁵

¹ Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
² Measured as particulate matter.
³ Measured as sulfur dioxide and hydrogen chloride.
⁴ Measured as nonmethane organic compounds.
⁵ Both 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. ...

c. notwithstanding Subparagraph a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1 g/m³ (24-hour average);

d. notwithstanding Subparagraph a of this definition, between January 2, 2011, and June 30, 2011, the pollutant *GHGs* is “subject to regulation” only if the stationary source is:

i. a new major stationary source for a regulated NSR pollutant that is not *GHGs* and also will emit or have the potential to emit *GHGs* in a significant amount; or

ii. an existing major stationary source for a regulated NSR pollutant that is not *GHGs* and also will have a significant net emissions increase of both *GHGs* and another regulated NSR pollutant.

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 37:1148 (April 2011).

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1104#011

RULE

**Department of Environmental Quality
Office of the Secretary**

Organic Solvents; Emissions
(LAC 33:III.2123)(AQ320)

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.2123.A (Log #AQ320).

This Rule amends Subsection A of LAC 33:III.2123 by replacing language that was inadvertently removed in a previous rulemaking. This oversight needs to be corrected so the regulation will read accurately.

This revision will also serve as a revision to the Louisiana Air Quality State Implementation Plan. The basis and rationale for this Rule are to mirror the control techniques guidelines issued by the EPA. 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 21. Control of Emission of Organic Compounds

Subchapter B. Surface Coatings

§2123. Organic Solvents

A. Except as provided in Subsections B and C of this Section, any emissions source using organic solvents having an emission of volatile organic compounds resulting from the application of surface coatings equal to or more than 15 pounds (6.8 kilograms) per day, or an equivalent level of 2.7 tons per 12-month rolling period, shall control emissions of volatile organic compounds through the use of low solvent coatings, as provided in Subsection C of this Section, or, where feasible, by incorporating one or more of the following control methods:

A.1. - I. ...

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 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 35:1102 (June 2009), LR 36:1774 (August 2010), repromulgated LR 36:2031 (September 2010), LR 37:1150 (April 2011).

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Executive Counsel

1104#012

RULE

**Office of the Governor
Division of Administration
Board of Cosmetology**

Exam Ineligibility and Alternative Hair Design
(LAC 46:XXXI.310 and 1107)

The Board of Cosmetology has adopted a Section (LAC 46:XXXI.310) regarding eligibility for examinations administered and amended a Section (LAC 46:XXXI.1107.A) regarding the educational requirements for alternative hair design permits.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§310. Ineligibility for Examination

A. Ineligibility Period. Any individual who takes a written examination three times without receiving a passing score shall be ineligible to take any additional examinations until such time as the individual provides proof of completion of an additional 250 hours in the applicable curriculum at a cosmetology school approved by the board and provides a clearance from the school attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 37:1150 (April 2011).

Chapter 11. Special and Temporary Permits

§1107. Alternative Hair Design Curriculum

A. Curriculum. The alternative hair design curriculum shall consist of at least 500 hours of instruction which shall include but not be limited to the following.

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 37:1150 (April 2011).

Steven Young
Executive Director

1104#009

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

Medical Psychologists, General,
Licensure, Certification and Practice
(LAC 46:XLV.3903)

Editor's Note: This Section is being repromulgated to correct a printing error. The original Rule may be viewed in its entirety in the March 20, 2011 edition of the *Louisiana Register* on pages 888-897.

The Louisiana State Board of Medical Examiners, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority the

Louisiana Medical Practice Act, R.S. 37:1261-1292 and the Louisiana Medical Psychology Practice Act, as enacted by the Louisiana Legislature in Acts 2009, No. 251, R.S. 37:1360.51-1360.72, has adopted general and administrative rules governing the licensure, certification and practice of medical psychologists in this state, LAC Title 46:XLV, Subpart 1, Chapter 1, Subchapter M, Sections 231-235, Subpart 2, Chapter 39, Subchapters A-H, Sections 3901-3961 and Subpart 3, Chapter 61, Subchapters A-D, Sections 6101-6121. The Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Subpart 2. Licensure and Certification

Chapter 39. Medical Psychologists

Subchapter A. General Provisions

§3903. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Applicant—an individual who has applied to the board for a license as a medical psychologist or a certificate of advanced practice.

Approved—as applied to an examination, school, college, university, institution, organization, program, curriculum, course of study or continuing professional education, shall mean affirmatively recognized and sanctioned by the board in accordance with this Chapter.

Board—the Louisiana State Board of Medical Examiners, as constituted in R.S. 37:1263.

Bona-Fide Medication Sample—a medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a reasonable therapeutic dosage and provided at no cost to a medical psychologist for administration or distribution to a patient at no cost to the patient.

Certificate of Advanced Practice or Certificate or Certification—the board's official recognition of a medical psychologist's lawful authority to engage in advanced practice of medical psychology as provided by R.S. 37:1360.57 and Subpart 3 of these rules.

Collaborating Physician—a physician who consults and/or collaborates with a medical psychologist.

Concurrence or Concur—a physician's agreement to a plan for psychopharmacological management of a patient based on prior discussion with a medical psychologist.

Consultation and Collaboration with a MP or Consult and/or Collaborate—that practice in which a physician discusses and, if deemed appropriate, concurs in a medical psychologist's plan for psychopharmacologic management of a patient for whom the physician is the primary or attending physician.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Discussion—a communication between a physician and a medical psychologist conducted in person, by telephone, in writing or by some other appropriate means.

Drug—shall mean the same as the term "drug" as defined in R.S. 40:961(16), including controlled substances except narcotics, but shall be limited to only those agents related to the diagnosis and treatment or management of mental, nervous, emotional, behavioral, substance abuse or cognitive disorders.

Good Moral Character—as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1360.67 for the suspension or revocation of a license or certificate;

b. the applicant has not, prior to or in connection with the application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or certificate required by this Chapter.

LAMP—the Louisiana Academy of Medical Psychologists.

LSBEP—the Louisiana State Board of Examiners of Psychologists, as constituted in R.S. 37:2353.

Medication—is synonymous with *drug*, as defined herein.

Medical Psychologist or MP—a psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the board. Such practice includes the authority to administer and prescribe drugs and distribute *bona-fide* medication samples, as defined in this Section.

Medical Psychology—that profession of the health sciences which deals with the examination, diagnosis, psychological, pharmacologic and other somatic treatment and/or management of mental, nervous, emotional, behavioral, substance abuse or cognitive disorders, and specifically includes the authority to administer, and prescribe drugs and distribute *bona-fide* medication samples as defined in this Section. In addition, the practice of medical psychology includes those practices as defined in R.S. 37:2352(5).

Medical Psychology Advisory Committee or Committee—a committee to the board constituted under R.S. 37:1360.63.

Medical Psychology Practice Act or MP Act—Acts 2009, No. 251, R.S. 37:1360.51-1360.72.

Mental, Nervous, Emotional, Behavioral, Substance Abuse and Cognitive Disorders—those disorders, illnesses or diseases listed in either the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or the mental, nervous, emotional, behavioral, substance abuse and cognitive disorders listed in the International Classification of Diseases published by the World Health Organization.

Narcotics—natural and synthetic opioid analgesics and their derivatives used to relieve pain.

Physician—an individual licensed by the board to engage in the practice of medicine in the state of Louisiana as evidenced by a current license duly issued by the board.

Primary or Attending Physician—a physician who has an active clinical relationship with a patient and is principally responsible for the health care needs of the patient, or currently attending to the health care needs of the patient, or considered by the patient to be his or her primary or attending physician.

Psychopharmacologic Management—the treatment and/or management of the mental, nervous, emotional, behavioral, substance abuse and cognitive disorders with medication.

State—any state of the United States, the District of Columbia, and Puerto Rico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:888 (March 2011), repromulgated LR 37:1151 (April 2011).

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Executive Director

1104#010

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Continuing Veterinary Medicine Education (LAC 46:LXXXV.400, 403, 409, 413, 811, and 1227)

The Louisiana Board of Veterinary Medicine has amended and adopted LAC 46:LXXXV.400, 403, 409, 413, 811, and 1227 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518(A)(9). The rules have been amended and adopted to address the requirements and program approval of continuing veterinary medicine education necessary for annual renewal of a veterinary medicine license, registered veterinary technician certification, and animal euthanasia technician certification, in order to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. Amended and adopted rules more clearly define protocol and standards for continuing education program approval. However, all other programs and/or their participants, including in-house programs, not addressed herein, shall be required to obtain pre-approval from the board in accordance with existing rules. Upon promulgation, the Rule is intended to become effective for the period of time (July 1, 2010-June 30, 2011) for the 2011-2012 annual license and certification renewal and every annual license and certification renewal period thereafter.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 4. Continuing Veterinary Education

§400. Definitions

* * *

Continuing Veterinary Education—approved, accredited experience obtained from participation in post graduate veterinary studies, institutes, seminars, lectures, conferences, workshops, and other authorized forms of educational experiences so as to maintain and improve professional competencies for the health, welfare, and safety of the citizens and animals of Louisiana. A continuing veterinary education program accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, as well as those programs sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board, shall be accepted as units or hours of continuing education; however, all other programs and/or their participants, including in-house programs, shall be required to obtain pre-approval from the board in accordance with LAC 46:LXXXV.409.A.3 and 4, respectively.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 33:648 (April 2007), repromulgated LR 33:847 (May 2007), LR 37:1152 (April 2011).

§403. Continuing Veterinary Education Requirements

A. A minimum of 20 actual hours is required each fiscal year (July 1 through June 30) as a prerequisite for annual renewal of a license. Hours may be taken from:

1. A continuing veterinary education program accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, as well as those programs sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board; however, any other programs and/or their participants, including in-house programs, shall be submitted to the board for pre-approval of the units or hours of continuing education in accordance with LAC 46:LXXXV.409.A.3 and 4, respectively;

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:1208 (June 2002), LR 33:649 (April 2007), repromulgated LR 33:847 (May 2007), LR 36:319 (February 2010), LR 37:1152 (April 2011).

§409. Approved Continuing Education Programs

A. ...

1. All units or hours from contact participation programs listed on the pre-approved list of the board shall be accepted, as well as all units or hours from contact participation from programs accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, as well as those programs sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board.

2. The list of programs for which pre-approval has been granted will be updated as needed and published by the board on its website, as well as those programs which are

accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, and those programs sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 33:649 (April 2007), repromulgated LR 33:848 (May 2007), LR 36:319 (February 2010), LR 37:1152 (April 2011).

§413. Non-Compliance

A - D. ...

E. The promulgation of rule amendments by the board published in the *Louisiana State Register* on January 20, 2011 shall become effective for the period of time (July 1, 2010 - June 30, 2011) for the 2011-2012 annual license renewal and every annual license renewal period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), amended LR 19:1428 (November 1993), LR 33:649 (April 2007), repromulgated LR 33:848 (May 2007), LR 36:320 (February 2010), LR 37:1153 (April 2011).

Chapter 8. Registered Veterinary Technicians

§811. Certificate Renewal, Late Charge, Continuing Education

A. - C. ...

D. Continuing Education Requirements

1. ...

2. Any programs accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, as well as those programs sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board shall be accepted as units or hours of annual continuing education. All other continuing education programs must be approved by the board prior to attendance with the subject matter content properly addressing the clinical practice of a registered veterinary technician. Those continuing education programs not timely submitted in accordance with Subsection F below will not be allowed for annual continuing education credit.

D.3. - E.2. ...

F. Approved Continuing Education Programs

1. Organizations sponsoring a continuing education program for RVTs which is required to obtain pre-approval must submit a request for approval of the program to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall include:

- a. the name of the proposed program;
- b. course content; and

c. the number of continuing education units to be obtained by attendees.

2. RVTs may also submit a request for approval of a continuing education program which is required to obtain pre-approval, however, it must be submitted to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of Paragraph F.1.

3. ...

G. The promulgation of rule amendments by the board published in the *Louisiana State Register* on January 20, 2011 shall become effective for the period of time (July 1, 2010-June 30, 2011) for the 2011-2012 annual certificate renewal and every annual certificate renewal period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 23:1686 (December 1997), LR 26:84 (January 2000), LR 36:320 (February 2010), LR 37:1153 (April 2011).

Chapter 12. Certified Animal Euthanasia Technicians

§1227 Continuing Education

A. Basic Requirements

1. ...

2. Any programs accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, as well as those programs sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board shall be accepted as units or hours of annual continuing education. All other continuing education programs must be approved by the board prior to attendance.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, shall be attached to the annual renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program. However, the actual mediums of video tapes, self-test programs with third party grading, and/or self-help instruction, including online instruction, with third party grading, are limited to three hours per fiscal year period (July 1 through June 30). The requirement of pre-approval of the program by the board continues to apply for those programs not accepted by another state's regulatory board of veterinary medicine, a governmental entity, and/or AAVSB, as well as those programs not sponsored by AVMA accredited schools of veterinary medicine and/or any professional associations recognized by the board.

A.4. - B 2. ...

C. Approved Continuing Education Programs

1. Organizations sponsoring a continuing education program for CAETs which is required to obtain pre-approval must submit a request for approval of the program to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall include:

a. - c. ...

2. CAETs may also submit a request for approval of a continuing education program which is required to obtain pre-approval, however, it must be submitted to the board no less than 14 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of Paragraph C.1.

3. ...

D. The promulgation of rule amendments by the board published in the *Louisiana State Register* on January 20, 2011 shall become effective for the period of time (July 1, 2010 - June 30, 2011) for the 2011-2012 annual certificate renewal and every annual certificate renewal period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:321 (February 2000), amended LR 36:320 (February 2010), LR 37:1153 (April 2011).

Wendy D. Parrish
Executive Director

1104#017

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Forensic Supervised Transitional Residential and Aftercare Facilities Minimum Licensing Standards (LAC 48:I.Chapter 72)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for Forensic Supervised Transitional Residential and Aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the Forensic Supervised Transitional Residential and Aftercare facility provider. The modules to be licensed under an FSTRA license are:

1. Secure Community Supervised Transitional/Residential Facility; and
2. Secure Forensic Facility.

B. A Forensic Supervised Transitional Residential and Aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health and Hospitals, including persons who are court ordered and persons who are on court ordered conditional release status. An FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the FSTRA facility shall include, but are not limited to the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1154 (April 2011).

§7203. Definitions

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Department—the Louisiana Department of Health and Hospitals.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is available for consultation and collaboration with the FSTRA facility staff.

Licensee—the person, partnership, company, corporation, association, organization, professional entity, or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Treatment Plan—a comprehensive plan developed by the FSTRA facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1154 (April 2011).

§7205. Licensing Requirements

A. Any person or entity applying for an FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. An FSTRA facility shall not be established, opened, operated, managed, maintained, or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health and Hospitals is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate an FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;

2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;

3. be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;

5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The facility shall provide 24-hour, seven days per week supervision consisting of:

a. at least three direct care staff persons during the day and two awake staff during the night;

b. at least two direct care staff persons in each building and/or unit at all times when clients are present; and

c. a functional security system on all points of ingress and egress with 24-hour, seven days per week monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The FSTRA facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for an FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1155 (April 2011).

§7207. Initial Licensing Application Process

A. An initial application for licensing as an FSTRA facility shall be obtained from the department. A completed initial license application packet for an FSTRA facility must be submitted to and approved by the department prior to an applicant providing services. An applicant must submit a completed initial licensing packet to the department, which shall include:

1. a completed FSTRA facility licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;

b. facility administrators; and

c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance.

7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant must notify the department that the FSTRA facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial Forensic Supervised Transitional Residential and Aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1155 (April 2011).

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed FSTRA facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed FSTRA facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental

and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed FSTRA facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the provider of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

E. The license for an FSTRA facility shall be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1156 (April 2011).

§7211. Licensing Surveys

A. Prior to the initial license being issued to the FSTRA facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the FSTRA facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider.

C. In the event that the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required from an FSTRA facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations.

F. DHH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any provider staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1156 (April 2011).

§7213. Changes in Licensee Information or Personnel

A. An FSTRA facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the FSTRA facility name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or "doing business as" name requires a change to the facility license and requires a \$25 fee for the reissuance of an amended license.

C. Any change regarding the facility's key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility's notice to the department shall include the individual's:

- a. name;
- b. facility address;
- c. hire date; and

d. qualifications.

D. A change of ownership (CHOW) of the FSTRA facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of an FSTRA facility is not transferable or assignable. The license of an FSTRA facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. An FSTRA facility that is under license suspension, revocation, or denial of renewal may not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by a \$25 fee.

F. An FSTRA facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the relocation the facility.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1157 (April 2011).

§7215. Renewal of License

A. License Renewal Application. The FSTRA facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance;

5. the license renewal fee; and

6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the

Forensic Supervised Transitional Client and Aftercare license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1157 (April 2011).

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license.

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or non-renewed.

C. Voluntary Non-Renewal of a License

1. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

2. If a provider fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the provider is actively treating clients, in which case the provider shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the FSTRA facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
 - i. notice of voluntary non-renewal;
 - ii. notice of closure; and
 - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If an FSTRA facility fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. An FSTRA facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations, or with

other required statutes, laws, ordinances, rules, or regulations;

2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency, or any law enforcement agency;

3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;

4. negligent or harmful failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

6. knowingly making a false statement in any of the following areas, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, client records or facility records;
- d. matters under investigation by the department or the Office of the Attorney General; or
- e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of an FSTRA facility by the owner, administrator, manager, member, officer or director;

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

- a. violence, abuse, or negligence of a person;
- b. misappropriation of property belonging to another person;
- c. cruelty, exploitation, or sexual battery of a person with disabilities;
- d. a drug offense;
- e. crimes of sexual nature;
- f. a firearm or deadly weapon;

g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. cessation of business or non-operational status.

E. If an existing FSTRA facility has been issued a notice of license revocation or suspension and the provider's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If an FSTRA facility license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, director, manager, or administrator of such FSTRA facility may be prohibited from opening, managing, directing, operating, or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1158 (April 2011).

§7219. Notice and Appeal of License Denial, License Revocation and License Non-Renewal and Appeal of Provisional License

A. Notice of a license denial, license revocation or license non-renewal shall be given to the provider in writing.

B. An FSTRA facility has a right to an informal reconsideration of the license denial, license revocation, or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The FSTRA facility shall request the informal reconsideration within 10 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or non-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. An FSTRA facility has a right to an administrative appeal of the license denial, license revocation, or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The FSTRA facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or license non-renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or non-renewal, shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to reverse the license denial, the license non-renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the license non-renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new FSTRA facility. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing FSTRA facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has five calendar days from the receipt of the department's notice of the result of the informal reconsideration to submit a written request for an administrative appeal. If the facility chooses not to request an informal reconsideration, the facility may submit a written request for an administrative appeal within five calendar days of receipt of the notice of the results of the follow-up survey.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the Bureau of Appeals issues a stay of the expiration.

1. A stay may be granted by the Bureau of Appeals upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1159 (April 2011).

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

E. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations, for deficiencies and non-compliance with any complaint survey.

F. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff, client, or participant, as necessary or required to conduct the survey.

G. An FSTRA facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

H. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

I. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. Correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

J. Except as provided in Paragraph K, the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

K. In those complaints in which the department's Health Standards Section determines that the complaint involves issues that have resulted in, or are likely to result in, serious harm or death to the client, the complainant or the provider may appeal the informal reconsideration findings to the Bureau of Appeals.

1. The written request for administrative appeal shall be submitted to the Bureau of Appeals and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The hearing before the Bureau of Appeals is limited to the evidence presented at the informal reconsideration, unless the complainant or the facility has obtained additional evidence vital to the issues which he could not have with due diligence obtained before or during the informal reconsideration.

3. The administrative law judge shall only make a determination on the administrative appeal, based on the evidence presented, as to whether or not the complaint investigation or survey was conducted properly or improperly. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations, and shall not have the authority to add deficiencies or violations.

4. If the administrative law judge determines that the complaint investigation or survey was not conducted properly, he shall designate in writing and with specificity the methods by which a re-investigation shall be conducted.

5. No appeal shall lie from a re-investigation upon a prima facie showing that the re-investigation was conducted in accordance with the designations of the administrative law judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1160 (April 2011).

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to an FSTRA facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an FSTRA facility shall be available for disclosure to the public 30 calendar days after the provider submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1161 (April 2011).

§7225. Cessation of Business

A. A facility that intends to close or cease operations shall comply with the following procedure:

1. give 30 days advance written notice to the:

a. department;

b. forensic physician; and

c. ordering court of any conditional release client(s);

2. notify the department of the location where records will be stored and the contact person for the records; and

3. provide for an orderly discharge and transition of all clients admitted to the facility.

B. If an FSTRA facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an FSTRA facility for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1161 (April 2011).

Subchapter B. Administration and Organization

§7231. Governing Body

A. Each provider shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A provider shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;

2. terms of membership;

3. officers of the governing body; and

4. terms of office of any officers.

C. When the governing body of a provider is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter or other organizational documents;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. designate a person to act as Administrator and delegate sufficient authority to this person to manage the provider (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's

philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the provider; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1161 (April 2011).

§7233. Policy and Procedures

A. An FSTRA provider shall establish procedures to assure written communication among staff to provide continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. A provider shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of a provider's functioning which impact on clients and to interview any staff member or client.

1. A provider shall make any information or records that the provider is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. A provider shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. A provider may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A provider shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The provider shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. A provider shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements must clearly notify the client of his/her rights under this regulation, must specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. A provider shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, upon offer of employment, to have a health assessment as defined in the provider's policy and procedures.

a. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and that staff shall be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a client, or any other person; and

6. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1162 (April 2011).

Subchapter C. Admissions, Transfers and Discharges

§7235. Admissions

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;

2. types of clients suitable to the FSTRA facility;

3. services offered and allowed in the facility; and

4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

a. demographic data;

b. family information; and

c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

- a. medication;
- b. dosage(s) of medication;
- c. frequency medications should be taken; and
- d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from an FSTRA facility.

2. Each medical evaluation shall include:

- a. diagnoses;
- b. summary of medical findings;
- c. medical history;
- d. mental and physical functional capacity;
- e. prognosis; and
- f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1162 (April 2011).

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare provider, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

- 1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;
- 2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or psychiatric condition necessitates transfer to a higher level of care; or
 - a. in this situation, plans for transfer must be made as soon as possible;
- 3. the client's condition is such that he or she is:
 - a. a danger to self or others; or
 - b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The provider shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The provider in collaboration with the probation officer and community forensic staff, as

appropriate, will be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

- a. date of discharge;
- b. destination; and
- c. reason(s) for leaving.

2. Discharge records shall be retained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1163 (April 2011).

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the FSTRA facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

- 1. the client's interests, likes and dislikes;
- 2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;
- 3. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;
- 4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;
- 5. recreational and social activities which are suitable;
- 6. a plan for handling special emergency evacuation needs, if any; and
- 7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

- 1. the client's needs;
- 2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs; and
- 3. staff/providers responsible for providing the services.

D. The client's service plan shall be revised when a client's condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan shall be

made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1163 (April 2011).

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client.

B. Medications

1. The provider shall have clear written policies and procedures on medication assistance.

2. The provider shall assist clients in the self-administration of prescription and non-prescription medication as agreed to in their contract or service plan and as allowed by state statute/regulations.

3. Assistance with self-administration of medications shall be limited to the following.

a. The client may be reminded to take his/her medication.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, mediset, blister pak, etc.) if the client lacks the ability to open the container.

e. The client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

§7245. Nutrition

A. The facility shall provide three varied, appetizing meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a registered dietician.

D. The provider shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are

retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

§7247. Transportation Requirements

A. The provider shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

B. The FSTRA facility must:

1. have liability insurance coverage and have proof of such coverage; and

2. conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in good repair.

F. If the center contracts with a commercial proprietor for transportation, it shall select one with a good reputation and reliable drivers. All rules established for transportation furnished by the center shall be observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

Subchapter E. Client Protection

§7251. Client Rights

A. A provider shall have a written policy on clients' civil rights and the practices of the provider shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the provider's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and

released only with a client's expressed written consent or in accordance with Louisiana law.

F. The facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;
2. has access to private telephone communication;
3. is able to send and receive mail promptly and unopened;
4. is notified in writing by the provider when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;
5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;
6. is encouraged and assisted to exercise rights as a citizen;
7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;
8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and
9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. A provider shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and
2. a process to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Providers shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local, and municipal regulatory bodies. It is the provider's responsibility to secure the approvals from the following entities:

1. DHH, Health Standards Section;
2. Office of Public Health;
3. Office of State Fire Marshal;
4. city fire department, if applicable; and,
5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of DHH at all times.

C. A provider shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;
2. a current copy of the approved constitution and/or bylaws of the governing body;
3. a current roster of the governing body membership which includes the members' addresses;
4. written policies and procedures approved by the owner/governing body that address the following:
 - a. confidentiality and security of files;
 - b. publicity;
 - c. personnel;
 - d. client's rights;
 - e. grievance procedure;
 - f. safekeeping of personal possessions, if applicable;
 - g. clients' funds, if applicable;
 - h. emergency and evacuation procedures;
 - i. abuse and neglect;
 - j. critical incidents;
 - k. admissions and discharge procedures; and
 - l. medication;
5. the minutes of formal governing body meetings;
6. an organizational chart of the provider;
7. all leases, contracts and purchase-of-service agreements to which the provider is a party, which includes all appropriate credentials;
8. insurance policies:

a. every provider shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

- i. personal or professional negligence, malpractice or misconduct by facility owners or employees;
- ii. injuries received by any client while being transported by facility staff or third-party contractors; and
- iii. injuries sustained by any client while in the facility; and

b. the policies shall be without limitations or exclusions of any kind; and

9. copies of Incident/Accident Reports.

D. An FSTRA facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;
 2. evidence of a criminal history check prior to an offer of employment, in accordance with state law;
 3. evidence of applicable professional credentials or certifications according to state law;
 4. documentation of Tuberculosis test results and any other provider required medical examinations;
 5. documentation of three reference checks;
 6. annual performance evaluation;
 7. the employee's hire and termination dates;
 8. documentation of orientation and annual training;
- and

9. documentation of a valid driver's license if driving or transporting clients.

E. A provider shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. A provider shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1165 (April 2011).

§7257. Core Staffing Requirements

A. Each FSTRA facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the FSTRA facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

C. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). An FSTRA facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). An FSTRA facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

D. Direct Care Staff

1. An FSTRA facility must ensure that an adequate number of trained direct care staff is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who clearly provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. An FSTRA facility shall have at least two direct care staff on duty when there is at least one client at the facility.

5. An FSTRA facility shall demonstrate that sufficient staff are scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. The provider shall have at a minimum, one direct care staff person to every 15 clients.

6. An FSTRA facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

E. An FSTRA facility shall maintain a current work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

F. FSTRA facility professional staff shall be licensed and/or certified by, and in good standing with, the state of Louisiana. The license shall be unrestricted. Professional staff must comply with all requirements, including continuing education requirements, as established by law or regulation.

G. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social program of the facility.

H. An FSTRA facility must provide, as needed, consultation(s) with a registered dietician.

I. Staff Orientation and Training

1. During the first week of hire and prior to providing services to clients, the provider shall provide a 20-hour documented orientation including, but not limited to the following:

- a. the policies and procedures of the facility, including program components;
- b. emergency and evacuation procedures;
- c. training in proper fire and emergency safety procedures including:
 - i. CPR;
 - ii. the Heimlich Maneuver;
 - iii. first aid;
 - iv. crisis management; and
 - v. risk reduction;
- d. effective communication skills for forensic, behavioral health clients;
- e. confidentiality and HIPPA requirements;
- f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;
- g. client's rights; and
- h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

- a. training in client care services (ADL'S & IADL'S) provided by the facility;
- b. infection control to include blood borne pathogens;
- c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and
- d. any specialized training to meet clients' needs.

3. A new employee shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The staff member shall sign a statement certifying that such training has occurred and this shall be maintained in the staff members personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff shall receive certification in adult first aid within the first 30 days of employment.

J. Annual Training

1. A provider shall ensure that each direct care worker participates in in-service training each year. Normal supervision shall not be considered as meeting this requirement.

2. The provider shall document that direct care staff receives training on an annual basis in:

- a. the facility's policies and procedures;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;
- e. client care services (ADL'S & IADL'S);
- f. infection control to include blood borne pathogens; and

g. any other areas that may require specialized training to meet clients' needs.

3. All direct care staff shall have documentation of current certification in first aid.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

K. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff, and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1166 (April 2011).

§7259. Client Records

A. An FSTRA facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, facilities, and supplies for providing effective record keeping services.

D. The facility shall have a storage area that ensures the safeguarding of all client records and prevents loss from, including but not limited, to fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:
 - a. the client's name;
 - b. date of birth;
 - c. sex;
 - d. Social Security number;
 - e. previous home address; and
 - f. marital status, if applicable;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. the client's plan/authorization for routine and emergency medical care, as required;
7. the client's written authorization for a representative and their name, address and telephone number, if applicable;
8. the pre-admission assessment by a forensic physician and admission agreement;
9. findings of the assessment and any special problems or precautions identified;
10. the service plan, updates, and quarterly reviews;
11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;
12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

a. copies of his/her rights and the house rules;

b. written procedures for safekeeping of valuable personal possessions of clients; and

c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1167 (April 2011).

§7261. Abuse and Neglect

A. The provider shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations stipulated in this rule for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator/director completes an investigation report within 10 working days;

4. ensuring that the client is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect clients; and

6. protecting clients from abuse inflicted by other clients or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

§7263. Critical Incidents

A. A provider shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the provider.

B. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;

2. the date and time the incident occurred;

3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. the names and addresses of witnesses;

6. the date and time the family or representative was notified;

7. any symptoms of pain and injury discussed with the physician; and

8. the signatures of the staff completing the report, client, and director.

C. When an incident results in the death of a client, involves abuse or neglect of a client or entails any serious threat to the client's health, safety or well-being, a provider shall:

1. immediately report the incident verbally to the administrator and submit a preliminary written report within 24 hours of the incident;

2. immediately notify the Department of Health and Hospitals, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

3. immediately notify the family or the client's representative, with written notification to follow within 24 hours;

4. immediately notify the appropriate law enforcement authority in accordance with state law;

5. provide follow-up written reports to all of the persons and agencies identified in this §7261.C;

6. take appropriate corrective action to prevent future incidents; and

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

§7265. Personal Possessions

A. An FSTRA facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The provider shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the provider, the provider shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The provider shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall have and implement written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the provider shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the provider.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement must state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death. This provision only applies to personal fund accounts not in excess of \$2,000.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

§7269. Contraband

A. There shall be no contraband, illegal drugs, or controlled dangerous substances that are not prescribed to a client on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test will be reported to the attending psychiatrist and the applicable court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1169 (April 2011).

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. An FSTRA facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. An FSTRA facility shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

D. An FSTRA facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1169 (April 2011).

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as an FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. An FSTRA facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The FSTRA facility shall have a separate entrance, separate dining area and separate common areas.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture in good repair shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and be dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in good repair and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms must contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state hospital that converts a building, unit or wing to an FSTRA facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The provider shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are in good repair for each client. Linens not in good repair shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not have male and female clients at the same location.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall be not less than one for each 13 clients.

2. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. An FSTRA facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in an FSTRA facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be furnished so as to meet the needs of the clients. All furnishings and equipment shall be kept clean and in good repair.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings must include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. An FSTRA facility that has a kitchen area shall meet all health and sanitation requirements and must be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean up of all meals regularly served to all of the clients and staff. All equipment shall be maintained in proper working order.

3. An FSTRA facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage and preparation of medications.

3. Medications that require refrigeration shall be stored in a separate refrigerator (not with food, beverages, etc.).

4. The FSTRA shall have a process for monitoring the inventory and reconciliation of controlled substances. The process shall include the reporting of lost or missing medications in accordance with the Louisiana State Board of Pharmacy.

5. Medications may be administered from a central area of the facility.

I. Laundry

1. An FSTRA facility shall provide for laundry services, either on-site or at an off-site location that is adequate to handle the needs of the clients.

2. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

3. Laundry rooms shall not open directly into client common areas or food service areas.

4. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not cause a sanitation problem.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The provider shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in good repair.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1170 (April 2011).

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospitals or state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

§7281. Operational Requirements

A. Staff Requirements

1. The FSTRA–SCSTR facility shall provide 24-hour, seven day per week “supervision” consisting of at least three direct care staff persons during the day, one of which must be a licensed nurse and at least two awake staff during the night.

2. The FSTRA-SCSTR facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The SCSTR facility shall:

1. only accept clients referred by DHH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self administer medications and provide for their own personal care needs;

3. not admit more clients into care than the number specified on the FSTRA facility’s license; and

4. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

C. Medication Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client’s service plan and as allowed by state laws and regulations.

3. Assistance with self-administration of medication shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

5. Medications shall be stored in a secure central location and not stored in the client’s own room.

6. The facility may require the clients to come to a “medication” area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the Secure Forensic (SF) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

§7287. Operational Requirements

A. The SF facility shall provide 24-hour, seven day per week “supervision” consisting of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The SF facility shall have an RN on duty during the day shift to oversee the nursing services of the facility.

2. The SF facility shall have at least one licensed nurse on duty for each shift.

3. The SF Facility shall provide for, either directly or through contract, a medical doctor on call.

B. Admission

1. The SF facility shall:

- a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a DHH state forensic facility;
- b. not admit more clients into care than the number specified on the FSTRA facility's license; and
- c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

- 1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:
 - a. assistance with activities of daily living and all instrumental activities of daily living;
 - b. medication administration;
 - c. opportunities for individual and group socialization;
 - d. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;
 - e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);
 - g. basic personal laundry services; and
 - h. a program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

Bruce D. Greenstein
Secretary

1104#045

RULE

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

Mental Health Rehabilitation Program
Provider Participation Requirements
(LAC 50:XV.703)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.703 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 XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§703. Application

A. - B. ...

C. An applicant shall submit the following documents for certification:

- 1. MHR initial certification application;

2. proof of a request for accreditation and a copy of the completed application with a national accrediting body approved by the bureau and proof of payment to the accrediting body. Proof of full accreditation is required within nine months of issuance of a Medicaid provider enrollment number;

3. an affidavit that identifies the applicant's licensed mental health professional and psychiatrist, including verification of current licensure. The LMHP identified must be an employee of the applicant;

4. proof of the establishment and maintenance of a line of credit from a federally insured, licensed lending institution in an amount equal to three months of current operating expenses as proof of adequate finances. A budget showing actual or projected monthly expenses shall be attached. It is the MHR provider's responsibility to notify the bureau in the event that the financial institution cancels or reduces the upper credit limit;

a. nonprofit agencies that have operated for five years or more and have an unqualified audit report for the most recent fiscal year prepared by a licensed certified public accountant, which reflects financial soundness of the nonprofit provider, are not required to meet this standard;

b. governmental entities or organizations are exempt from this requirement;

5. a statement identifying the population to be served:

a. adults with serious mental illness; or

b. children with an emotional/behavior disorder;

6. proof of the establishment and maintenance of a general liability and a professional liability insurance policy with at least \$1,000,000 coverage under each policy. The certificates of insurance for these policies shall be in the name of the MHR provider and certificate holder shall be the Department of Health and Hospitals. The provider shall notify the bureau when coverage is terminated for any reason. Coverage shall be maintained continuously throughout the time services are provided and thereafter for a period of one year;

a. governmental entities or organizations are exempt from this requirement;

7. identification of all the MHR provider's office locations and off-site service delivery locations;

8. proof that all owner and staff have attended mandatory training as required by the bureau;

9. proof that all equipment and technology requirements have been met as established by the bureau;

10. corporations must provide current proof of business registration with the Secretary of State;

11. proof of clinical competence as defined and required by the bureau;

12. a notarized report of any and all settled convictions and/or pending charges of malpractice and felonies for the business itself (in this or any other name), the owners, principals, partners and/or governing bodies, Board of Directors and the executive/managing director;

13. proof of current inspection and approval by the Office of State Fire Marshal;

14. proof of current inspection and approval by the Office of Public Health; and

15. a comprehensive administrative policy and procedure manual that describes an administrative structure

to provide MHR services as defined and required by the bureau.

D. An applicant shall submit the following documents to the bureau's designated Provider Enrollment Unit for Medicaid Enrollment:

1. a Medicaid basic enrollment packet for entities/businesses;
2. an enrollment packet for the Louisiana Medical Assistance Program-Mental Health Rehabilitation;
3. an enrollment packet for the Louisiana Medical Assistance Program-Physician, individual or group, if applicable; and
4. a certification approval letter from the Medicaid Behavioral Health Section which states that all certification requirements have been met.

E. The MHR provider shall obtain a separate Medicaid provider number for each location where it routinely conducts business and provides scheduled services. This does not include those sites or locations that meet the definition of an off-site service delivery location.

F. Optional Services Certification. An applicant who elects to offer one or more optional services shall apply to the Bureau of Health Services Financing or its designee. The applicant shall create and maintain documents to substantiate that the provider meets all prerequisites for certification.

1. An applicant shall submit the following documents for certification:
 - a. MHR Optional Services Certification application;
 - b. comprehensive implementation plan;
 - c. proof of current inspection and approval of the site for psychosocial rehabilitation (PSR), by the Office of State Fire Marshal;
 - d. proof of current inspection and approval of the site for PSR, by the Office of Public Health; and
 - e. proof that the supervising LMHP for PSR is a Certified Psychosocial Rehabilitation Practitioner (CPRP). If the LMHP is not a CPRP, submit a written plan for achieving certification within 12 months of the provider's certification or within 12 months of being hired.

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 32:2069 (November 2006), LR 34:1914 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1173 (April 2011).

Bruce D. Greenstein
Secretary

1104#046

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities—Per Diem Rate Reduction (LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.1305 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 VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. - F. ...

G. Effective for dates of service on or after July 1, 2010, the per diem rate paid to non-state nursing facilities shall be reduced by an amount equal to 4.8 percent of the non-state owned nursing facilities statewide average daily rate on file as of July 1, 2010 until such time as the rate is rebased.

H. Effective for dates of service on or after July 1, 2011, the per diem rate paid to non-state nursing facilities, excluding the provider fee, shall be reduced by \$26.98 of the rate in effect on June 30, 2011 until such time that the rate is rebased.

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 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:1174 (April 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

1104#047

RULE

Department of Public Safety and Corrections Corrections Services

Disaster Remediation Program (LAC 22:I.340)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of LAC 22:I.340, Community Resource Centers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

§340. Disaster Remediation Program.

A. Purpose—to state the secretary's policy regarding a disaster remediation program for eligible offenders to participate in emergency disaster relief efforts and to provide procedures regarding housing for those offenders who participate in such relief efforts.

B. Applicability—deputy secretary, undersecretary, assistant secretary, chief of operations, regional wardens, wardens, Director of Probation and Parole and Director of Prison Enterprises. Each unit head is responsible for ensuring 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 to establish a disaster remediation program for offenders to repair the damage done following a natural disaster or emergency. The use of offender labor shall augment governmental personnel, private sector firms and community volunteers conducting remediation activities during the period immediately after such disaster. Offender labor shall not replace existing employees, be utilized on a project or job involved in a labor dispute or supplant post disaster remediation activities that may otherwise be performed under contract by private sector firms employed by an affected individual or governmental entity.

D. Definitions

1. *Advance Support Team*—advance support teams secure appropriate housing, coordinate the delivery of necessary supplies, and address and/or assess current situations and conditions, as well as assess future needs. The team shall consist of a security supervisor and maintenance staff member. Other staff and/or offenders may be included as deemed necessary by the chief of operations, regional wardens and/or the warden.

2. *Minimum Custody*—general population dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

3. *Offender Crews*—offender crews may be composed of any offenders that are classified as minimum custody at their assigned housing unit, excluding offenders prohibited from participation as provided for in Subsection E. Eligible offenders are subject to placement on the crews regardless of their usual work assignment. Additionally, offenders are required to be on a regular duty status and be medically capable of performing emergency disaster relief work.

E. Statutory Ineligibility for Participation. Offenders shall not be eligible to participate in a disaster remediation program if the offender was convicted of a crime defined or enumerated as a crime of violence in R.S. 14:2(13) or the offender was convicted of a sex offense as defined in R.S. 15:541(24).

F. Pre-Deployment

1. Each warden shall determine the approximate number of offenders available for assignment to an offender crew and develop appropriate offender and staffing rosters. Information concerning the number of crews available from each facility shall be forwarded by the warden or designee each May to the chief of operations for inclusion in the Incident Management Center (IMC) Resource Manual.

2. Offender crews shall not exceed ten offenders for each correctional officer supervising them.

3. In accordance with the Louisiana Homeland Security and Emergency Assistance and Disaster Act, after the governor has declared a disaster or emergency pursuant to executive order or proclamation, a disaster remediation

program may be established in the parish where the work will be performed.

4. At the direction of the secretary or designee, the IMC shall contact the appropriate warden with information relative to disaster relief needs of the affected area and/or the necessity of establishing a disaster remediation program.

5. Upon receiving the instructions from the IMC, the warden shall activate the advance support team, other necessary personnel and offender crews.

6. Offender crews that are deployed to a community or area more than two hours travel time from the unit or for an extended period may require housing in that area. The advance support teams shall coordinate with the parish Office of Emergency Preparedness (OEP), local law enforcement and the district probation and parole office for accessing available housing resources.

G. Deployment

1. The rank structure for supervision of a disaster remediation effort shall be determined by the appropriate regional warden and the unit warden shall ensure that logs of offender crew activities are maintained.

2. The unit warden shall be responsible for providing transportation for each offender crew. In addition, each unit shall be responsible for providing their own communications equipment such as 700 radios, cell and/or satellite telephones and an EMT or nurse to provide emergency medical care to the offender crews in the area as may be required.

3. The unit warden shall ensure that supervising staff receives documentation for each offender crew member that includes an identification picture and master prison record. In addition, supervising staff shall receive any medications that the offenders may have been prescribed.

4. Offender crew remediation assignments shall be coordinated by unit personnel on site through the state and/or local OEP. This information shall be forwarded to the unit, the IMC and local law enforcement.

5. The IMC may coordinate with the Division of Probation and Parole for any additional security support needed at a disaster remediation site.

6. If the situation or conditions dictate, a centralized supply location or warehouse may be established to support offender work crews.

H. Good Time Credit. Offenders participating in the disaster remediation program shall be eligible to earn 30 days of good time credit in addition to that otherwise authorized by law for every 30 days of service in this program. Therefore, each unit shall maintain records of the offenders assigned to the work crews and the number of days worked. These records shall be forwarded to the records office at the facility to determine the amount of good time to be awarded to the offender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:665 (April 2007), amended LR 37:1174 (April 2011).

James M. Le Blanc
Secretary

1104#081

RULE

Department of Public Safety and Corrections Corrections Services

Supervised Release of Sex Offenders upon Expiration of Sentence (LAC 22:I.403)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of LAC 22:I.403, Supervised Release of Sex Offenders upon Expiration of Sentence.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 4. Division of Probation and Parole

§403. Supervised Release of Sex Offenders upon Expiration of Sentence.

A. Purpose—to state the secretary's policy regarding the supervised release of sex offenders upon expiration of sentence pursuant to legislative intent.

B. Applicability—deputy secretary, assistant secretary and the Director of Probation and Parole. The Director of Probation and Parole is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and to convey its contents to appropriate staff and any and all affected sex offenders under supervision pursuant to this regulation.

C. Policy—it is the secretary's policy that a uniform procedure be established and adhered to relative to the supervised release of certain sex offenders who have been released from the custody of the department upon expiration of sentence.

D. Definition

Probation and Parole Officer—for the purpose of this regulation, shall include supervised release officers, Department of Public Safety and Corrections officers and supervising officers as these terms are utilized in R.S. 15:561.1 through 7. Probation and parole officers are employed by the Division of Probation and Parole and have all the powers and duties of probation and parole officers as provided by law.

E. General Procedures

1. A person convicted on or after August 15, 2006, and releasing on or after August 15, 2008, of a sex offense as defined in R.S. 15:541 when the victim is under the age of thirteen years, as stated on the bill of information, shall be placed upon supervised release for life when he is released from the custody of the Department of Public Safety and Corrections upon expiration of his sentence. Notwithstanding any other provision of law to the contrary, any person who is placed upon supervised release may petition the sentencing court for a termination of the supervision.

2. Supervised release shall be administered by the Division of Probation and Parole.

3. When a sex offender is placed on supervised release pursuant to the provisions of this regulation, the probation and parole officer shall:

a. inform the sex offender that he will be placed upon supervised release for the duration of his natural life;

b. inform the sex offender of the conditions of supervised release as provided for in R.S. 15:561.5 (see Subsection F of this Section);

c. require the sex offender to read and sign a Notification of Supervised Release Certificate to verify the fact that the sex offender will be placed upon supervised release and that the conditions of the supervised release have been explained to him.

F. Supervised Release Conditions

1. A sex offender placed on supervised release pursuant to the provisions of this regulation shall comply with the following conditions:

a. report immediately to the Division of Probation and Parole district office which is listed on the certificate of supervised release;

b. establish a schedule of a minimum of one meeting per month with the probation and parole officer to provide the officer with his current address, e-mail address or addresses, instant message name or names, date of birth, place of employment and verification of compliance with all registration and notification requirements of a sex offender as required by statute;

c. be subject to periodic visits with the probation and parole officer without prior notice;

d. abide by any curfew set by the probation and parole officer;

e. refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at the sex offender's expense, to screening, evaluation and treatment for controlled dangerous substances or alcohol abuse as directed by the probation and parole officer;

f. refrain from using or possessing any pornographic or sexually explicit materials. "Pornographic or sexually explicit materials" means any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, phonograph record, album, cassette, wire or tape recording, compact disc, digital versatile disc, digital video disc or any other form of visual technology or other similar tangible work or thing which is devoted to or principally consists of descriptions or depictions of illicit sex or sexual immorality, the graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity, ultimate sexual acts, normal or perverted, actual, simulated or animated, whether between human beings, animals or an animal and a human being;

g. report to the probation and parole officer when directed to do so;

h. not associate with persons known to be engaged in criminal activities or with persons known to have been convicted of a felony without written permission of the probation and parole officer;

i. in all respects, conduct himself honorably, work diligently at a lawful occupation and support his dependents, if any, to the best of his ability;

j. promptly and truthfully answer all inquiries directed to him by the probation and parole officer;

k. live and remain at liberty and refrain from engaging in any type of criminal conduct;

l. not have in his possession or control any firearms or dangerous weapons;

m. submit himself to available medical, psychiatric or mental health examination and treatment for offenders convicted of sex offenses when deemed appropriate and ordered to do so by the probation and parole officer;

n. defray the cost, or any portion thereof, of the supervised release by making payments to the department in a sum and manner determined by the department, based upon the offender's ability to pay;

o. submit a residence plan for approval by the probation and parole officer;

p. submit himself to continued supervision, either in person or through remote monitoring, of all of the following internet related activities:

i. the sex offender's incoming and outgoing e-mail and other internet-based communications;

ii. the sex offender's history of websites visited and the content accessed; and

iii. the periodic unannounced inspection of the contents of the sex offender's computer or any other computerized device or portable media device and the removal of such information, computer, computer device or portable media device to conduct a more thorough inspection;

q. comply with such other specific conditions as are appropriate, stated directly and without ambiguity so as to be understandable to a reasonable man.

2. Sex offenders on supervised release pursuant to this regulation shall be subject to the same probation and parole

policies and procedures as any other sex offender on probation or parole supervision.

G. Sanctions for Failure to Comply

1. Sex offenders on supervised release who fail to comply with the conditions of their release and supervision as provided for in Subsection F shall be referred to the district attorney for prosecution of the new charge pursuant to R.S. 15:561.7.

2. Upon a first conviction of R.S. 15:561.7, the sex offender shall be fined not more than one thousand dollars and imprisoned with hard labor for not less than 2 years nor more than 10 years without benefit of parole, probation or suspension of sentence.

3. Upon a second or subsequent conviction of R.S. 15:561.7, the sex offender shall be fined three thousand dollars and imprisoned with hard labor for not less than 5 years or more than 20 years without benefit of parole, probation or suspension of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1424 (July 2008), amended LR 35:253 (February 2009), LR 37:1176 (April 2011).

James M. Le Blanc
Secretary

1104#080

Notices of Intent

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 103—Louisiana Health Education Content Standards*. The proposed 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:

§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:

§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:

§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 “21st century student outcomes” are the skills, knowledge and expertise students should master to succeed in work and life in the 21st 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:

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.

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§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:

§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.

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§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:

§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 thirty 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:

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.	

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§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 (1 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.

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HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:

§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.

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HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:

§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.

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§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.

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HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:

§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.

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HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:

§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:

§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.

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HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:

§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:

§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:

§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:

§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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. mail until 4:30 p.m., May 9, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 103—Louisiana Health
Education Content Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Proposed Bulletin 103 *Louisiana Health Education Content Standards* incorporates current national health education standards, modified benchmarks, and new grade-level expectations. The proposed bulletin will replace in its entirety, the current Bulletin 103.

There are no savings to the state or local governmental units as a result of this policy change.

The proposed policy change will result in an estimated cost of \$164 to the state due to expense associated with publication of the proposed policy change in the *Louisiana Register*. There will be no economic impact to local governmental units as a result of the proposed policy change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed policy change will not have any effect on revenue collections at the state or local governmental level.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed policy will create no costs or economic benefits to persons directly affected or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed policy change will have no effect on competition or employment.

Beth Scioneaux
Deputy Superintendent
1104#006

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and
State Accountability System
(LAC 28:LXXXIII.302, 409, 515, 703, 3501,
4301, 4302, 4503, 4509, 4311, and 4313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for

advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §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.

Proposed 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.

Proposed 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:

**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 + 4.0percent).

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 and the 11th 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 step C, above.

F. Divide the sum from step D, above, by the sum of all weights applied to subject-test index scores from the table above (in C). 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
11	SS	50	1.040	52.0	1.25	65.0
Sums					7	594.2
9-12 Assessment Index				$594.2 \div 7 = 84.9$		

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:

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:

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:

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:

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:

§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:

§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:

§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:

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:

§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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and—State Accountability System

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed changes in Bulletin 111, 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.

Proposed changes in Bulletin 111, Chapters 43 and 45 provide detail for the district letter grade system to replace performance labels in policy.

The proposed rule changes will result in no cost or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#107

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: Chapters 3-9, 13-15, and 19-31. The proposed 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: DUI, possession, distribution, or use of a controlled dangerous substance, as defined by R.S. 40:963 et seq.; leaving the scene of an accident involving an injury or fatality; or 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:

§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:

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:

§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:

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:

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:

§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:

§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:

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:

§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:

§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:

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:

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:

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:

§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's 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:

§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:

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:

§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:

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 (see Appendix form T-10)

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:

§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:

§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:

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:

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:

§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:

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—

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;

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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: *Bulletin 119—Louisiana School Transportation Specifications and Procedures*

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy revision corrects the minimum age of bus drivers to reflect current state law. The minimum age was incorrectly stated in the prior rule. The correct age is 21 years of age or older, not 18. This rule change will codify existing practices. In addition, as required in R.S. 23:80 and R.S. 23:18, 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 (4) to eight (8) in accordance with current state law. This change will codify existing practices and there are no buses in service in the state non-compliant with this requirement. The remaining changes are technical in nature.

The adoption of this policy will cost the Department of Education approximately \$492 due to the expense associated with publication of the proposed policy change in the *Louisiana Register*. There will be no economic impact to local governmental units as a result of the proposed policy change. There are no savings to the state or local governmental units as a result of this policy change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections at the state or local government level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups. The previous rule change incorrectly provided for bus drivers of 18 years of age. However, that policy was never implemented and is being corrected through this rule change to the correct age of 21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this rule change.

Beth Scioneaux
Deputy Superintendent
1104#108

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—College-Career Diploma; Career Diploma (LAC 28: CXV.2318 and 2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §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:

§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 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.

1. - 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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: *Bulletin 741—Louisiana Handbook for School Administrators—College-Career Diploma; Career Diploma*

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy revisions to Sections 2318 and 2319 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. These

changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#109

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *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:

§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:

§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:

§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:

§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

Course Title(s)	Units
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:

§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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy revisions to Sections 2318, 2333, 2337, 2354, 2355, and 2369 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. This change will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#110

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Elementary Mathematics Specialist (LAC 28:CXXXI.666)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §666. Elementary Mathematics Specialist*. The proposed 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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a

Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel—Elementary Mathematics Specialist**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed 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. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#114

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel—Overview
(LAC 28:CXXXI.421)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §421. Overview*. The proposed 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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Overview

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed 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. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#113

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of
School Personnel—Supervisor of Student Teaching
(LAC 28:CXXXI.787)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §787*. Supervisor of Student Teaching. The proposed 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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel—Supervisor of Student Teaching**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed 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 adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#115

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *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 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.

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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to 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,

- 2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No. 3. Will the proposed Rule affect the functioning of the family? No. 4. Will the proposed Rule affect family earnings and family budget? No. 5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes. 6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools—Driver Education; Required

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary) This rule change implements changes as per Act 227 of the 2010 Legislative Session, stipulating that students enrolling in the classroom portion of a driver education course must meet the existing minimum age of fifteen, and have reached grade nine or higher as a new requirement. The revision to Chapter 5, Section 507 of Bulletin 1179: Driver Education, Traffic Safety and Administrative Guide for Louisiana Schools (R.S. 32:402.1), required 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 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. The adoption of this policy will cost the Department of Education approximately \$164 due to the expense associated with publication of the proposed policy change in the Louisiana Register. II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary) There will be no effect on revenue collections at the state or local government level. III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary) The proposed bulletin revision will not create costs or economic benefits to persons directly affected or non-governmental groups. IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) There will be no effect on competition or employment as a result of this rule change.

Beth Scioneaux Deputy Superintendent 1104#116

H. Gordon Monk Legislative Fiscal Officer Legislative Fiscal Office

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:

§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:

§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:

§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:

§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

Course Title	Unit(s)
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:

§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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy revisions to Sections 2109, 2305, 2309, 2324, 2325, and 2337 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. This change will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#112

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *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:

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Catherine R. Pozniak
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nonpublic Bulletin 741—Louisiana
Handbook for Nonpublic School Administrators
School Approval**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy revision to Section 107 in *Bulletin 741: Louisiana Handbook for Nonpublic School Administrators* 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. This change will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1104#111

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

**Toxic Air Pollutant Emission Control Program
(LAC 33:III.5103 and 5109)(AQ316)**

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.Chapter 51 (AQ316).

This Rule will revise language in LAC 33:III.5103 and 5109, the Comprehensive Toxic Air Pollutant Emission Control Program.

The basis and rationale for this Rule are to comply with Act 103 of the 2010 Regular Session of the Louisiana Legislature. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General
Provisions**

§5103. Definitions, Units, and Abbreviations

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows.

Affected Source—the collection of equipment, activities, or both within a single contiguous area and under common control that is further defined by the applicable standard.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24:1276 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2621 (December 2007), LR 37:

**§5109. Emission Control and Reduction Requirements
and Standards**

A. Maximum Achievable Control Technology (MACT) Requirements

1. ...

2. Compliance with an applicable federal standard promulgated by the US EPA in 40 CFR Part 61 or Part 63 shall constitute compliance with this Subsection for emissions of toxic air pollutants. The provisions of this Paragraph shall not apply to rules regarding the regulation and control of asbestos promulgated by the department pursuant to R.S. 30:2054.

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

a. Affected sources shall be subject to ambient air standards promulgated pursuant to this Subchapter outside their property boundaries, except that such ambient air standards shall not apply to roads, railroads, or water bodies where activities are transient in nature and long-term exposure to emissions is not reasonably anticipated.

b. Ambient air standards shall not apply to industrial properties adjacent to or impacted by emissions from affected sources, provided the affected source shall demonstrate that worker protection standards enacted pursuant to the federal Occupational Safety and Health Act as permissible exposure limits are not exceeded on the impacted property because of toxic air pollutant emissions from the affected source.

B.2. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991),

amended LR 18:1363 (December 1992), LR 19:891 (July 1993), LR 23:59 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2623 (December 2007), 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 AQ316. Such comments must be received no later than May 31, 2011, at 4:30 p.m., and should be sent to Donald Trahan, 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 donald.trahan@la.gov. Copies of these proposed regulations 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 AQ316. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 24, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan 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.

These proposed regulations are 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Toxic Air Pollutant Emission Control Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant implementation costs or savings to state or local governmental units as a result of the proposed rule. As a result of Act 103 of the 2010 Regular Legislative Session, the toxic air pollutant emission control program was amended to deal with affected sources, such as refineries or petrochemical plants. The proposed rule changes are as follows: adds the definition of "affected source;" adds Title 40 of the Code of Federal Regulations Part 61, which reflects National Emission Standards for Hazardous Air Pollutants (NESHAP) which were in effect prior to the Clean Air Act Amendments of 1991; and creates two air standards exemptions for major sources: 1) when emissions standards are exceeded temporarily and unexpectedly on surrounding roads,

railroads or water bodies; and 2) when emissions from adjacent industrial facilities exceed the standard as long as the impacted facility or facilities comply with the worker protection standards established by the Occupational Safety and Health Act.

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 resulting from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1104#035

Evan Brasseur
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Use or Disposal of Sewage Sludge and Biosolids (LAC 33:IX.Chapter 73)(WQ083)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX Subpart 3. Chapter 73 (WQ083).

This rule will revise and clarify the requirements of Standards for the Use or Disposal of Sewage Sludge and Biosolids (LAC 33:IX. Subpart 3. Chapter 73). The rule change will also incorporate requirements that currently exist as policy within the LDEQ. The basis and rationale for this Rule are to provide clarification for the proper regulation of sewage sludge for the protection of human health and the environment. This rule is based upon LDEQ's knowledge of the history of sewage sludge regulation in Louisiana and current policies of the Department with regard to sewage sludge transportation, treatment and disposal. 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 IX. Water Quality

Subpart 3. Louisiana Sewage Sludge and Biosolids Program

Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids

Subchapter A. Program Requirements

§7301. General Provisions

A. - A.2.b.iii. ...

B. General Definitions. The following terms used in this Chapter shall have the meanings listed below, unless the

context clearly indicates otherwise, or the term is specifically redefined in a particular Section.

Commercial Preparer of Sewage Sludge—any person who prepares sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the person. *Commercial preparer of sewage sludge* includes a pumper of sewage sludge that prepares sewage sludge received from other pumpers of sewage sludge and/or a pumper of sewage sludge that prepares sewage sludge received from his pumping/hauling operation. *Commercial preparer of sewage sludge* does not include a *publicly owned treatment works* or a *privately owned sanitary wastewater treatment facility* as defined in this Subsection.

Surface Disposal—a use or disposal of sewage sludge on the land that does not meet the criteria of *land application*, as defined in this Subsection. *Surface disposal* does not include the disposal of sewage sludge in a landfill permitted to receive sewage sludge.

C. Compliance Period

1. - 2. ...

3. Compliance with Requirements

a. Unless otherwise specified in LAC 33:IX.7311, compliance with the requirements in LAC 33:IX.7311.B, LAC 33:IX.7311.D.3, 4, and 5, F.5, 6, 7, 8.d, and 10, G.1.a and c, G.3, and H.2.e shall be achieved as expeditiously as practicable, but in no case later than September 5, 2000. When new pollution control facilities must be constructed to comply with the revised requirements in LAC 33:IX.7311, compliance with the revised requirements shall be achieved as expeditiously as practicable, but no later than September 4, 2001.

b. - b.iii. ...

D. Permits and Permitting Requirements

1. - 1.b.iv. ...

v. All minor sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than January 1, 2013.

c. ...

d. A person who prepares sewage sludge or land-applies biosolids shall use the appropriate Sewage Sludge and Biosolids Use or Disposal Permit application form. The owner/operator of a sewage sludge incinerator shall apply for a permit in accordance with LAC 33:III.Chapter 5 and shall utilize both the Air Quality Permit Application and the Sewage Sludge and Biosolids Use or Disposal Permit application forms. The forms can be accessed through the department's website or by contacting the Office of Environmental Services.

1.e. - 3.b. ...

4. Closure of oxidation ponds, lagoons, and/or surface impoundments utilized for sewage sludge disposal, preparation of sewage sludge, or treatment of sanitary wastewater shall comply with the following:

a. - b.i.(c). ...

(d). sampling and analysis for the following parameters:

(i). toxicity characteristics leaching procedure (TCLP) and the presence of PCBs;

(ii). paint filter liquids test; and

(iii). ...

(e). either a schematic drawing or an aerial photograph that indicates where the samples for the parameters in Subclause D.4.b.i.(d) of this Section were taken in the facility;

(f). the laboratory methods utilized for the sampling and analysis of the parameters in Subclause D.4.b.i.(d) of this Section;

(g). the name of the laboratory where the samples for the parameters in Subclause D.4.b.i.(d) of this Section were analyzed;

b.i.(h). - c. ...

5. Environmental Assessment Statement. In addition to the requirements of this Chapter, all Sewage Sludge and Biosolids Use or Disposal Permit application forms for a new permit for a commercial preparer of sewage sludge or a major modification to a permit for a commercial preparer of sewage sludge must include a response to each of the following:

a. - e. ...

E. Sewage Sludge Disposed in a Landfill

1. - 2. ...

3. The person who prepares sewage sludge that is disposed in a landfill shall provide the following to the Office of Environmental Services on a form specified by the administrative authority on or before February 19 of each year, or at a frequency designated in the permit:

a. ...

b. results of sampling and laboratory analyses of the sewage sludge for hazardous characteristics or the presence of PCBs, of the results of the Paint Filter Liquids Test (if required in the permit), and of any other analysis required by the owner/operator of the landfill.

F. Registration Requirements and Standards for Transporters of Sewage Sludge and Standards for Vehicles and/or Containers Used in the Transport of Sewage Sludge

1. Registration Requirements

a. A transporter of sewage sludge and/or grease mixed with sewage sludge shall not transport any sewage sludge and/or grease mixed with sewage sludge without first registering such activity with the Office of Environmental Services in writing and paying all associated fees.

b. ...

c. The registration period shall be for one state fiscal year period of July 1 to June 30. All registrations shall expire on June 30 of each year. If a person wishes to continue the operation of transporting sewage sludge, he or she shall apply for re-registration to the Office of Environmental Services on or before May 1 of each year.

d. - e.ii. ...

2. Standards for All Transporters of Sewage Sludge

a. - a.v. ...

b. Transporters of sewage sludge and/or grease mixed with sewage sludge shall provide a summary of the information required in Subparagraph F.2.a. of this Section to the Office of Environmental Services on or before

February 19 of each year on a form specified by the administrative authority.

c. Standards Applicable to Vehicles and/or Containers Used to Transport Sewage Sludge

i. The bodies of vehicles and/or containers transporting sewage sludge must be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the sewage sludge, inhibits access by disease vectors, prevents the sewage sludge from falling or blowing from the vehicle and/or container, minimizes escape of odors, and does not create a nuisance.

ii. The bodies of vehicles and/or containers that are utilized to transport liquefied sewage sludge or a sewage sludge that is capable of producing a leachate shall be constructed and/or enclosed with an appropriate material that will completely prevent the leakage or spillage of the liquid.

iii. The exterior and interior of the body of a vehicle and/or container that is transporting sewage sludge shall be washed, at a designated washdown area, as often as needed to ensure against accumulation of sewage sludge and/or biosolids, and for the prevention of odors and disease vector attraction.

iv. The vehicle and/or container washdown area shall be designed, constructed, and operated to prevent groundwater contamination and stormwater run-on and runoff.

v. All water and leachate generated at the designated washdown area shall be contained and discharged in accordance with all applicable state and federal regulations or hauled off-site for proper treatment and/or disposal.

d. Standards for Sewage Sludge Pipelines and Containment Areas

i. - ii. ...

e. Other Standards. The administrative authority may provide appropriate standards for transporters of sewage sludge that utilize modes of transportation not covered by Subparagraphs F.2.c and d of this Section.

f. These regulations do not relieve the transporter from the responsibility of complying with other applicable regulations and licensing requirements, including, but not limited to, those of the Louisiana Department of Transportation and Development, and with applicable ordinances governing types, sizes, and weights of vehicles used to transport sewage sludge on roads and streets that must be traveled during the transporting of the sewage sludge and with any other applicable requirements.

G. Prohibitions, Restrictions, and Additional or More Stringent Requirements

1. - 3.c.ii. ...

iii. the location, by either street address (physical address) or latitude and longitude, where the sewage sludge or biosolids will be stored;

iv. an explanation of why the sewage sludge or biosolids need to be stored for longer than a six month period;

v. ...

vi. the approximate date and length of time the sewage sludge or biosolids will be stored; and

c.vii. - d. ...

i. If the information is deemed incomplete, the administrative authority shall issue a notice of deficiency. The preparer or land applier of sewage sludge shall have 45 days, thereafter, to respond to the notice of deficiency.

G.3.d.ii. - I.2.k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2366 (November 2007), repromulgated LR 34:1028 (June 2008), amended LR 35:927 (May 2009), LR 37:

§7303. Land Application

A. - K.2.b. ...

i. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per year, the reporting period and the report due date shall be as specified in Table 1 of LAC 33:IX.7303.K.

Table 1 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period (Once per Year)	Report Due Date
January - December	February 19

ii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per quarter (four times per year), the reporting period and the report due date shall be as specified in Table 2 of LAC 33:IX.7303.K.

Table 2 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period ¹ (Once per Quarter)	Report Due Date
January, February, March	August 19
April, May, June	
July, August, September	February 19
October, November, December	

¹Separate reports must be submitted for each monitoring period.

iii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per 60 days (six times per year), the reporting period and the report due date shall be as specified in Table 3 of LAC 33:IX.7303.K.

Table 3 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period ¹ (Once per 60 Days)	Report Due Date
January, February	June 19
March, April	
May, June	October 19
July, August	
September, October	February 19
November, December	

¹Separate reports must be submitted for each monitoring period.

iv. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per month (12 times per year), the reporting period and the report due date shall be as specified in Table 4 of LAC 33:IX.7303.K.

Table 4 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period ¹ (Once per Month)	Report Due Date
January	May 19
February	
March	
April	August 19
May	
June	
July	November 19
August	
September	
October	February 19
November	
December	

¹Separate reports must be submitted for each monitoring period.

K.3. - L.10. ...

a. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.L of once per quarter (four times per year), the reporting periods and the report due dates shall be as specified in Table 2 of LAC 33:IX.7303.L.

Table 2 of LAC 33:IX.7303.L	
Reporting—Exceptional Quality Biosolids	
Monitoring Period ¹ (Once per Quarter)	Report Due Date
January, February, March	August 19
April, May, June	
July, August, September	February 19
October, November, December	

¹Separate reports must be submitted for each monitoring period.

b. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.L of once per month (12 times per year), the reporting periods and the report due dates shall be as specified in Table 3 of LAC 33:IX.7303.L.

Table 3 of LAC 33:IX.7303.L	
Reporting—Exceptional Quality Biosolids	
Monitoring Period ¹ (Once per Month)	Report Due Date
January	May 19
February	
March	
April	August 19
May	
June	
July	November 19
August	
September	
October	February 19
November	
December	

¹Separate reports must be submitted for each monitoring period.

M. - N. ...

1. If a person who possesses a Sewage Sludge and Biosolids Use or Disposal Permit wishes to add a land application site or sites to the permit, the person shall submit a request package to the administrative authority at least 180 days prior to the anticipated date by which authorization is needed containing the following information:

1.a. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:785 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2374 (November 2007), LR 35:929 (May 2009), LR 37:

§7305. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge

A. Exemptions

1. A *publicly owned treatment works (POTW)*, as defined in LAC 33:IX.7301.B, shall be exempted from the siting requirements in Subsection B of this Section and the facility closure requirements in Paragraph C.3 of this Section if the POTW prepares only sewage sludge generated at the POTW or sewage sludge generated at a facility that is owned or operated by the POTW and the POTW's sewage sludge treatment facility is located within the POTW's boundary or perimeter.

2. An existing facility that has been issued a Sewage Sludge and Biosolids Use or Disposal Permit shall be exempted from the siting requirements in Subsection B of this Section.

B. - B.4.b. ...

c. A design for surfacing natural soils that do not meet the requirements in Subparagraphs B.4.a and b of this Section shall be prepared under the supervision of a professional engineer, licensed in the state of Louisiana with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subparagraphs B.4.a and b of this Section shall be provided.

5. Facility Plans and Specifications. Facility plans and specifications represented and described in the permit applications or permit modifications for all facilities must be prepared under the supervision of, and certified by, a professional engineer, licensed in the state of Louisiana.

6. Notification of Completion. Within 10 days of completion of the facility or completion of a facility modification, the owner of the facility shall submit a notification of completion to the administrative authority. The notification of completion shall include a certification statement by a professional engineer, licensed in the state of Louisiana, that the facility meets the plans and specifications as described in the Sewage Sludge and Biosolids Use or Disposal Permit application.

7. Initial Start-Up Inspection

a. Upon issuance of a permit or modification to an existing facility, or construction of a newly permitted facility, a start-up inspection may be made after the permit holder submits the notification of completion and construction certification to the administrative authority.

b. Upon renewal of an existing permit where no physical changes are required, no certification of construction shall be required to be submitted, and no start-up inspection shall be initiated. The owner of the facility may continue use of the facility upon the effective date of the renewal permit.

c. If the administrative authority determines a start-up inspection is required pursuant to Subparagraph B.7.a of this Section, the start-up inspection shall be initiated within 15 working days of receipt of certification by the Office of Environmental Services unless a longer time period is set by mutual agreement.

d. Within 15 working days after a new, existing, or modified facility has undergone an initial start-up inspection, or within 30 days of receipt of the construction certification, the administrative authority shall either issue an approval of the construction or a notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

C. - C.3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2382 (November 2007), LR 35:930 (May 2009), LR 37:

§7307. Financial Assurance Requirements for Commercial Preparers of Sewage Sludge and Commercial Land Appliers of Biosolids

A. - E.2.i.i.(d).(v). ...

ii. Public Notice Component. The local government affected person must place a reference to the closure costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of sewage sludge, other feedstock, or supplements at the facility, whichever is later. Disclosure must include the nature and source of closure requirements, the reported liability at the balance sheet date, and the estimated total closure cost remaining to be recognized. For closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

E.2.i.iii. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2386 (November 2007), LR 35:931 (May 2009), 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 WQ083. Such comments must be received no later than May 31, 2011, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations 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 WQ083. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 24, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan 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.

These proposed regulations are available for inspection at the following LDEQ 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Use or Disposal of Sewage Sludge and Biosolids

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change will create a more efficient permitting process for industry and DEQ. Such efficiencies include extending the permit application timelines, and modifying reporting requirements so that they are consistent with similar federal regulations. In addition, the proposed administrative rules clarify existing regulations within current rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no new effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule. The proposed rule change merely codifies current industry practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no new effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1104#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Facility Planning and Control**

Louisiana Building Code (LAC 34:III.131)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of RS 39:121, the Division of Administration, Facility Planning and Control hereby gives notice of its intent to amend Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control, Chapter 1, Capital Improvement Projects to amend Section 131, Louisiana Building Code for State Owned Buildings. These rule changes are the result of a review by Facility Planning and Control of the editions of the codes specified by RS 40:1722 and the most recent editions of these codes. This review has led to the determination that new editions of these codes will provide a higher standard than the currently referenced editions. Facility Planning and Control is, therefore, establishing the appropriate editions of these codes as the standards.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§131. Louisiana Building Code

A. RS 40:1277 establishes the Louisiana Building Code and directs that the following codes be established as the minimum standards for this code. These codes shall be established as constituting the code in the editions indicated:

1. the Life Safety Code, Standard 101, 2009 Edition as published by the National Fire Protection Association;
2. Part XIV (Plumbing) of the State Sanitary Code as promulgated by the Secretary of the Department of Health and Hospitals;
3. the International Building Code, 2009 Edition as published by the International Code Council;
4. the International Mechanical Code, 2009 Edition as published by the International Code Council;
5. the National Electric Code (NFPA No. 70) 2008 Edition as published by the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 33:2649 (December 2007), 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 earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rule.

Public Comments

Interested persons may submit comments to Mark Bell, Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through May 10, 2011.

John L. Davis
Director FPC

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Building Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rules will likely result in increased construction costs to the state, which could range from \$1,000 to \$100,000 per project. The proposed administrative rules update the Louisiana building Code for state-owned buildings by updating the current editions of the national and international building codes established as standards for the Louisiana Building Code. Due to the new versions of building code including a number of changes to the construction process, the cost per project will likely increase. The specific codes being updated include: Life Safety code, Part XIV (plumbing) of the State Sanitary code, International Building Code, International Mechanical Code and the National Electric Code.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on governmental revenues as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Due to the proposed administrative rules updating the Louisiana Building code for state-owned buildings, the cost per project will likely increase, which could result in an indeterminable cost and/or economic benefit to designers and contractors who design and construct state-owned buildings. As the cost of state-owned building projects increase, the design and construction costs will likely also increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed administrative rules. There will likely be the same number of jobs though some tasks may be slightly different as a result of the proposed administrative rule.

John L. Davis
Director FP&C
1104#029

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend 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:

Chapter 4. Fees and Costs

§415. Licenses, Permits, and Examinations (Dentists)

Subchapter C. Fees for 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 37:590 (February 2011), LR 37:

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

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:

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:

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 Section C of this part, 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:

§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 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 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:

Public Comments

Interested persons may submit written comments on these proposed 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: Advertising; License Renewal Fees; Anesthesia/Analgesia Administration; Continuing Education; and Dental Hygienists Examination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in fiscal year 2010-11 for publication of the proposed rules in the State Register. There are no estimated costs or savings to local governmental units from the proposed rules. The Louisiana State Board of Dentistry (the board) is proposing to change the following rules: LAC 46:XXXIII.301: Repealing the ban on in person and phone solicitation; .415: Increasing the biennial renewal fee for dentists from \$500 to \$540; .419: Increasing the biennial renewal fee for dental hygienists from \$200 to \$220; .1509: Decreasing the required number of successful cases of induction and recovery from Nitrous Oxide Inhalation Analgesia from 12 to 6 for dental licensure applicants; .1611: Allowing Donated Dental Services hours to be counted as continuing education credit; .1709: Disallows licensure if dental applicant has failed clinical licensing examination four times; .1711: Disallows licensure if dental hygienist applicant has failed clinical licensing examination four times.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no impact on FY 11 revenues because the board's license renewal period was in December of 2010, before implementation of the rule change. However, the rule changes will increase revenues for the board by \$80,800 in FY 12 (\$57,760 + \$23,040 = \$80,800) as a result of 1,444 dental renewals with a \$40 fee increase (\$40 x 1444 dental renewals = \$57,760) and 1,152 dental hygienist renewals with a \$20 fee increase (\$20 x 1,152 hygienist renewals = \$23,040). In FY 13, the board anticipates an additional 1,040 dentists (1,040 x \$40 = \$41,600) and 905 dental hygienists (905 x \$20 = \$18,100) will apply for license renewals, resulting in an additional \$59,700 in revenue for the board in FY 13 as a result of the fee increases (\$41,600 + \$18,100 = \$59,700).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

By repealing section .301F, dentists may see an increase in revenue by attracting more patients through in person or telephone solicitation. Dentists and dental hygienists will now pay slightly higher license renewal fees as per sections .415 and .419. Under .1611, dentists may receive an economic benefit if they provide clinical services to Donated Dental Services and receive clinical continuing education credits for their time because they would not have to pay to attend an additional 6 hours of clinical continuing education courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

C. Barry Ogden
Executive Director
1104#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**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 proposes to amend 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 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 family planning waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 10).

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 family planning waiver 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:XXII.2701 as a result of the promulgation of the October 20, 2010 final Rule governing family planning waiver services (*Louisiana Register*, Volume 36, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule.

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:

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 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, May 25, 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
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 \$157,117 for FY 10-11, \$224,899 for FY 11-12 and \$228,322 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 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 \$465,697 for FY 10-11, \$508,628 for FY 11-12 and \$527,211 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 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 emergency rule, amends the provisions governing the reimbursement methodology for family planning waiver services to reduce the reimbursement rates (approximately 69,000 recipients). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$623,142 for FY 10-11, \$733,527 for FY 11-12 and \$755,533 for FY 12-13.

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 family planning waiver 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
1104#036

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**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 propose to amend 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 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, Office of Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver to redefine and clarify the provisions of the waiver relative to the target population, the request for services registry, the comprehensive plan of care, and support coordination services (*Louisiana Register*, Volume 34, Number 10). The October 20, 2008 Rule also amended the provisions governing the reimbursement methodology to reduce the comprehensive ADHC rate paid to providers as a result of adding support coordination as a separate service since these services were traditionally reimbursed as part of the comprehensive ADHC rate. These provisions were repromulgated by the department in December 2008 to correct an error of omission in the publication (*Louisiana Register*, Volume 34, Number 12).

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 the ADHC Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

**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:

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 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, May 25, 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: Home and Community-Based Services Waivers, Adult Day Health Care, 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 to the state of \$29,411 for FY 10-11, \$44,404 for FY 11-12 and \$45,080 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 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 \$87,436 for FY 10-11, \$100,424 for FY 11-12 and \$104,093 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 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 emergency rule, amends the provisions governing the reimbursement methodology for the Adult Day Health Care (ADHC) Waiver to reduce the reimbursement rates (approximately 90,833 annual service days). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$117,175 for FY 10-11, \$144,828 for FY 11-12 and \$149,173 for FY 12-13.

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 adult day health care providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1104#037

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**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 propose to amend 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 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 seq.

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 for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Children's Choice Waiver in order to reduce the reimbursement rates, and to amend the provisions governing family training to clarify the service description and the components of the service that qualify for Medicaid reimbursement (*Louisiana Register*, Volume 36, Number 10).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Children's Choice Waiver to reduce the service cap and to further reduce the reimbursement rates paid for waiver services (*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 service cap in order to revise the effective date of the service cap reduction (*Louisiana Register*, Volume 36, Number 9). The September 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XXI.12101 as a result of the promulgation of the October 20, 2010 final Rule governing the Children's Choice Waiver (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2010 Emergency Rule.

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:

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:

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 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, May 25, 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: Home and Community-Based Services Waivers, Children's Choice, Service Cap and 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 programmatic savings to the state of \$40,425 for FY 10-11, \$61,002 for FY 11-12 and \$61,931 for FY 12-13. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 10-11 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 \$120,138 for FY 10-11, \$137,961 for FY 11-12 and \$143,001 for FY 12-13. It is anticipated that \$205 will be expended in FY 10-11 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 December 20, 2010 emergency rule, amends the provisions governing the Children’s Choice Waiver to further reduce the service cap and the reimbursement rates paid for waiver services (approximately 1,050 recipients). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$160,973 for FY 10-11, \$198,963 for FY 11-12 and \$204,932 for FY 12-13.

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 Children’s Choice Waiver providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1104#038

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Home and Community-Based Services Waivers
Elderly and Disabled Adults, Reimbursement Rate
Reduction (LAC 50:XXI.9101, 9107-9121)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.9101 and to adopt §§9107-9121 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 2009, the department amended the provisions governing the reimbursement methodology for the Elderly and Disabled Adult (EDA) Waiver to reduce the reimbursement rates paid for designated services (*Louisiana Register*, Volume 35, 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 EDA Waiver services to further reduce the reimbursement rates for personal assistance and adult day health care services, and adopted provisions governing the reimbursement for adult day health care services (*Louisiana Register*, Volume 36, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 7. Elderly and Disabled Adults

Chapter 91. Reimbursement

Subchapter A. General Provisions

§9101. Reimbursement Methodology

A. Reimbursement for EDA Waiver services, with the exception of ADHC services, shall be a prospective flat rate for each approved unit of service provided to the recipient. Adult day health care services shall be reimbursed according to the provisions of Subchapter B of this Chapter 91.

B. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for personal assistance services in the EDA Waiver shall be reduced by 2 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, Office of Aging and Adult Services, LR 34:251 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1893 (September 2009), amended LR 37:

**Subchapter B. Adult Day Health Care Services
Reimbursement**

§9107. General Provisions

A. Providers of adult day health care services shall be reimbursed a per diem rate for services rendered under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for waiver recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9109. Cost Reporting

A. Cost Centers Components

1. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

2. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

3. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

- a. utilities;
- b. accounting;
- c. dietary;
- d. housekeeping and maintenance supplies; and
- e. all other administrative and operating type expenditures.

4. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

B. Providers of ADHC services are required to file acceptable annual cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this Section and for which the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the center for no less than five years following the date reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted to the accrual basis at year end are required in the cost report preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

C. The cost reporting forms and instructions developed by the bureau must be used by all facilities participating in the Louisiana Medicaid Program who render ADHC services. Hospital based and other provider based facilities which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms also. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

D. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

1. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category

and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

2. a depreciation schedule. The depreciation schedule which reconciles to the depreciation expense reported on the cost report must be submitted. If the center files a home office cost report, copies of the home office depreciation schedules must also be submitted with the home office cost report. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

3. an amortization schedule(s), if applicable;

4. a schedule of adjustment and reclassification entries;

5. a narrative description of purchased management services and a copy of contracts for managed services, if applicable;

6. For management services provided by a related party or home office, a description of the basis used to allocate the costs to providers in the group and to non-provider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule; and

7. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part 1; and
- g. B-1.

E. Each copy of the cost report must have the original signatures of an officer or center administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

F. When it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the

second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses for which requested information is not submitted.

G. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a center is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year-end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

H. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the center for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

I. Employee Record

1. The provider shall retain written verification of hours worked by individual employees.

a. Records may be sign-in sheets or time cards, but shall indicate the date and hours worked.

b. Records shall include all employees even on a contractual or consultant basis.

2. Verification of criminal background check.

3. Verification of employee orientation and in-service training.

4. Verification of the employee's communicable disease screening.

J. Billing Records

1. The provider shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each client. These records shall meet the following criteria.

a. Records shall clearly detail each charge and each payment made on behalf of the client.

b. Records shall be current and shall clearly reveal to whom charges were made and for whom payments were received.

c. Records shall itemize each billing entry.

d. Records shall show the amount of each payment received and the date received.

2. The provider shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

K. Non-acceptable Descriptions. "Miscellaneous", "other" and "various", without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If

any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made.

L. Exceptions. Limited exceptions to the cost report filing requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, the provider must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

1. If the center has been purchased or established during the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

2. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9111. Cost Categories Included in the Cost Report

A. Direct Care (DC) Costs

1. Salaries, Aides—gross salaries of certified nurse aides and nurse aides in training.

2. Salaries, LPNs—gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.

3. Salaries, RNs—gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

4. Salaries, Social Services—gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

5. Salaries, Activities—gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well being of the residents.

6. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

7. Group Insurance, DC—cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

8. Pensions, DC—cost of employer's contribution to employee pensions for direct care employees.

9. Uniform Allowance, DC—employer's cost of uniform allowance and/or uniforms for direct care employees.

10. Worker's Comp, DC—cost of worker's compensation insurance for direct care employees.

11. Contract, Aides—cost of aides through contract that are not center employees.

12. Contract, LPNs—cost of LPNs and graduate practical nurses hired through contract that are not center employees.

13. Contract, RNs—cost of RNs and graduate nurses hired through contract that are not center employees.

14. Drugs, Over-the-Counter and Legend—cost of over-the-counter and legend drugs provided by the center to its residents. This is for drugs not covered by Medicaid.

15. Medical Supplies—cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

16. Medical Waste Disposal—cost of medical waste disposal including storage containers and disposal costs.

17. Other Supplies, DC—cost of items used in the direct care of residents which are not patient-specific such as recreational/activity supplies, prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

18. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

19. Total Direct Care Costs—sum of the above line items.

B. Care Related (CR) Costs

1. Salaries—gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

2. Salaries, Dietary—gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

3. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

4. Group Insurance, CR—cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

5. Pensions, CR—cost of employer's contribution to employee pensions for care related employees.

6. Uniform Allowance, CR—employer's cost of uniform allowance and/or uniforms for care related employees.

7. Worker's Comp, CR—cost of worker's compensation insurance for care related employees.

8. Barber and Beauty Expense—the cost of barber and beauty services provided to patients for which no charges are made.

9. Consultant Fees, Activities—fees paid to activities personnel, not on the center's payroll, for providing advisory and educational services to the center.

10. Consultant Fees, Nursing—fees paid to nursing personnel, not on the center's payroll, for providing advisory and educational services to the center.

11. Consultant Fees, Pharmacy—fees paid to a registered pharmacist, not on the center's payroll, for providing advisory and educational services to the center.

12. Consultant Fees, Social Worker—fees paid to a social worker, not on the center's payroll, for providing advisory and educational services to the center.

13. Consultant Fees, Therapists—fees paid to a licensed therapist, not on the center's payroll, for providing advisory and educational services to the center.

14. Food, Raw—cost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

15. Food, Supplements—cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

16. Supplies, CR—the costs of supplies used for rendering care related services to the patients of the center. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

17. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

18. Total Care Related Costs—the sum of the care related cost line items.

19. Contract, Dietary—cost of dietary services and personnel hired through contract that are not employees of the center.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator—gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing center.

2. Salaries, Assistant Administrator—gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping—gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

4. Salaries, Laundry—gross salaries of laundry personnel.

5. Salaries, Maintenance—gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Drivers—gross salaries of personnel involved in transporting clients to and from the center.

7. Salaries, Other Administrative—gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

8. Salaries, Owner or Owner/Administrator—gross salaries of all owners of the center that are paid through the center.

9. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

10. Group Insurance, AOC—cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

11. Pensions, AOC—cost of employer's contribution to employee pensions for administration and operating employees.

12. Uniform Allowance, AOC—employer's cost of uniform allowance and/or uniforms for administration and operating employees.

13. Worker's Compensation, AOC—cost of worker's compensation insurance for administration and operating employees.

14. Contract, Housekeeping—cost of housekeeping services and personnel hired through contract that are not employees of the center.

15. Contract, Laundry—cost of laundry services and personnel hired through contract that are not employees of the center.

16. Contract, Maintenance—cost of maintenance services and persons hired through contract that are not employees of the center.

17. Consultant Fees, Dietician—fees paid to consulting registered dietitians.

18. Accounting Fees—fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care center and other related services excluding personal tax planning and personal tax return preparation.

19. Amortization Expense, Non-Capital—costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

20. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

21. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

22. Dues—dues to one organization are allowable.

23. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the center and costs incurred in the provision of in-house training for center staff, excluding owners or administrative personnel.

24. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

25. Insurance, Professional Liability and Other—includes the costs of insuring the center against injury and malpractice claims.

26. Interest Expense, Non-Capital and Vehicles—interest paid on short term borrowing for center operations.

27. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

28. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

29. Linen Supplies—cost of sheets, blankets, pillows, gowns, under-pads and diapers (reusable and disposable).

30. Miscellaneous—costs incurred in providing center services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at

Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

31. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

32. Nonemergency Medical Transportation—the cost of purchased nonemergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the center.

33. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as:

a. pencils, paper and computer supplies;

b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, center letterhead and billing forms;

c. cost of subscribing to newspapers, magazines and periodicals.

34. Postage—cost of postage, including stamps, metered postage, freight charges and courier services.

35. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the center building, furniture and equipment except vehicles. This includes computer software maintenance.

36. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for center staff (including nurse aide re-certifications) and buildings.

37. Telephone and Communications—cost of telephone services, wats lines and fax services.

38. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct center business. Commuting expenses and travel allowances are not allowable.

39. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

40. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

41. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

42. Total Administrative and Operating Costs

D. Property and Equipment

1. Amortization Expense, Capital—legal and other costs incurred when financing the center must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation—depreciation on the center’s buildings, furniture, equipment, leasehold improvements and land improvements.

3. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the center’s land, buildings and/or furniture, equipment and vehicles.

4. Property Insurance—cost of fire and casualty insurance on center buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

5. Property Taxes—taxes levied on the center’s buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

6. Rent, Building—cost of leasing the center’s real property.

7. Rent, Furniture and Equipment—cost of leasing the center’s furniture and equipment, excluding vehicles.

8. Lease, Automotive—cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

9. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

10. Total Property and Equipment

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9113. Allowable Costs

A. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs.

1. These general cost principles include determining whether the cost is:

a. ordinary, necessary, and related to the delivery of care;

b. what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm’s length transaction; and

c. for goods or services actually provided to the center.

B. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider’s reported costs. The Medicare Provider Reimbursement Manual is the final authority for allowable costs unless the department has set a more restrictive policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9115. Nonallowable Costs

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of recipients are considered nonallowable costs.

B. Reasonable cost does not include the following:

1. costs not related to client care;

2. costs specifically not reimbursed under the program;

3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

4. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

5. costs exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General nonallowable costs:

1. services for which Medicaid recipients are charged a fee;

2. depreciation of non-client care assets;

3. services that are reimbursable by other state or federally funded programs;

4. goods or services unrelated to client care;

5. unreasonable costs.

D. Specific nonallowable costs (this is not an all inclusive listing):

1. advertising—costs of advertising to the general public that seeks to increase patient utilization of the ADHC center;

2. bad debts—accounts receivable that are written off as not collectible;

3. contributions—amounts donated to charitable or other organizations;

4. courtesy allowances;

5. director’s fees;

6. educational costs for clients;

7. gifts;

8. goodwill or interest (debt service) on goodwill;

9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items;

10. income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government;

11. insurance, officers—cost of insurance on officers and key employees of the center when the insurance is not provided to all employees;

12. judgments or settlements of any kind;

13. lobbying costs or political contributions, either directly or through a trade organization;

14. non-client entertainment;

15. non-Medicaid related care costs—costs allocated to portions of a center that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;

16. officers’ life insurance with the center or owner as beneficiary;

17. payments to the parent organization or other related party;

18. penalties and sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Service or the State Tax Commission; insufficient funds charges;

19. personal comfort items; and

20. personal use of vehicles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9117. Audits

A. Each provider shall file an annual center cost report and, if applicable, a central office cost report.

B. The provider shall be subject to financial and compliance audits.

C. All providers who elect to participate in the Medicaid Program shall be subject to audit by state or federal regulators or their designees. Audit selection shall be at the discretion of the department.

1. The department conducts desk reviews of all of the cost reports received and also conducts on-site audits of provider cost reports.

2. The records necessary to verify information submitted to the department on Medicaid cost reports, including related-party transactions and other business activities engaged in by the provider, must be accessible to the department's audit staff.

D. In addition to the adjustments made during desk reviews and on-site audits, the department may exclude or adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

E. The center shall retain such records or files as required by the department and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

F. If a center's audit results in repeat findings and adjustments, the department may:

1. withhold vendor payments until the center submits documentation that the non-compliance has been resolved;
2. exclude the provider's cost from the database used for rate setting purposes; and
3. impose civil monetary penalties until the center submits documentation that the non-compliance has been resolved.

G. If the department's auditors determine that a center's financial and/or census records are unauditible, the vendor payments may be withheld until the center submits auditable records. The provider shall be responsible for costs incurred by the department's auditors when additional services or procedures are performed to complete the audit.

H. Vendor payments may also be withheld under the following conditions:

1. a center fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter from the department; or
2. a center fails to respond satisfactorily to the department's request for information within 15 days after receiving the department's notification letter.

I. The provider shall cooperate with the audit process by:

1. promptly providing all documents needed for review;
2. providing adequate space for uninterrupted review of records;
3. making persons responsible for center records and cost report preparation available during the audit;
4. arranging for all pertinent personnel to attend the closing conference;

5. insuring that complete information is maintained in client's records;

6. developing a plan of correction for areas of noncompliance with state and federal regulations immediately after the exit conference time limit of 30 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 and the Office of Aging and Adult Services, LR 37:

§9119. Exclusions from the Database

A. The following providers shall be excluded from the database used to calculate the rates:

1. providers with disclaimed audits; and
2. providers with cost reports for periods other than a 12-month 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 and the Office of Aging and Adult Services, LR 37:

§9121. Provider Reimbursement

A. Cost Determination Definitions

Adjustment Factor—computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

Base Rate—calculated in accordance with §9121.B.5, plus any base rate adjustments granted in accordance with §9121.B.7 which are in effect at the time of calculation of new rates or adjustments.

Base Rate Components—the base rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs; and
- d. property costs.

Indices—

a. CPI, All Items—the Consumer Price Index for All Urban Consumers-South Region (All Items line) as published by the United States Department of Labor.

b. CPI, Medical Services—the Consumer Price Index for All Urban Consumers-South Region (Medical Services line) as published by the United States Department of Labor.

B. Rate Determination

1. The base rate is calculated based on the most recent audited or desk reviewed cost for all ADHC providers filing acceptable full year cost reports.

2. Audited and desk reviewed costs for each component are ranked by center to determine the value of each component at the median.

3. The median costs for each component are multiplied in accordance with §9121.B.4 then by the appropriate economic adjustment factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §9121.B.7 below. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this

purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

4. The inflated median shall be increased to establish the base rate median component as follows.

a. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

b. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

c. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

5. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

6. Formulae. Each median cost component shall be calculated as follows.

a. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

i. For dates of service on or after February 9, 2007, and extending until the ADHC rate is rebased using a cost report that begins after July 1, 2007, the center-specific direct care rate will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

b. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

c. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI-All Items index for December of the year proceeding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

d. Property Cost Component. The property per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be

arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

7. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of five percent or more, the rate may be changed. The department will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The department may initiate a rate change without a request to do so. Changes to the rates may be temporary adjustments or base rate adjustments as described below.

a. Temporary Adjustments. Temporary adjustments do not affect the base rate used to calculate new rates.

i. Changes Reflected in the Economic Indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

ii. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the bureau's review and approval of costs prior to reimbursement.

b. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

8. Provider Specific Adjustment. When services required by these provisions are not made available to the recipient by the provider, the department may adjust the prospective payment rate of that specific provider by an amount that is proportional to the cost of providing the service. This adjustment to the rate will be retroactive to the date that is determined by the department that the provider last provided the service and shall remain in effect until the department validates, and accepts in writing, an affidavit that the provider is then providing the service and will continue to provide that service.

C. Cost Settlement. The direct care cost component shall be subject to cost settlement. The direct care floor shall be equal to 90 percent of the median direct care rate component trended forward for direct care services (plus 90 percent of any direct care incentive added to the rate). The Medicaid Program will recover the difference between the direct care floor and the actual direct care amount expended. If a provider receives an audit disclaimer, the cost settlement for that year will be based on the difference between the direct care floor and the lowest direct care per diem of all facilities in the most recent audited and/or desk reviewed database trended forward to the rate period related to the disclaimer.

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the Minimum Data Set Home Care (MDS/HC), the social assessment, the nursing assessment, the CPOC and home visits will no longer be the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the waiver. As a result of the change in responsibilities, the rate paid to providers shall be adjusted accordingly.

1. Effective January 1, 2009, the rate paid to ADHC providers on December 31, 2008 shall be reduced by \$4.67 per day which is the cost of providing support coordination services separately.

2. This rate reduction will extend until such time that the ADHC provider's rate is rebased using cost reports that do not reflect the cost of delivering support coordination services.

E. Effective for dates of service on or after August 1, 2010, the reimbursement rate for ADHC services provided in the EDA Waiver 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, 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 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 Elderly and Disabled Adult Waiver 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, May 25, 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: Home and Community-Based Services Waivers, Elderly and Disabled Adults 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 \$474,863 for FY 10-11, \$694,712 for FY 11-12 and \$705,284 for FY 12-13. It is anticipated that \$3,444 (\$1,722 SGF and \$1,722 FED) will be expended in FY 10-11 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 \$1,409,906 for FY 10-11, \$1,571,144 for FY 11-12 and \$1,628,547 for FY 12-13. It is anticipated that \$1,722 will be expended in FY 10-11 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 emergency rule, amends the provisions governing the reimbursement methodology for the Elderly and Disabled Adult Waiver to reduce the reimbursement rates for personal assistance and adult day health care services, and to adopt provisions governing the reimbursement for adult day health care services (approximately 4,100 recipients). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$1,888,213 for FY 10-11, \$2,265,856 for FY 11-12 and \$2,333,831 for FY 12-13.

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 certain Elderly and Disabled Adult Waiver 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
1104#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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 propose to amend 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 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 and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to reduce the reimbursement rates paid for NOW services (*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 the New Opportunities Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

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:

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 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, May 25, 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: Home and Community-Based Services Waivers—New Opportunities Waiver—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 programmatic savings to the state of \$1,529,984 for FY 10-11, \$2,297,390 for FY 11-12 and \$2,332,352 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 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 \$4,532,080 for FY 10-11, \$5,195,727 for FY 11-12 and \$5,385,558 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 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 emergency rule, amends the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to further reduce the reimbursement rates (approximately 7,600 recipients). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$6,062,392 for FY 10-11, \$7,493,117 for FY 11-12 and \$7,717,910 for FY 12-13.

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 for NOW services. The reduction in payments may adversely impact the financial standing of waiver providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1104#040

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**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 propose to amend 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 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 and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 10). 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 Supports Waiver services to further 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:XXI.6101 as a result of the promulgation of the October 20, 2010 final Rule governing the Supports Waiver (*Louisiana Register*, Volume 36, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 Emergency Rule.

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:

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 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, May 25, 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: Home and Community-Based Services Waivers—Supports Waiver—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 programmatic savings to the state of \$42,438 for FY 10-11, \$63,964 for FY 11-12 and \$64,937 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 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 \$126,022 for FY 10-11, \$144,658 for FY 11-12 and \$149,944 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 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 emergency rule, amends the provisions governing the reimbursement methodology for the Supports Waiver to further reduce the reimbursement rates (approximately 1,635 recipients). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$168,788 for FY 10-11, \$208,622 for FY 11-12 and \$214,881 for FY 12-13.

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 for Supports Waiver services. The reduction in payments may

adversely impact the financial standing of waiver providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1104#041

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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 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 Medicaid coverage of medical equipment, supplies and appliances covered in the Home Health Program in order to adopt Medicare's requirements for provider accreditation (*Louisiana Register*, Volume 36, Number 3). The department now proposes to amend the provisions governing Medicaid coverage of medical equipment, supplies and appliances covered in the Home Health Program in order to extend the deadlines for providers to submit proof of accreditation, and to establish deadlines for pharmacies to submit proof of exemption from the accreditation requirements.

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 (HQA); 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:

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, May 25, 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: Home Health Program—Durable Medical Equipment—Provider Accreditation

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 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 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 10-11. It is anticipated

that \$164 will be collected in FY 10-11 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 Medicaid coverage of medical equipment, supplies and appliances covered in the Home Health Program in order to extend the deadlines for providers to submit proof of accreditation and to establish deadlines for pharmacies to submit proof of exemption from the accreditation requirements (approximately 460 providers participating in the Medicaid Program). It is anticipated that implementation of this proposed rule will have no effect on persons or non-governmental groups in FY 10-11, FY 11-12 and FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1104#042

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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 amends 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 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, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program to increase the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 34, Number 4).

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 nursing services covered in the Home Health Program in order to reduce the reimbursement rates paid for extended nursing services (*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 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:

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, May 25, 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: Home Health Program—Extended
Nursing 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 programmatic savings to the state of \$65,698 for FY 10-11, \$197,774 for FY 11-12 and \$200,783 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 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 \$194,918 for FY 10-11, \$447,280 for FY 11-12 and \$463,622 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 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 January 1, 2011 emergency rule, amends the provisions governing the Home Health Program to reduce the reimbursement rates paid for extended nursing services (approximately 994,770 annual service units). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$260,944 for FY 10-11, \$645,054 for FY 11-12 and \$664,405 for FY 12-13.

**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 home health providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1104#043

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**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 proposes to adopt LAC 50:V.Chapter 7 and to amend §§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 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, Office of the Secretary, Bureau of Health Services Financing adopted provisions which established a prospective reimbursement methodology for inpatient hospital services (*Louisiana Register*, Volume 20, Number 6). These provisions included the establishment of general and specialized peer group per diem rates, level of care criteria and staffing requirements for certain resource intensive inpatient services and an appeals procedure for adjustment of rate components.

As a result of a budgetary shortfall in state fiscal year (SFY) 2010, the department amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 11). The November 20, 2010 Rule also amended the reimbursement methodology for inpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients.

As a result of a budgetary shortfall in SFY 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also amended the provisions governing the appeals procedure that address the criteria for qualifying loss. The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:V.953, §955, §959 and §967 as a result of the promulgation of the November 20, 2010 final Rule governing inpatient hospital 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 inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*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 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: **§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: **Chapter 9. Non-Rural, Non-State Hospitals**
Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - O.1....

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:

§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:

§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:

§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:

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, May 25, 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: Inpatient Hospital Services—Reimbursement Methodology

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 \$6,290,348 for FY 10-11, \$12,325,516 for FY 11-12 and \$12,513,093 for FY 12-13. It is anticipated that \$1,476 (\$738 SGF and \$738 FED) will be expended in FY 10-11 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 \$18,633,241 for FY 10-11, \$27,875,124 for FY 11-12 and \$28,893,567 for FY 12-13. It is anticipated that \$738 will be expended in FY 10-11 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 January 1, 2011 emergency rules, amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and amends the provisions governing the appeals procedure that address the criteria for qualifying loss (approximately 103 hospitals). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$24,925,065 for FY 10-11, \$40,200,640 for FY 11-12 and \$41,406,660 for FY 12-13. The provisions of this rule pertaining to the appeals process will have no economic effects.

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 inpatient hospital services. The reduction in payments may adversely impact the financial standing of hospitals and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1104#044

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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), intends to amend 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 proposed Rule is to incorporate changes to the existing lighting requirements for schools (and other institutions with classrooms) such that the proposed 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 in this Part.

Substantial Renovation—see definition in Part I, Section 101.B of this Code and apply 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:

§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:

§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:

§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:

§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. 40:52(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:

§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), LR 37:

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:

§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:

§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
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:

§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:

Family Impact Statement

1. The effect on the stability of the family. There will be no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. There will be no 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. There will be no effect on the functioning of the family.

4. The effect on the family earnings and family budget. There will be no effect on family earnings or budget.

5. The effect on the behavior and personal responsibility of children. There will be no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed rule. There will be no effect on the ability of the family to perform the function as contained in the proposed rule. Local governmental units (e.g., school boards) may have to expend additional funds in order to comply with the proposed regulation relative to absorbent surfaces under certain playground equipment.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, March 27, 2011 at COB, 4:30 p.m., and should be addressed to Albert J. Mancuso, Jr., Building and Premises, Vector Control and Infectious Wastes Programs, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin # 10, Box #17, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street - Room 150, Baton Rouge, LA 70802.

Public Hearing

DHH-OPH will conduct a public hearing at 10 a.m. on Wednesday, March 25, 2011, in Room 372 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. Sixth and N. Fifth / North and Main Sts. (cattycorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Buildings, Schools and Other Institutions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part XVII (Public Buildings, Schools and Other Institutions) of the State Sanitary Code (LAC 51) as follows: (1) Update and incorporate changes to the existing lighting requirements for schools and other institutions with classrooms to comply with the U.S. Energy Policy Act of 1992 that required states to establish minimum commercial building energy codes; (2) Revise, re-arrange and re-number sections of Part XVII of the sanitary code; and (3) Add a new section on Outdoor Play Areas.

According to the Office of Public Health, the new lighting requirements under the school code are more economical than the existing lighting requirements because they require less watts per square foot. Therefore, the department anticipates that local governmental units (e.g., school boards) may experience a slight savings due to lower electrical bills.

However, school boards installing new playground equipment, substantially renovating existing playgrounds, or purchasing existing schools/facilities that have existing playground equipment may experience increased costs to comply with the proposed rule. The proposed rule requires all outdoor play areas to have absorbent surfaces under certain playground equipment.

The remaining proposed changes are technical in nature and are not expected to have a fiscal impact on state or local governmental units.

The proposed changes will result in an estimated cost of \$697 to publish the notice of intent and the final rule in the Louisiana Register. This is a one-time cost that is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certain nongovernmental groups (e.g., owners of private schools and parochial school boards) may see an economic benefit from the promulgation of these rules. The new lighting requirements will result in the design of lighting systems that are more economical to operate (i.e., less watts per square foot = less energy consumption = lower electrical bills).

Owners of private schools and parochial school boards installing new playground equipment, substantially renovating existing playgrounds, or purchasing existing schools/facilities that have existing playground equipment may experience an increased cost to comply with the proposed rule. The proposed rule requires all outdoor play areas to have absorbent surfaces under certain playground equipment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment anticipated as a result of promulgation of this regulation

Clayton Williams
Assistant Secretary
1104#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice that it intends to repeal the existing version of its Rule Number 9, Pre-licensing Education, in its entirety and to replace it with an updated version bearing the same name. The proposed changes are 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:

§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 prelicensing 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:

§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 prelicensing 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 prelicensing 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: Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Insurance Counselor (CIC), Certified Financial Planner (CFP), Chartered Life Underwriter (CLU), The Fellow, Life Management Institute (FLMI) or 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: Registered Health Underwriter (RHU), Certified Employee Benefit Specialist (CEBS), Registered Employee Benefits Consultant (REBC) or 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: Accredited Advisor in Insurance Program (AAI), Associate in Risk Management (ARM), Certified Insurance Counselor (CIC) or 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:

§507. Effective Date

A. The original effective date of this Rule was July 1, 1989. The re-promulgated Rule shall become effective upon August 1, 2011 after publication in the *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:

§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 prelicensing program.

Supervised Instruction—instruction which 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 burrent 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 as 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, L.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 to 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. The producer license candidate shall not be deemed to have successfully completed the program unless they have 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:

§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 addresses where the program will be offered. Any change in the locations, dates or time 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 prelicensing 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 of federal regulatory body against any proposed instructor of the prelicensing 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 prelicensing 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 which are 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 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 prelicensing 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 prelicensing 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 prelicensing program;

2. changes to facilities where the prelicensing program will be presented;

3. changes to the text books, resource material or training materials to be used in the prelicensing 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 prelicensing 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:

§515. Measurement of Credit Hours

A. Credit hours for prelicensing 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 prelicensing 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:

§517. Instructor Qualifications

A. Every provider of prelicensing 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 prelicensing 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:

§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 prelicensing 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 so as 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:

§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, L.R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:

§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 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:

§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:

§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:

§529. Violations

A. The commissioner may deny, suspend, or rescind the certification of a preclicensing 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 preclicensing 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 preclicensing 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, L.R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:

Family Impact Statement

1. Describe the effect of the proposed Rule on the stability of the family. The proposed Rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on the functioning of the family. The proposed Rule should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed Rule on family earnings and budget. The proposed Rule should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed Rule on the behavior and personal responsibility of children. The proposed Rule should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the Rule. The proposed Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Statement

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

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed Rule should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed Rule should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed Rule should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the Rule. The proposed Rule should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Public Comments

Persons interested in obtaining copies of Rule Number 9 or in making comments relative to this proposal may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Written comments will be accepted through the close of business on Friday, May 27, 2011.

Public Hearing

On May 27, 2011, at 9 a.m. the Department of Insurance will hold a public hearing in the Plaza Hearing Room of the Insurance Building located at 1702 North Third Street, Baton Rouge, LA 70802 to discuss the proposed amendments. This intended action complies with the statutory law administered by the Department of Insurance.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Rule Number 9—Preclicensing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed administrative rule (replacement of Rule 9). The purpose of the proposed administrative rule is to update the requirements and references contained in Rule 9 to conform to Act 485 of the 2009 Regular Legislative Session, where necessary, which changed the required hours for preclicensing education requirements, and repealed the statute creating the Insurance Education Advisory Council.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated direct material effect on applicants seeking an insurance license in Louisiana. Although the proposed rule increases the pre-licensing hours from 16 to 20 hours of program study for single line and increased dual line from 32 to 40 hours of program study (pursuant to Act 485 of

the 2009 Regular Legislative Session), the department does not anticipate the fee for pre-licensing insurance programs to increase immediately. However, due to the additional 4-hour or 8-hour requirement, program fees may increase in future years. The Louisiana Department of Insurance does not regulate the fees for prelicensing programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Due to the pre-licensing program fees remaining constant, there is no anticipated direct material effect on competition and employment as a result of the proposed administrative rule. However, to the extent that pre-licensing program fees increase in future years as a result of the additional 4-hour requirement, competition and employment may be negatively impacted. Any impact on competition and employment is not anticipated to be significant.

Shirley D. Bowler
Deputy Commissioner
1104#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule Number 10—Continuing Education (LAC 37:XI.Chapter 7)

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.

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 gives this Notice of Intent to repeal in its entirety the current Rule Number 10 entitled “Continuing Education” as last amended in the May 20, 2005 *Louisiana Register*, Volume 31, Number 5, page 1096, et seq., and simultaneously enact a replacement Rule Number 10 bearing the same name. The purpose of the replacement approach is to expeditiously implement the numerous revisions to Title 22 effectuated by Act 2009, No. 485, Regular Session, which became effective January 1, 2010. By illustration these revisions include the deletion of all references to the Insurance Education Advisory Council and the inclusion of requirements for producers and adjusters, ethics education and verifiable self study programs.

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:

§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:

§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/her home state that producer or adjuster is not required to submit continuing education credits to renew their Louisiana license.

2. An individual renewing a resident producer license for the first time after initial issuance of the license. 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 their 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:

§707. Effective Date

A. The original effective date of this Rule was October of 1990. The re-promulgated Rule shall become effective on July 1, 2011 after final publication in the *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:

§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 continuing education programs having the required minimum hours of continuing education credit during each renewal period.

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 hours 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 hours 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 hours 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 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:

§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:

§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 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 time 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 of 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 §719 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 will not be 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:

§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:

§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:

§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 so as 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:

§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:

§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:

§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:

§729. Complaints

A. Complaints 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:

§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:

Family Impact Statement

1. Describe the effect of the proposed Rule on the stability of the family. The proposed Rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed rule should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on the functioning of the family. The proposed Rule should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed Rule on family earnings and budget. The proposed Rule should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed Rule on the behavior and personal responsibility of children. The proposed Rule should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the Rule. The proposed Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Statement

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

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed Rule should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed Rule should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed Rule should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the Rule. The proposed Rule should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Public Comments

Persons interested in obtaining copies of Rule Number 10 or in making comments relative to this proposal may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Written comments will be accepted through the close of business on Friday, May 27, 2011.

Public Hearing

On Friday, May 27, 2011, beginning at 9 a.m., the Department of Insurance will hold a public hearing on the Poydras Building's Plaza Hearing Room located at 1702 North Third Street, Baton Rouge, LA 70802 to allow for public commentary.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rule Number 10—Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Department of Insurance (LDI) does not anticipate a direct material effect on state or local government expenditures as a result of the proposed administrative rule (replacement of Rule 10). The purpose of the proposed administrative rule is to update the requirements and references contained in Rule 10 to conform to Act 485 of the 2009 Regular Session, where necessary, which changed the required hours of continuing education requirements, expanded the amount of credit allowed through self-study courses, and repealed the statute creating the Insurance Education Advisory Council. The new rule also removes the tiered system of approval requirements based on four levels of education providers and provides for a uniform system of approval for continuing education providers, programs and instructors.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pursuant to Act 485 of the 2009 Regular Legislative Session, the proposed administrative rule could impact insurance producers in life, health and accident, property, casualty or personal lines. The continuing education requirements for a single line will increase from 16 to 24 hours every two years at renewal, which will likely result in increased costs to the licensee. However, the continuing education requirements for producers licensed for dual lines will be reduced from 32 to 24 hours, which will likely result in savings to the licensee.

In addition, pursuant to Act 485 of the 2009 Regular Legislative Session, the proposed administrative rule eliminates the 50% limitation on self-study credit in favor of allowing all continuing education (C.E.) credits to be earned in any manner (classroom or self-study). The LDI estimates that course credit earned through classroom instruction ranges from \$12 per C.E. hour to \$30 per C.E. hour; self-study courses are significantly less (approximately 10 percent of the classroom costs). Insurers may provide C.E. to their appointed producers at no cost. Costs related to lost productivity, which may have been adversely affected by the increased required hours, may actually also be reduced within the individual producer's control, as the broader self-study option allows greater flexibility in earning the required credits outside of normal working hours. There is minimal cost to some continuing education providers, who prior to the adoption of the new Rule 10 may not have had copies of their course materials submitted to the LDI.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated material impact on competition or employment among licensees as a result of this proposal. Continuing education requirements for all providers will become uniform. Any marketplace impact of increased demand for self-study courses (online, DVD, etc.) results from the statutory change in 2009, as La. R.S. 22:1573 authorizes licenses to obtain 100 percent of their CE credits, rather than 50 percent, through self study.

Shirley D. Bowler
Deputy Commissioner
1104#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-B—General Provisions
(LAC 43:XIX.104)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.Chapter 1 (Statewide Order No. 29-B) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 et seq. The proposed amendment modifies the specific provisions of LAC 43:XIX.104 which provides for financial security requirements for each applicable well to ensure that such well is plugged and abandoned and associated site restoration is accomplished.

The amendment to the above existing Rule is intended to provide clarification on the financial security amounts for blanket financial security consistent with current Office of Conservation practice.

**Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation
Subpart 1. Statewide Order No. 29-B**

**Chapter 1. General Provisions
§104. Financial Security**

- A. - B.3. ...
- C. Financial Security Amount
 - 1. Land Location
 - a. ...

* * *

b. Blanket financial security shall be provided in accordance with the following.

Total Number of Wells Per Operator	Amount
≤ 10	\$ 25,000
11-20	\$ 50,000
21-30	\$ 75,000
31-40	\$100,000
41-99	\$125,000
≥ 100	\$250,000

2. *Water Location-Inland Lakes and Bays*—any water location in the coastal zone area as defined in R.S. 49:214.27 except in a field designated as offshore by the commissioner.

- a. ...
- b. Blanket financial security shall be provided in accordance with the following.

Total Number of Wells Per Operator	Amount
≤ 10	\$ 125,000
11-20	\$ 250,000
21-30	\$ 375,000
31-40	\$ 500,000
41-99	\$ 625,000
≥ 100	\$1,250,000

3. *Water Location-Offshore*—any water location in a field designated as offshore by the commissioner.

- a. ...
- b. Blanket financial security shall be provided in accordance with the following.

Total Number of Wells Per Operator	Amount
≤ 10	\$ 250,000
11-20	\$ 500,000
21-30	\$ 750,000
31-40	\$1,000,000
41-99	\$1,250,000
≥ 100	\$2,500,000

C.4. - H. ...

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 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 37:

Family Impact Statement

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43:XIX.104 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 Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., June 1, 2011, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. 11-242 on all correspondence.

Public Hearing

The Commissioner of Conservation will conduct a public hearing at 9 a.m., May 25, 2011, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Statewide Order No. 29-B
General Provisions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
An oil and gas operator is required to provide the agency with financial security in an amount sufficient and in accordance with the agency’s regulations to cover plugging and abandonment obligations for the oil and gas wells it drills or operates. When an oil and gas operator applies for additional wells, depending on the exact number of additional wells, an increase in amount of the financial security is required. Under the current rules a slight increase in the number of wells being drilled or operated may require either a substantial amendment in coverage amount to the operator’s already existing financial security document(s) or issuance of a wholly new and separate financial security document for a less substantial increase in coverage amount. The proposed rule change would allow operators to increase the coverage by the less substantial amount through amendment of their already existing financial security document(s) instead of seeking issuance of a new financial security document each time. For this reason, the proposed rule change would allow oil and gas operators to save the extra administrative costs associated with issuance of a new and separate financial security document every time they are required by the agency’s regulations to increase the amount of their financial security coverage. It appears that depending on the specific operator and financial security issuing institution, the savings to oil and gas operators applying to drill or operate new wells will be between \$500 and \$1,100 per amendment to their existing financial security document(s).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

James H. Welsh
Commissioner
1104#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**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 gives notice of its intent to amend the contents of Section 316, Offender Visitation.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections**

Chapter 3. Adult Services

§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 Section H.1.b), 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 section H.1.b) 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 Section H.3.d 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 Section H.3.d 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 Section H.3.d 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 (see attached "Guidelines for Visitors"). 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. See "Guidelines for Visitors" (attached) for specific dress standards.

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/eEvents

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 DPS&C 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:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on May 9, 2011.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Offender Visitation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The rule change is a technical

adjustment that amends the current regulation regarding certain situations involving offenders and visitors. It adds information regarding video visitation, visitor searches, supervision of visiting areas, visitation at special offender organization functions/events, and emergency situations to the department regulation. The proposed administrative rule merely codifies current practice.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

Thomas C. Bickham, III
Undersecretary
1104#083

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice of its intent to change the title and amend 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 DPS&C 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:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on May 9, 2011.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Special Agents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The proposed rule change is a technical adjustment that amends the current regulation regarding the procedures that govern Special Agent appointments and their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

Thomas C. Bickham, III
Undersecretary
1104#082

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Applicability of Regulations (LAC 35: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., gives notice of its intent to amend 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:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any 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 should not have any 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 should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any 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 Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through May 15, 2011.

Jill P. Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Applicability of Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these rules.

The proposed rule clarifies that the adopted federal regulations concerning motor carrier safety apply to vehicles designed to transport sixteen or more people. This clarification does not create new requirements as these vehicles have been subject to federal and state regulation for several years. The proposed rule merely codifies current enforcement practice.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group, as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change should not affect competition or employment.

Jill P. Boudreaux
Undersecretary
1104#078

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend the following Rules regarding the Commercial Building Energy Conservation Code.

Title 55

PUBLIC SAFETY

Part V. Uniform Construction Code

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:

§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:

§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:

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 are not able to perform this function, as the action proposed is strictly a state enforcement function.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action will have an initial impact on the cost of constructing a small business. It is also estimated that the cost of energy consumption throughout the life of the building will be reduced. Due to variations in construction and energy costs for different projects, it is not possible to determine the actual cost or benefit to directly affected persons and groups. Studies to indicate these costs and the rate of return on energy savings may be available from the Federal Department of Energy through the Louisiana Department of Natural Resources, Technology Assessment Division.

Interested Persons

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than May 16, 2011, at 4:30 p.m.

to Joe Delaune, 8181 Independence Blvd., Baton Rouge, La. 70806, Fax number (225)925-4414. A public hearing is scheduled for May 20, 2010 at 10:00 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: Commercial Building Energy Conservation Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to cost the state Fire Marshal approximately \$350,000 to implement due to code book purchases for current staff, training for current staff, and for the purchase of a computer system and programming. The proposed rule provides for adoption of updated editions of the currently adopted Commercial Building Energy Conservation Code. American National Standards Institute/American Standard of Heating Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society of North America Standard 90.1-2007 edition is proposed to replace the currently adopted 2004 edition for applicable commercial buildings. The International Energy Conservation Code 2009 edition is proposed to replace the currently adopted 2006 edition for low-rise residential buildings, excluding one- and two-family dwellings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units. However, the American Recovery and Reinvestment Act (ARRA) of 2009 makes approximately \$92 million of funding available to the Louisiana Department of Natural Resources for the adoption and enforcement of updated energy codes. Failure of the state to adopt rules providing for updated energy codes would jeopardize the state's receipt of the federal grant. The ARRA act, in part, requires states to adopt and enforce the American Standard of Heating Refrigerating and Air-Conditioning Engineers 90.1, Energy Standard for Buildings Except Low-Rise Residential Buildings, and the 2009 IECC International Energy Conservation Code. Louisiana must work to achieve 90 percent compliance within 8 years of enactment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The provisions of the referenced codes are more stringent than those currently adopted and will likely result in an increase in construction costs for applicable buildings. Savings in energy costs are also anticipated to occur. However, due to variations in construction and energy costs for different projects, the specific costs or benefit to directly affected persons and groups is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

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NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Alligator Regulations (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby give Notice of Intent to amend the regulations to provide for cutting of raw alligator skins prior to tanning within state or shipment out of state, issuance of alligator harvest tags to nonresident landowners, deadlines for submission of wild alligator hunting season applications, disposal of alligator skins deemed to be of no commercial value, elimination of the three alligator limit for nonresident sport alligator hunters, replacement of alligator tags that are lost by alligator farmers, and clarify that wild alligators cannot be cut loose from hooks and lines for any purpose within the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Coastal and Nongame Resources Division.

1. Purpose. These regulations are to govern the taking, possession, selling, raising and propagation of alligators statewide, both in the wild and in captivity. They are enacted to prevent depletion or waste, while enhancing utilization of this renewable resource. These regulations are based upon scientific study and population monitoring and are consistent with federal requirements to qualify alligators and alligator parts from Louisiana for international export under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Alligators in Louisiana are not endangered but their similarity of appearance to endangered crocodilian species requires controls on commerce to minimize illegal trafficking of these species and to regulate and maintain the wild population of alligators. These regulations provide rules to enhance alligator farming operations; establish the methods of alligator harvest; establish minimum facility requirements for alligator farming; regulate commerce in alligators, eggs and parts; streamline necessary reporting requirements; and, establish a regulated nuisance alligator control program.

2. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning:

Alligator—American alligator (*Alligator mississippiensis*).

Alligator Egg Collection Permit—a permit issued by the department allowing for the collection of alligator eggs

on designated properties described as part of the permit. The permit will be signed by the Secretary or his designee, the permittee and the landowner/land manager.

Alligator Farm (nongame quadruped)—an enclosed area, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters and meeting other specifications and requirements set by the department, where alligators are bred, propagated, or raised as a commercial enterprise under controlled conditions. *Alligator Farm* also includes alligator ranching wherein eggs are collected from the wild, and raised, pursuant to departmental license or permit.

Alligator Farmer—a properly licensed person who raises alligators under controlled conditions which prohibit free movement of the animals onto and off of the farm or controlled area, or who collects and sells wild alligator eggs, and who may harvest alligators under the supervision of the department. An alligator farmer must possess a valid nongame quadruped breeder's license.

Alligator Hide Tag—an official CITES serially numbered tag issued by the department.

Alligator Hunter—a properly licensed resident or nonresident person who takes wild alligators. Alligator hunters are divided into five classes:

i. *Commercial*—anyone who is a bona fide resident licensed by the department to take wild alligators after having filed application(s) approved by the department which authorizes the issuance of alligator hide tags to him.

ii. *Helper*—anyone who is a bona fide resident licensed by the department to act as an authorized agent of a commercial or nonresident landowner alligator hunter(s) in conducting alligator harvest activities. The helper may hunt independently of the commercial or nonresident landowner alligator hunter(s) he is assigned to assist. The helper's license must bear the name and license number of the commercial or nonresident landowner alligator hunter(s) authorizing the licensing of the helper.

iii. *Sport*—anyone who is licensed by the Department and guided by a commercial, nonresident landowner or helper alligator hunter(s) during alligator harvest activities; alligator hide tags cannot be issued to a sport license holder. Sport license holders may be a bona fide resident or a nonresident.

iv. *Nuisance*—a bona fide resident licensed alligator hunter who is contracted or otherwise selected by the department to remove designated nuisance alligators and who can be assigned alligator hide tags by the department.

v. *Nonresident Landowner*—anyone who is a nonresident licensed by the department to take wild alligators on his own property located within Louisiana, after having filed an application(s) approved by the department which authorizes the issuance of alligator hide tags to him.

Alligator Part—any part of the carcass of an alligator, except the hide and includes the bony dorsum plates, if detached from the tagged alligator hide.

Alligator Parts Dealer—any properly licensed person who deals in alligator parts other than hides and who:

i. buys unprocessed alligator parts from an alligator hunter, another parts dealer, or an alligator farmer for the purpose of resale; or

ii. manufactures within the state nonedible alligator parts into a finished product; or

iii. purchases unprocessed alligator meat or processes alligator meat for wholesale or retail sale.

Alligator Parts Retailer—any properly licensed person who purchases for retail sale finished alligator parts made from parts other than hides.

Alligator Shipping Label—a serially numbered green label issued by the Department required on each shipment of alligators being transported out of the state.

Alligator Skin or Hide—whole or partial alligator skins, flanks, chalecos and bellies (including those bellies attached to or separated from the tail portion of the alligator skin). Once the tail portion of the skin is separated from the flanks, chaleco and belly, the tail is considered an alligator part.

Alligator Tail—includes the tail portion of the alligator skin once it is separated from the flanks, chaleco and belly. For the purposes of this Subsection, the alligator tail is considered an alligator part.

Bona Fide Resident—

i. any person who has resided in the state of Louisiana continuously during the twelve months immediately prior to the date on which he applies for any license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated with all of the following, as applicable:

(a). if registered to vote, he is registered to vote in Louisiana;

(b). if licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license;

(c). if owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle;

(d). if earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

ii. As to a corporation or other legal entity, a *resident* shall be any which is incorporated or otherwise organized under and subject to the laws of Louisiana, and as to which the principal place of business and more than 50 percent of the officers, partners, or employees are domiciled in Louisiana.

Closed Season—that period of time of a calendar year not specifically included in the open season.

Commission—The Louisiana Wildlife and Fisheries Commission.

Common Carrier—any agency or person transporting passengers or property of any description for hire.

Confiscation—the exercise of a right under the police power wherein property is seized and held pending court order if the seized material is nonperishable, or disposed of without judicial intervention if perishable.

Consumer—restaurants and other places where alligator, fish, shrimp, or other aquatic life is prepared for human consumption; or any person using alligator, fish, shrimp, or other aquatic life for bait or personal consumption.

Department—the Louisiana Department of Wildlife and Fisheries.

Designated Collection Agent—anyone who is permitted by the Department to assist an alligator egg collection permittee during alligator egg collection.

Dressing, Dressed Skins or Dressed Furs—see *Tanning*.

Finished Alligator Part—any nonedible alligator part that has been completely processed from parts other than hides for retail sale.

Fur Buyer—anyone who buys whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs or skins from fur trappers, alligator hunters, alligator farmers, fur buyers, or fur dealers and who sells to another fur buyer or fur dealer within the confines of the state or to a nonresident fur dealer licensed by the state of Louisiana in interstate commerce, or who acts as an agent of another fur buyer or fur dealer in this state in such purchase or sale. Fur buyers are divided into two classes, resident and nonresident. Resident fur buyers are those who are bona fide residents of this state. All others are nonresident fur buyers.

Fur Dealer—anyone who deals in whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs and skins and who:

i. buys from a fur trapper, alligator hunter, or alligator farmer, either directly or indirectly, and ships or exports from this state, either directly or indirectly, the raw furs and skins so bought; or

ii. buys from a fur buyer or other fur dealer and exports from this state the raw furs and skins so bought; or

iii. buys from a fur trapper, alligator hunter, alligator farmer, fur buyer, or other dealer and sells such raw furs and skins for manufacturing into a finished product in this state; or

iv. manufactures such furs and skins into a finished product in this state, buying directly from a fur trapper, alligator hunter, alligator farmer, fur buyer, or fur dealer; or

v. transports raw furs or skins into this state for the purpose of sale within the state. Fur dealers are divided into two classes, resident and nonresident. Resident fur dealers are those who are bona fide residents of this state. All others are nonresident fur dealers;

vi. converts raw alligator skins through the tanning process into finished or partially finished leather and/or converts raw (green or dried) fur pelts into dressed furs ready for manufacturing.

Hatchling—a young of the year alligator which is less than 23 inches in length.

Hide—see *Pelt*.

Hook—any curved or bent device attached to a line or pole for the purpose of taking alligators.

Hunt—in different tenses, attempting to take.

Incubator—an apparatus designed and used for the primary purpose of incubating alligator eggs.

Land Manager—any authorized person who represents the landowner.

Landowner—any person who owns land which the Department has designated as alligator habitat.

Licensee—any resident or nonresident lawful holder of an effective license duly issued under the authority of the Department.

Nongame Quadruped—alligators, beavers, bobcats, coyotes, gray foxes, minks, muskrats, nutrias, opossums, otters, raccoons, red foxes, skunks, and other wild quadrupeds valuable for their furs or skins.

Nongame Quadruped Breeder—a person properly licensed to engage in the business of raising, exhibiting and selling nongame quadrupeds on alligator or fur farms.

Nongame Quadruped Exhibitor—a person properly licensed to engage in the business of raising and/or exhibiting nongame quadrupeds.

Nonresident—any person who is not a bona fide resident as that term is defined by R.S. 56:8.

Nuisance Alligator—a specific (particular) alligator that poses a threat to human life or property.

Open Season—that period of time set by the Louisiana Wildlife and Fisheries Commission, during which wild alligators or their eggs may be lawfully taken.

Out-of-State Shipping Seal—a special locking device or seal supplied by the department and placed on or across a shipping container by department personnel prior to shipping out of state.

Out-Of-State Shipping Tag—an official, serially numbered tag, yellow in color, issued by the department required on each shipment of alligator hides shipped out of state.

Part—for purposes of this section, a part is a division of a subsection.

Pelt—the skin or hide of a quadruped.

Pelting—removing the skin and/or fur of a quadruped in such a manner as to render it marketable.

Person—includes any individual person, association, corporation, partnership, or other legal entity recognized by law.

Pole Hunting—the act of taking an alligator from a den with a hook pole or snagging device of any type and includes using such devices to induce an alligator to move from a den prior to taking.

Possess—in its different tenses, the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or as agent, bailee, or custodian for another.

Processed Alligator Part—any part (and its resulting products) that has been removed from a legally taken alligator and for commercial purposes converted into a finished alligator part, or meat prepared and packaged for retail sale.

Propagation—the holding of live alligators for production of offspring.

Raising—the production of alligators under controlled environmental conditions or in outside facilities.

Rearing—see *Raising*.

Resident—see *Bona Fide Resident*.

Secretary—the secretary of the Louisiana Department of Wildlife and Fisheries.

Skin—see *Pelt*.

Take—in its different tenses, the attempt or act of hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

Tanning—the conversion of alligator skins or fur pelts into an intermediate or finished form and includes the following: crust tanning alligator leather, dyeing alligator leather, glazing alligator leather, tanning fur pelts, shearing fur pelts, and dyeing fur pelts, and includes the dressing of skins and furs.

Transport—in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

Wildlife—all species of wild vertebrates.

Wildlife Management Area—any area set aside, maintained, and supervised by the department for the purpose of managing and harvesting wild birds, wild quadrupeds, fish and other aquatic life under controlled conditions to afford maximum public hunting and fishing opportunity.

Wildlife Refuge—any area set aside and designated by the department as a refuge on which wild birds and animals are protected. Control of certain forms of wildlife may be conducted by the department.

3. General Rules

a. No person shall take, possess, purchase or sell alligators, alligator eggs, alligator hides, alligator parts, or goods manufactured from alligators, except as provided in these regulations and Title 56.

b. Each alligator, alligator hide, alligator egg, or alligator part taken or possessed in violation of these regulations shall constitute a separate offense.

c. Alligators or hides of alligators harvested in Louisiana shall be tagged in accordance with provisions as prescribed in Subparagraph A.6.e of this Section and deviation from those requirements shall be a violation and subject hides to confiscation. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. Pole hunting is prohibited. It is legal for a hunter to retrieve a shot alligator with a hook pole or to retrieve with a hook pole an alligator taken on a hook and line. Violation of this Subparagraph is a Class Two violation as described in Title 56.

e. An alligator hunter must possess on his person one or more current alligator hide tags issued for the property on which he is hunting; and if participating in a joint hunting operation at least one licensed hunter needs to possess current hide tags issued for the property on which they are hunting among a group of licensed hunters who are physically present in the same location. Violation of this Subparagraph is a Class Two violation as described in Title 56.

f. No person shall release any alligator from any taking device for any purpose without first dispatching the alligator, except as provided in Subparagraph A.5.e. After the alligator is removed from the taking device the hide tag shall be properly attached immediately upon possession. Violation of this Subparagraph is a Class Four violation as described in Title 56.

g. Taking or collection of any wild alligator illegally is strictly prohibited. Violation of this Subparagraph is a Class Four violation for each alligator taken as described in Title 56. All alligators taken in violation of this Subparagraph shall be confiscated and in addition to all other penalties provided herein, all alligator licenses of any type held by the offender(s) shall be revoked for a period of three calendar years. If violation(s) of this Subparagraph involves a farm operation, no alligators shall be raised or propagated on the offender's facilities for a period of three calendar years. Any live alligator(s) confiscated pertinent to

any violation of this Subparagraph must be returned to the wild when appropriate. Selection of the release site and time of year of the release shall be accomplished only after consultation with and in agreement with biological staff of Coastal and Nongame Resources Division.

h. The shipment of alligator eggs out of state is prohibited except where special scientific permits have been obtained in advance from the department which specify all such shipments. Violation of this Subparagraph is a Class Four violation as described in Title 56.

i. No person, firm, or corporation shall transport into this state or possess whole alligator(s) with skin on, alligator parts or alligator skins/hides unless that person, firm or corporation is a Louisiana licensed alligator parts dealer or fur dealer and is in immediate possession of an alligator parts dealer's license or fur dealer's license, except that a copy of such license shall be sufficient during transportation only. Persons, firms or corporations violating this Subparagraph shall be subject to the penalties as provided in Title 56:34, a Class Four violation; except that when such a violation involves alligator parts only, such offenses shall be subject to the penalties as provided in Title 56:32, a Class Two violation.

j. It is unlawful to ship alligator eggs into the state of Louisiana unless they are to be used for department sponsored scientific studies and these shipments shall have prior written department approval. Violation of this Subparagraph is a Class Four violation as described in Title 56.

k. The shipment of live alligators or alligator eggs out of the United States is strictly prohibited unless they are used for department sponsored scientific studies with an accompanying authorization signed by the secretary. The transfer of ownership of live alligators out of their natural range for commercial purposes is strictly prohibited. However, this Subparagraph does not prohibit a licensed Louisiana alligator farm from raising alligators of Louisiana origin in a nonrange state provided the nonrange farm is in complete compliance with all applicable state(s) and federal regulations. Violation of this Subparagraph is a Class Three violation as described in Title 56.

l. There is levied a severance tax of \$0.25 on each alligator hide taken from within the state, payable to the state through the department by the alligator hunter or alligator farmer shipping or taking his own catch out of state, or shipping to an instate taxidermist, or by the dealer shipping skins or hides out of state or tanning alligator skins in Louisiana. Violation of this Subparagraph is a Class Two violation as described in Title 56.

m. An alligator hunter or alligator farmer may give alligator parts to anyone for personal use. Any part of an alligator shall have affixed thereto the name, address, date, hide tag number, and the license number of the person donating the alligator part(s). This information shall be legibly written in pen or pencil on any piece of paper or cardboard or any material which is attached to the part(s) or to the container enclosing the part or parts. This information must remain affixed until the part(s) has been stored at the domicile of the possessor. Violation of this Subparagraph is a Class Two violation as described in Title 56.

n.i. R.S. 56:280, passed in the regular session of the 1992 Louisiana Legislature established a state policy which

protects white or albino alligators and except under department permit prohibits the taking of white or albino alligators from the wild.

ii. Conditions under which any alligator that is white or albino may be taken from the wild and under official department permit include:

(a). landowners or licensed alligator farmers or ranching operators may capture live and unharmed a white or albino alligator for its own protection. All such instances of possession shall be reported immediately to the department;

(b). any white or albino alligator hatchling produced from wild collected eggs authorized by a department alligator egg collection permit will remain in the possession of such licensed operators. Any white or albino hatchling must be reported immediately upon hatching to the department on a standard activity report form;

(c). any person who unintentionally takes from the wild any alligator that is white or albino by hook and line shall immediately report its presence and location to the department. Department personnel of the Coastal and Nongame Resources Division will on a case by case basis determine the disposition of any such white or albino alligator which is unintentionally hooked.

iii. Any white or albino hatchling produced from a licensed breeding pen will remain in the possession of such licensed operators but must be reported immediately upon hatching to the department on a standard activity report.

iv. It shall be a violation if any person intentionally takes from the wild any alligator that is white or albino by any means.

v. Violation of R.S. 56:280 shall subject the violator to a fine of not less than \$10,000 and imprisonment for not less than 6 months or more than 12 months, or both.

o. Alligator meat and parts may be shipped in containers that are sealed and the parts identified to the CITES tag of origin. A fully executed alligator hunter, farmer, or parts dealer Alligator Parts Sale or Transaction Form and Shipping Manifest shall meet the U.S. Fish and Wildlife Service parts identification requirements, provided such form(s) is/are prominently attached to the outside of each shipping container. Alligator meat/parts shipped to another state must meet applicable state/federal requirements of the receiving state. Alligator meat/parts exported from the United States must meet the requirements of the U.S. Fish and Wildlife Service as well as those of the receiving country. Alligator skulls being exported shall carry a "tag" containing the CITES tag number and the hunter's name and license number. The skull must also be physically marked with the number of the original CITES tag used for the hide of the individual alligator. Violation of this Subparagraph is a Class Three violation as described in Title 56.

p. For the purpose of bona fide educational or promotional functions, including but not limited to school activities, civic groups, fairs and festivals within the state of Louisiana, an alligator farmer/rancher or his designee may transport his own live farm alligators or alligator eggs to such function without the need for a special permit from the department while in possession of a valid nongame quadruped breeder's or exhibitor's license or copy thereof. Such farmer/rancher shall not barter, trade, exchange or attempt to barter, trade or exchange live alligator(s) or

alligator eggs while transporting to/or attending such function.

4. Licenses, Permits and Fees

a.i. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

- (a). \$25 for a resident alligator hunter's license; including commercial, helper, sport, and nuisance classes;
- (b). \$150 for a nonresident alligator hunter's license; including landowner and sport classes.
- (c). \$25 for a resident fur buyer's license;
- (d). \$100 for a nonresident fur buyer's license;
- (e). \$150 for a resident fur dealer's license (\$500 deposit required);
- (f). \$300 for a nonresident fur dealer's license (\$1,000 deposit required);
- (g). \$10 for a nongame quadruped exhibitor's license;
- (h). \$25 for a nongame quadruped breeder's license;
- (i). \$50 for an alligator parts dealer license;
- (j). \$5 for an alligator parts retailer license;
- (k). \$4 for each alligator hide tag;
- (l). \$4 for each whole alligator leaving the state as alligator shipping label fee;
- (m). \$0.25 severance tax for each alligator hide taken from within the state;
- (n). \$25 for a designated agent collection permit.

ii. All license types prescribed above except nongame quadruped exhibitor and breeder expire annually on June 30. Nongame quadruped exhibitor and breeder licenses expire annually on December 31.

b. No person may take, attempt to take, or possess a wild alligator in this state during the open season for taking wild alligators unless he or she has acquired and possesses an alligator hunter's license. An alligator hunter must have in possession a valid alligator hunter license to take or sell alligators, their skins, or parts. Violation of this Subparagraph is a Class Three violation as described in Title 56.

c. No person may engage in the business of buying alligators for the purpose of skinning or buying and selling alligator skins unless he has acquired a resident or nonresident fur buyers license. No resident or nonresident fur buyer shall ship furs, alligators, or alligator skins out of state. Violation of this Subparagraph is a Class Three violation as described in Title 56.

d. No person may engage in the business of buying alligators for the purpose of skinning or buying and selling alligator skins or shipping alligator skins out of state or tanning alligator skins within the state unless he has acquired a resident or nonresident fur dealers license. Violation of this Subparagraph is a Class Three violation.

e. No person may engage in the business of raising and/or exhibiting alligators unless he or she has acquired and possesses a valid nongame quadruped exhibitor license. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. No person may engage in the business of raising, breeding, collecting and selling alligator eggs from the wild, propagating, exhibiting and selling alligators alive or selling

their parts, and killing and transporting them and selling their skins and carcasses unless he or she has acquired and possesses a valid nongame quadruped breeder license and complies with Paragraphs A.14 and 15 of this Section. Violation of this Subparagraph is a Class Three violation as described in Title 56.

g. No person shall engage in the business of buying and selling unprocessed alligator parts unless he has acquired and possesses a valid alligator parts dealer license. Violation of this Subparagraph is a Class Two violation as described in Title 56.

h. Each retailer purchasing for retail sale, finished alligator parts made from parts other than hides, shall secure from the department an alligator parts retailer license prior to commencing business. Violation of this Subparagraph is a Class Two violation as described in Title 56.

i. No person shall remove and possess alligator eggs from wild nests unless he has acquired and possesses a valid nongame quadruped breeder license or a valid designated agent collection permit and also has in his possession a valid alligator egg collection permit. Egg collection permits will only be issued to those persons who demonstrate competency in egg collection and handling, have necessary equipment accessible and comply with all department requirements as described in Paragraph A.14 of this Section. Violation of this subparagraph is a Class Four violation as described in Title 56.

j. No person shall ship or transport alligators out of the state without first applying for and receiving an alligator shipping label which shall be affixed to each shipment of alligators and is properly completed and validated by department personnel. Violation of this Subparagraph is a Class Three violation as described in Title 56.

k. Every alligator hunter or alligator farmer shipping or transporting his own catch of alligator skins out of state is liable for the alligator hide tag fee and the severance tax thereon, and shall apply for an official out of state shipping tag to be attached to the shipment and shall pay the alligator hide tag fee and the severance tax prior to shipment. Violation of this Subparagraph is a Class Two violation as described in Title 56.

l. Valid holders of alligator hunter license, nongame quadruped breeder license, fur dealers license and alligator parts dealer license must comply with the receiving state/country requirements and with federal licensing, tagging and permit requirements to engage in interstate and international commerce involving alligators, alligator hides, alligator parts and fully manufactured alligator hide products. Violation of this Subparagraph is a Class Two violation as described in Title 56.

5. Wild Harvest Methods

a. Alligators taken from the wild may be removed from hook and line, and other legal capture devices which may be used, only during daylight hours, between official sunrise and official sunset. Violation of this Subparagraph is a Class Four violation as described in Title 56.

b. There are no size restrictions on wild alligators taken during the general open season.

c.i. Legal methods for taking alligators in the wild are as follows:

- (a). hook and line;

(b). long (including compound) bow and barbed arrow; and

(c). firearms (the possession of shotguns is prohibited while hunting or taking wild alligators; except as authorized by the department for taking of nuisance alligators by nuisance alligator hunters).

ii. Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. Hooks and arrows may be used only when a line of at least 300-pound test is securely attached to the hook or head of the arrow in such a manner to prevent separation from the hook or head until the carcass is retrieved. The other end of the line must be attached to a stationary or floating object capable of maintaining the line above water when an alligator is attached. Violation of this Subparagraph is a Class Two violation as described in Title 56.

e. Alligator hunters shall inspect their hooks and lines and remove captured alligators daily. All hooks and lines shall be removed when an alligator hunter's quota is reached. In the event an alligator is hooked and the hunter's quota has been reached the hunter must release the alligator in the most humane method possible. Violation of this Subparagraph is a Class Two violation as described in Title 56.

f. Baited hooks and lines may be set no more than 24 hours prior to the general open season and shall be removed no later than sunset of the last day of the open season. Violation of this Subparagraph is a Class Two violation as described in Title 56.

g. No person possessing alligator hide tags issued for privately-owned land or water may take alligators on adjacent publicly-owned water unless the taking device is anchored to privately-owned land or the person is on privately-owned land when the taking occurs, provided that any alligator captured on a legal taking device that is anchored to privately-owned land or held by a person on privately-owned land may be dispatched from a floating craft on public water. Violation of this Subparagraph is a Class Two violation as described in Title 56.

h. A person possessing alligator hide tags for publicly-owned areas may take alligators by legal means from a floating craft on public water for which the tags are issued.

6. Alligator Hide Tag Procurement and Tagging Requirements

a. Alligator hide tags may be obtained as follows and only to properly licensed alligator hunters and nongame quadruped breeders.

b. Landowners, Land Managers and Hunters. Upon application to the department on forms provided for tag issuance, applications for alligator tag allotments will be taken annually beginning June 1. For alligator hunters submitting applications with new/additional properties, applications are due by August 20; for alligator hunters submitting an application for property previously hunted, applications are due by the day before the season opens. Tags will not be issued after close of business on the day prior to the season opening date.

i. Maximum tag issuance to individual landowners, land managers, or their hunters shall be determined solely by the department. Landowners, land managers, or their hunters shall certify total acreage owned

or represented on a form prescribed by the department at the time of application. The location and acreage of the property must be provided which includes parish, township, range and section delineation figures.

ii. Land managers and hunters must present a signed document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

iii. Alligator hide tags shall be issued to licensed alligator hunters without charge. Numbered alligator hide tags shall only be issued in the name of the license holder and are nontransferable. All unused alligator tags shall be returned within 15 days following the close of the season.

c. Alligator farmers - Alligator hide tags shall be issued to properly licensed alligator farmers without charge upon request at any time at least two weeks prior to scheduled harvesting, subject to verification of available stock by department personnel. All unused alligator tags shall be returned to the department within 15 days following the last day of the year that issued tags are valid.

d. If an alligator hunter is cited for hunting alligators out of season, or at night, or on property other than that for which hide tags were issued, all unused hide tags and alligators in possession shall be confiscated and the violator's alligator hunting license shall be revoked. Violation of this Subparagraph is a Class Four violation as described in Title 56.

e. A hide tag shall be properly attached and locked using the tag's locking device in the alligator's tail immediately upon possession by an alligator hunter. Alligator farmers, fur buyers and fur dealers may wait until farm raised alligators are skinned prior to tagging, but under no circumstances can the tag be attached using the locking device more than 48 hours after dispatching the alligator during the open wild alligator harvest season, or more than seven days after dispatching the alligator outside of the open wild alligator harvest season. Live or dead farm raised alligators may be transported with their accompanying tags from a licensed alligator farm to a licensed processing facility, however each shipment shall be accompanied with the exact number of alligator hide tags. In the event that an alligator tag contains a factory defect rendering it unusable for the purpose intended or becomes detached from an alligator or hide, the tag must be reattached to the tail of the alligator/hide. The department will be responsible for the replacement of reattached tags prior to shipping out-of-state or prior to tanning within the state. It shall be unlawful to tag or attempt to tag an alligator with a tag that has been locked prior to the taking. Locked tags may be replaced upon request at the discretion of the department. The alteration of hide tags is strictly prohibited and will result in the confiscation of all tags and alligators/hides and the revocation of the violator's alligator hunting license. Violation of this Subparagraph is a Class Four violation as described in Title 56.

f. In the event that an alligator hide tag cannot be located when in the possession of a Buyer/Dealer, then the following procedure shall be followed:

i. Following discovery of an untagged alligator or alligator hide by the buyer/dealer, they shall notify the Department of Wildlife and Fisheries, Coastal and Nongame Resources Division within 24 hours and the Department of

Wildlife and Fisheries will place a state tagging device on the alligator or alligator hide.

ii. Upon discovery of an untagged alligator or alligator hide by Department of Wildlife and Fisheries personnel, such personnel shall place a state tagging device on the alligator or alligator hide.

iii. The state tagged alligator or alligator hide will remain in the possession of the buyer/dealer following the placement of the state tagging device until such time as the hide tag is located or until December 31st of that year, whichever comes first. Upon presentation of the missing hide tag and the corresponding buyer/dealer record which documents a match between the tag number and the alligator/hide being held, and if the Department of Wildlife and Fisheries then confirms that such tag number has not been previously shipped, the Department of Wildlife and Fisheries shall attach a replacement alligator hide tag.

iv. If the buyer/dealer does not locate the missing hide tag following the placement of the State tagging device by the end of the allotted time period but is able to identify the tag number on a Department of Wildlife and Fisheries issued or approved buyer/dealer record which documents a match between the tag number and the skin being held, and if the Department of Wildlife and Fisheries then confirms that subject tag number has not been previously shipped, the Department of Wildlife and Fisheries may, in its discretion, issue a replacement alligator hide tag.

v. The failure of the buyer/dealer to produce the correct hide tag and/or correct documentation by the end of the allotted time period shall constitute a violation of this Subparagraph.

vi. The previous or subsequent attachment to an alligator or alligator hide of the missing hide tag as described above shall constitute a violation of this Subparagraph.

vii. Violation of this Subparagraph is a Class Four violation as described in Title 56.

7. Open Season, Open Areas, and Quotas

a. Open seasons are as follows.

i. The state shall be divided into the East and West Alligator Hunting Zones by the following boundary: Beginning at the southwestern most part of Point Au Fer Island thence North along the western boundary of Terrebonne Parish to the Atchafalaya River, thence north along the Atchafalaya River to the East Atchafalaya Protection Levee, thence north along the East Atchafalaya Protection Levee, to Interstate 10, thence east along Interstate 10 to Interstate 12, thence east along Interstate 12 to Interstate 55, thence north along Interstate 55 to the Mississippi state line. The season for taking alligators in the wild shall open on the last Wednesday of August in the East Zone and the first Wednesday of September in the West Zone and will remain open for 30 days thereafter in each zone. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

ii. Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.

iii. Farm raised alligators may be taken at any time following the issuance of hide tags by the department.

iv. The open season for collection of alligator eggs from the wild shall be from May 15 through September 1 of

each calendar year. Violation of this Clause is a Class Four violation as described in Title 56.

b. The open areas are as follows.

i. For the general open season, those areas designated by the biological staff of the department as alligator habitat and which can sustain an alligator harvest.

ii. The department may select public lakes and lands for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as determined by department personnel. Applicants for public lake hunting must be 16 years of age or older. Applications must be received by the date specified on the annual application form. A public drawing will be held to select hunters. An alligator hunter can receive tags for and hunt on only one public lake per season. The tag quota for each lake and hunter will be established by the biological staff of the department. Alligator tags issued on public lakes and lands are nontransferable.

iii. Wild alligators in the remainder of the state may be taken only under provisions as prescribed by the department.

iv. The open alligator egg collection season shall include those areas designated by the biological staff of the department as alligator habitat which can sustain an egg collection harvest and egg quotas will be determined by department biologists.

c. The daily and season quota is equal to the number of valid alligator hide tags that a licensed alligator hunter possesses. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. Harvest rates will be calculated annually by department personnel based on biological data. Alligator hide tag allotments will be established prior to issuance of alligator hunting licenses.

8. Possession

a. No person shall possess alligators or alligator hides in Louisiana without valid official tags properly attached in the tail using the locking device as prescribed in Subsection A.6.e. Violation of this Subparagraph is a Class Four violation as described in Title 56.

b. Alligator farmers may request hide tags or shipping labels from the department to be used on farm-raised alligators that have died and may hold those alligators in freezers until receipt of the requested hide tags or shipping labels. These alligators may be held in freezers for a maximum of 60 days prior to disposal. All farm raised alligators 24 inches and greater in length that die may be skinned and tagged with an alligator hide tag within 48 hours of death during the open wild alligator harvest season, or within 7 days of death outside of the open wild alligator harvest season. Violation of this Subparagraph is a Class Three violation as described in Title 56.

c. No person other than a licensed alligator hunter, licensed alligator farmer, licensed fur buyer or licensed fur dealer may possess a tagged or labeled alligator, a tagged raw or salted hide of an alligator at any time, provided that legally documented tagged or labeled alligators or tagged hides may be possessed without license while in transit, or during processing for tanning or taxidermy. However, properly tagged and documented alligators or hides may be stored at any location at the owner's discretion. Violation of

this Subparagraph is a Class Four violation as described in Title 56.

d. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess live alligators at any time other than by a permit issued by the department upon request for use in displays and educational purposes, and by holders of valid department issued permits for scientific purposes. Live, farm raised alligators and their accompanying alligator hide tags may be held for processing by a properly licensed alligator skinning facility without a license or permit. Violation of this Subparagraph is a Class Four violation as described in Title 56.

e. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess alligator eggs at any time other than department permitted designated collection agents assisting a licensed and permitted alligator farmer during wild egg collection, or a holder of a valid department issued permit for scientific purposes. Violation of this Subparagraph is a Class Four violation as described in Title 56.

f. Any alligators hatched from scientific permits issued by the department shall be returned to the wild under departmental supervision following completion of the research project. Violation of this Subparagraph is a Class Two violation as described in Title 56.

9. Importation, Exportation, Purchase, and Sale

a. Live alligators may be brought into the state only if the person, firm or corporation bringing the alligators into the state has obtained written permission from the department. Violation of this Subparagraph is a Class Four violation as described in Title 56.

b.i. All alligators, alligator hides (raw or salted), or parts of alligators possessed, sold, purchased, exported, imported, or brought into the state from another state shall be accompanied by documented evidence that they were lawfully taken. Documented evidence shall consist of, but not be limited to:

(a). a resource user license or permit number allowing the taking of alligators and tags or other identification required by the state or country of origin shall be firmly attached to the alligator, alligator hide, or parts of alligators; and

(b). a tag or label is affixed to the outside of any package or container of alligators, alligator hides, or alligator parts that specifies type of contents, indicates quantity contained, and lists applicable license or permit numbers.

ii. Violation of this Subparagraph is a Class Two violation as described in Title 56.

c. Purchases of alligators, alligator hides, alligator eggs, and alligator parts are restricted as follows.

i. A licensed alligator hunter may not purchase alligators or alligator hides from anyone.

ii. A licensed fur buyer may purchase whole alligators or alligator hides from a Louisiana licensed alligator hunter, licensed alligator farmer, licensed fur dealer, or another fur buyer.

iii. A licensed fur dealer may purchase whole alligators or alligator hides from a licensed alligator hunter, licensed alligator farmer, fur buyer or another fur dealer.

iv. A licensed alligator farmer may purchase live alligators only from another licensed alligator farmer (with a

department approved Alligator Transfer Authorization Permit) or the department.

v. An alligator farmer may purchase alligator eggs only from another alligator farmer, a landowner/land manager (with an approved department alligator egg collection permit), or the department.

vi. A licensed alligator parts dealer may purchase alligator parts from a licensed alligator hunter, alligator farmer, another alligator parts dealer, or the department.

vii. A licensed alligator parts retailer may purchase finished alligator parts for retail sales.

d. Sales of alligators, alligator eggs, and alligator parts are restricted as follows.

i. A licensed alligator hunter may sell alligators, alligator hides, or alligator parts taken by the licensee during the general open season to anyone who may legally purchase.

ii. A licensed alligator farmer may sell alligators, alligator eggs, alligator hides, or alligator parts to anyone who may legally purchase. The sale of alligator eggs or live alligators shall only occur following the issuance of a Transfer Authorization Permit. Application for the permit shall be made at least two weeks prior to the transfer.

iii. A licensed fur buyer may sell whole alligators or alligator hides to a fur dealer or another fur buyer within the confines of the state.

iv. A licensed fur dealer may sell whole alligators or alligator hides to anyone who may legally purchase.

v. A licensed alligator parts dealer may sell alligator parts, other than hides, to anyone.

vi. A licensed alligator parts retailer may sell finished alligator parts to anyone.

e. Legally tagged and documented alligators, alligator hides, and parts of alligators taken in Louisiana may be shipped out of state or exported by alligator hunters, alligator farmers, fur dealers and alligator parts dealers subject to Paragraph A.11 of this Section (relating to Report Requirements) provided that no live alligators or eggs originating in Louisiana may be exported outside of their natural range without specific department authorization and the concurrence of the United States Fish and Wildlife Service, to be used only for scientific purposes. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. A special permit is required of anyone who sells alligator eggs, or live alligators. Violation of this Subparagraph is a Class Four violation as described in Title 56.

10. Nuisance Alligator Control

a. Nuisance alligator hunters will be selected by the department with proper screening by enforcement personnel in the region of appointment. Selection may be based upon recommendations received from the local governing body. Applicants with prior alligator hunting violations will be rejected.

b. Nuisance alligator hunters shall purchase a valid alligator hunter license and are bound by all laws, rules and regulations governing alligator hunting with the exception that nuisance alligators may be taken at anytime.

c. Nuisance alligator complaints will be verified by department personnel prior to being approved for removal.

d. Tags will be issued without charge to nuisance alligator hunters. Nuisance alligator hunters will attempt to catch nuisance alligators and relocate to natural habitat selected by the department. It is unlawful for any nuisance alligator captured alive to be sold or otherwise disposed of on an alligator farm. Alligators and alligator parts taken under these provisions may be retained and sold by the nuisance alligator hunter as any other legally taken wild alligator or alligator part. Violation of this Subparagraph is a Class Four violation as described in Title 56.

e. Nuisance alligator hunters may take alligators by any means prescribed by the department. Failure to comply with departmental instructions may result in immediate termination of the individual's participation in the nuisance alligator program. Violation of this Subparagraph is a Class Two violation as described in Title 56.

11. Report Requirements

a. Report forms provided by or approved by the department must be completed and filed with the department by all persons who have been issued an alligator hunter's license, fur buyer's license, fur dealer's license, nongame quadruped exhibitor's license, nongame quadruped breeder's license, alligator parts dealer's license, or alligator egg collection permit in accordance with this Paragraph. Reports shall include but not be limited to the information specified in this Paragraph.

b.i. Alligator hunters receiving hide tags from the department are responsible for disposition of all issued tags and must:

(a). complete an official alligator parts transaction form furnished by or approved by the department for each alligator part transaction. These forms shall be submitted to the department at the end of the calendar year;

(b). complete an official lost tag form, furnished by the department for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the close of the season. Lost or stolen tags will not be replaced;

ii. All unused tags must be returned to the department within 15 days following the close of the season;

iii. Each licensed alligator hunter disposing of one or more tagged alligators or alligator skins deemed to be of no value, must:

(a). remove the CITES alligator tag(s) from each alligator/alligator skin at the time of disposal;

(b). return to the department all CITES alligator tags removed from disposed of alligators/alligator skins within 15 days following the close of the season;

(c). provide the department total lengths by corresponding CITES tag number of each alligator/alligator skin so disposed of within 15 days following the close of the season.

iv. The department must be notified of any trophy skins not sold to commercial buyers or dealers within 30 days following the close of the season, on official forms provided by or approved by the department.

v. Each licensed alligator hunter selling alligator parts to a person or a restaurant shall provide that person with a bill of sale for each transaction.

vi. All records of commercial transactions involving alligator parts by alligator hunters shall be available for inspection by the department.

vii. The alligator hide tag fee and severance tax shall be collected by the department from the alligator hunter who is shipping his own alligators or raw alligator skins, or who intends to custom tan, or use for taxidermy, the alligators or raw skins.

viii. Violation of this Subparagraph is a Class Two violation as described in Title 56.

c. A nuisance alligator hunter shall comply with the same report requirements as a commercial alligator hunter and complete any other reports required by the department. Violation of this requirement shall result in immediate termination of nuisance alligator hunter status. Violation of this Subparagraph is a Class Two violation as described in Title 56.

d.i. Alligator farmers receiving hide tags from the department are responsible for disposition of all issued tags and must:

(a). complete an official alligator parts transaction form, furnished by or approved by the department for each alligator parts transaction. These forms shall be submitted to the department along with the annual report. Violation of this Clause is a Class Two violation as described in Title 56;

(b). complete an official lost tag form, furnished by the department, for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the last day of the year that issued tags are valid. Violation of this Clause is a Class Two violation as described in Title 56.

ii. All unused hide tags must be returned to the department within 15 days following the last day of the year that issued tags are valid. Violation of this Clause is a Class Two violation as described in Title 56.

iii. Each alligator farmer in possession of one or more tagged farm alligator skins deemed to be of no value, must notify the department of the tag number and belly width of each farm alligator skin and must arrange for delivery of the farm alligator skin(s) to the department. Department personnel will remove the CITES alligator tags and dispose of the farm alligator skins. Violation of this Clause is a Class Two violation as described in Title 56.

iv. Each alligator farmer in possession of one or more tagged farm alligators deemed to be of no value, must notify the department of the tag number and belly width of each farm alligator prior to disposal of the alligator. Alligator farmers must remove the CITES alligator tag(s) at the time of disposal and immediately return the tag(s) to the department. Violation of this Clause is a Class Two violation as described in Title 56.

v. Each alligator farmer shall report annually, no later than December 1, on an official form provided by the department, all activities that have occurred on the farm for the past year including but not limited to the number of live alligators as of that date, separated by sizes, the number of eggs collected and hatched, the purchase and sale of alligators, hides, and parts for the past year and the numbers of alligators lost. Failure to complete this form properly and completely will result in nonrenewal of the nongame quadruped breeder's license. Violation of this Clause is a Class Three violation as described in Title 56.

vi. Each licensed alligator farmer selling alligator parts to a person or a restaurant shall furnish that person with

a bill of sale for each transaction. Violation of this Clause is a Class Two violation as described in Title 56.

vii. Each alligator farmer collecting alligator eggs, hatching alligator eggs, selling alligators for processing, or selling alligator skins shall submit completed forms as provided by the department within 10 days following completion of the activity. Violation of this Clause is a Class Three violation as described in Title 56.

viii. The alligator shipping label fee or the alligator hide tag fee and the severance tax shall be collected by the department from the alligator farmer who is shipping alligators or raw alligator skins, or who intends to custom tan, or use for taxidermy, the alligators or raw skins.

e.i. Fur buyers, fur dealers, alligator farmers and alligator hunters engaged in the business of buying and/or selling whole alligators or alligator hides must keep within the state a complete record on forms provided by or approved by the department, all purchases and sales of whole alligators or alligator hides as described in Title 56; and

ii. every fur buyer, fur dealer, alligator farmer or alligator hunter having undressed alligator hides in his possession shall file with the department within 60 days of purchase or within 60 days of tagging or prior to shipping out of state or prior to tanning skins in Louisiana, whichever occurs first, a complete report, on forms provided by or approved by the department, a detailed description of alligator hides to be shipped or tanned. At the time of shipment or prior to tanning whole alligator skins, department personnel will inspect whole hides and replace any broken or reattached tags. Department personnel will issue the appropriate number of yellow shipping tags, one for each shipment. At that time, department personnel will affix a seal or locking device to each container. It shall be a violation of this Subparagraph for any person other than department personnel or Federal personnel to reopen any sealed or locked container. In conjunction with the inspection and prior to department issuance of shipping tag(s) and seal(s) or locking device(s), department personnel must collect:

(a). all completed buyer/dealer records for skins in each shipment;

(b). official shipping manifest including total length in inches (or feet and inches) referenced to CITES tag number of each whole wild skin in shipment and including total belly width in centimeters (measured at the fifth scute) referenced to CITES tag number of each whole farm raised alligator skin in shipment. A fully executed (filled out) shipping manifest containing all information required in the buyer/dealer record may be substituted with department approval for the buyer/dealer record requirement on farm raised alligator skins;

(c). stub portion of yellow shipping tag completely filled-out;

(d). severance tax and alligator hide tag fees owed by alligator hunter, alligator farmer or fur dealer.

iii. Prior to cutting raw alligator skins into pieces, every fur buyer, fur dealer, alligator farmer or alligator hunter desiring to cut raw skins into pieces (flanks, bellies, or chalecos), must request department personnel to inspect the whole alligator hides and (with appropriate assistance) apply CITES tags to each flank, chaleco, and belly so

separated. Prior to tagging the flanks, chaleco and belly, department personnel must receive an official manifest including measurement (as specified below) of each skin. For wild skins, the total length in inches (or feet and inches) referenced to the CITES tag number of each whole wild skin to be cut into pieces must be provided. For farm raised alligators skins, the total belly width in centimeters (measured at the fifth scute) referenced to the CITES tag number of each whole farm raised alligator skin to be cut into pieces must be provided. Prior to cutting the raw alligator skin, CITES tags will be attached to each flank and chaleco (tag applied to each hind leg area), and to each belly if either is to be separated from the tail. Once the tail portion of the skin is separated from the flanks, chaleco and belly, the original CITES tag must be removed and returned to the department within 15 days of the cutting of the tail.

iv. Every fur dealer, alligator farmer or alligator hunter prior to shipping out of state or prior to tanning in state, partial alligator skins (flanks, bellies or chalecos) must provide an official shipping manifest listing a description of the partial alligator skins in the shipment along with the CITES tag number for each partial skin piece, referenced to the original CITES tag number that was placed on the wild alligator or farm raised alligator when harvested. Department personnel will review the manifest for accuracy and determine the number of original CITES tags referenced for the first time in order to assess the amount of severance tax and alligator hide tag fees owed by the shipper. Shipper will be thus informed by the department within 10 working days of receiving the official shipping manifest.

v. At the time of shipment or prior to tanning, department personnel will inspect alligator skin pieces and replace any broken or reattached tags. Department personnel will issue the appropriate number of yellow shipping tags, one for each shipment. At that time, department personnel will affix a seal or locking device to each container. It shall be a violation of this Subparagraph for any person other than department personnel or Federal personnel to reopen any sealed or locked container. In conjunction with the inspection and prior to department issuance of shipping tag(s) and seal(s) or locking device(s), department personnel must collect:

(a). all completed buyer/dealer records for skins in each shipment;

(b). stub portion of yellow shipping tag completely filled-out;

(c). severance tax and alligator hide tag fees owed by alligator hunter, alligator farmer or fur dealer for partial alligator skin pieces being shipped as referenced in Clause A.11.e.iv.

vi. If any of the above requirements are not satisfied, the shipment will not be authorized. Violation of this Clause is a Class Three violation as described in Title 56.

f. Fur dealers engaged in the business of buying and selling alligator hides must maintain complete records of alligator hides purchased inside and outside the state as described in Title 56. Fur dealers in the business of tanning alligator hides must provide a monthly report, on forms provided by or approved by the department, of all alligator hides being held in inventory. Failure to maintain complete records and to pay the required severance tax and alligator

hide tag fees subjects any dealer to the full penalties provided and the immediate revocation of his license by the department. No license shall be issued to a dealer who has not paid the tax and alligator hide tag fees for the preceding year. Violation of this Subparagraph is a Class Three violation as described in Title 56.

g. Each fur buyer or fur dealer in possession of one or more tagged alligator skins deemed to be of no value, must notify the department of the tag number and total length of each wild alligator skin or belly width of each farm alligator skin and must arrange for delivery of the alligator skin(s) to the department. Department personnel will remove the CITES alligator tags and dispose of the alligator skins. Violation of this Subparagraph is a Class Two violation as described in Title 56.

h. Each fur buyer or fur dealer in possession of one or more tagged alligators deemed to be of no value, must notify the department of the tag number and total length of each wild alligator or belly width of each farm alligator prior to disposal of the alligator. Fur buyers or fur dealers must remove the CITES alligator tag(s) at the time of disposal and immediately return the tag(s) to the department. Violation of this Subparagraph is a Class Two violation as described in Title 56.

i. Alligator parts dealers acquiring alligator parts, shall complete an official alligator parts purchase form at the time of each purchase. Alligator parts dealers selling alligator parts, shall complete an official alligator parts sale form at the time of each sale. These forms shall be furnished by or approved by the department and shall be submitted to the department annually, no later than June 30; and

i. alligator parts dealers shall furnish a bill of sale to anyone purchasing alligator parts;

ii. the records of transactions involving alligator parts shall be available for inspection by the department and shall be maintained complete for a period of one year following any transaction;

iii. violation of this Subparagraph is a Class Two violation as described in Title 56.

j. Any alligator parts retailer purchasing finished alligator parts shall maintain a bill of sale for each purchase for a period of six months after such purchase and these records shall be available for inspection by the department. Violation of this Subparagraph is a Class Two violation as described in Title 56.

12. Alligator Meat

a. Alligator meat from lawfully taken alligators can only be sold according to state and federal laws, Louisiana Department of Health and Hospitals regulations and Louisiana Wildlife and Fisheries Commission regulations. Violation of this Subparagraph is a Class Three violation as described in Title 56.

b. Alligator meat processed in the state of Louisiana and sold for human consumption must be processed in a licensed facility approved by the Louisiana Department of Health and Hospitals and the facility must display a valid permit issued by that agency. Violation of this Subparagraph is a Class Two violation as described in Title 56.

c. All processed alligator meat for sale must be packaged in suitable containers which identifies the contents as alligator meat, marked with a valid department license number and comply with all state and federal packaging and

labeling requirements. Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. All alligator meat shipped into the state and being offered for sale must meet all of Louisiana's health, processing, packaging and labeling requirements. Violation of this Subparagraph is a Class Two violation as described in Title 56.

13. Disposal of Alligators by the Department

a. The department may sell alligators, alligator eggs or parts of alligators taken for any purpose deemed necessary for proper management of the species pursuant to Title 56.

b. The department may dispose of alligators, alligator eggs, or parts of alligators by donation or lending to a scientific institution or other institutions that the department deems have need for such alligators, however these institutions cannot sell or barter these animals which must be returned to the department at the conclusion of the program or need.

c. Confiscated alligator hides and parts may be destroyed by the department pending the outcome of the criminal trial.

d. Confiscated alligator eggs or live alligators may be sold or may be cared for by the department and released in suitable alligator habitat when and where they can survive when appropriate. All costs incurred by the department in the maintenance of these eggs and animals in captivity shall be the responsibility of the offender and restitution shall be made to the department. The department may consign confiscated alligators to a licensed farm for raising purposes and may compensate the farmer for his expenses by transferring ownership to him of a percentage of the confiscated alligators; not to exceed 50 percent.

14. Alligator Egg Collection

a. Alligator egg collection permits are a three party permit between the department, the permittee and a landowner/manager who owns or leases alligator nesting habitat determined by department biologists to be capable of producing alligator eggs. The numbers of eggs to be collected will be based upon biological management criteria and will be determined annually by technical staff of the department. The department only estimates the numbers of eggs available and assumes no responsibility or offers no guarantee that those numbers of eggs will be available. Alligator egg collection permits may be obtained upon application to the department on forms provided by the department. The annual deadline for submitting applications for alligator egg collection permits is June 1. This program is experimental and may be changed at any time based on biological data to insure for proper management of the wild alligator population.

b. Alligator egg collection permits may be issued by the department provided:

i. permittee is a properly licensed alligator farmer and meets all applicable requirements in Subsection A.15 of this Section (Alligator Farm Facility Requirements);

ii. all land documentation required on the alligator egg collection permit has been presented to the department;

iii. department biologists determine the properties described on the permit application are indeed alligator nesting habitat and can sustain alligator egg collections;

iv. applicant has obtained all legal and necessary signatures from landowners/land managers.

c. It is unlawful for an alligator farmer or a permitted designated collection agent to collect eggs from properties other than those described in the alligator egg collection permit. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. An alligator farmer or designated collection agent in the act of collecting or possessing alligator eggs must possess on his or her person a copy of the fully executed alligator egg collection permit. The designated collection agent must also possess a valid designated collection agent permit. Violation of this Subparagraph is a Class Three violation as described in Title 56.

e. Collection of wild alligator eggs can only be made after contacting the appropriate regional supervisor of the Enforcement Division no less than 24 hours prior to each collection trip. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. Alligator eggs can only be collected from the wild from official sunrise to official sunset and only during the established alligator egg collection season and shall not exceed the number on his alligator egg collection permit. Violation of this Subparagraph is a Class Four violation as described in Title 56.

g. Alligator eggs collected from the wild must be collected and transported in a manner which insures the greatest survival of viable eggs as determined by department biologists. Violation of this Subparagraph is a Class Three violation as described in Title 56.

h. Failure to hatch at least 70 percent of viable alligator eggs collected from the wild shall be considered a waste of Louisiana's natural resources. All alligator egg collection permits shall be revoked and no new permits issued should an alligator farmer be found to waste the resources of this state for two consecutive years.

i. Alligator egg collection permits shall be revoked and no new permits issued to alligator farmers who fail to average a minimum hatchling survival rate of 85 percent for two consecutive years.

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 12 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 60 inches (no alligator over 60 inches total length will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for

wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required one-fourth of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a Class Four violation as described in Title 56.

k. The percentage of alligators to be returned to the wild shall be selected from the healthiest of all alligators of that year class. Abnormal or deformed alligators are not acceptable for release into the wild. It is unlawful for alligators that are to be returned to the wild to be transported out of state. Violation of this Subparagraph is a Class Four violation as described in Title 56.

15. Alligator Farm Facility Requirements

a. All first time applicants for a nongame quadruped breeder's or exhibitor's license who will house alligators on their premises shall show compliance of the following minimum facilities as applicable to their particular operation during a required facility examination by department personnel prior to license issuance:

i. secured premises with adequate barriers to prevent escape of enclosed alligators and entry by alligators from outside the farm and to deter theft of alligators;

ii. source of clean, fresh water which shall be adequate to ensure for proper care of all alligator stock and facilities. This requirement shall be determined by department personnel;

iii. provisions for both dry area and pooled water within the secured area adequate for the numbers of alligators to be housed on the premises. This requirement will be determined by department personnel;

iv. provision for winter protection, either through adequate denning space or an enclosed, controlled-temperature environment of a design acceptable to the department;

v. all controlled-temperature alligator sheds (environmental chambers) shall be of a design acceptable to the department. Each shed shall maintain a minimum water and air temperature of 80° Fahrenheit. Minimum space requirements for alligators housed in the shed shall be:

(a). one square foot of space shall be required for each alligator less than 24 inches in length;

(b). three square feet of space shall be required for each alligator measuring 25 inches to 48 inches in length;

(c). one additional square foot of space shall be required for each additional 6 inches of alligator length for alligators above four feet in length;

vi. all alligator egg incubators shall be of a design acceptable to the department. Each incubator shall maintain a water and air temperature of 85° to 91° Fahrenheit during the egg incubation;

vii. applicant must be in compliance with all laws and regulations pertaining to zoning, construction, health and environmental standards and must possess any and all applicable permits and licenses;

viii. all alligator facilities should be constructed in a suitable location so as to minimize contact with people.

b. Following initial issuance of applicable license, all applicable facility requirements shall be adhered to and department personnel have the authority to inspect any and all of the facilities at any time. Failure to adhere to the requirements shall be a violation of these rules and violators will be given 60 days to correct the problem. Failure to comply shall result in confiscation of all animals and/or closure of all facilities. Violation of this Subparagraph is a Class Three violation as described in Title 56.

c. All alligator farmers possessing alligator eggs outside an alligator nest should house these eggs in an incubator providing constant temperature and humidity conditions. All incubators used to incubate alligator eggs shall be of a design to allow for maximum temperature control and conform to department requirements to allow for the maximum hatching success. Violation of this Subparagraph is a Class Three violation as described in Title 56.

d. All alligator farmers possessing alligator hatchlings shall house hatchlings in controlled environmental chambers which maintain a minimum temperature of 80° Fahrenheit year-round and containing dry and wet areas of sufficient surface area to permit all alligators to partially submerge in water. All alligators 48" or less in length shall be housed in environmental chambers unless a special permit is issued by the department to move them to outside growth areas. Violation of this Subparagraph is a Class Three violation as described in Title 56.

e. Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than two feet in length, two to four feet in length, and over four feet in length. Land and water areas sufficient for partial submersion or exit from water shall be provided for each group of alligators held. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. All facilities, alligator stock, and records are subject to examination by department personnel prior to permitting and thereafter during farm operation. Violation of this Subparagraph is a Class Three violation as described in Title 56.

g. It shall be unlawful for alligator eggs or alligators to be moved from a licensed premises without permitting/approval of the department. Violation of this Subparagraph is a Class Three violation as described in Title 56.

h. Any alligator egg or alligator raised on an alligator farm shall be cared for under conditions that do not threaten the survival of such egg and alligator as determined by the biological staff of the Coastal and Nongame Resources Division. In making such determination, Coastal and Nongame Resources Division biologists shall take into

consideration sanitary conditions, temperature control, feeding, overcrowding and other conditions which effect the survival of alligator eggs and alligators. If the biological staff of the Coastal and Nongame Resources Division determines that the survival of any alligator egg or alligator is threatened due to the conditions on an alligator farm, the department shall notify the alligator farmer and shall provide the farmer with 60 days to take corrective action. If the farmer fails to take corrective action within 60 days, the department shall have the authority to confiscate any alligator egg or alligator which remains under conditions that threaten the survival of such alligator egg or alligator and to dispose of such alligator egg or alligator as the department deems necessary. Violation of this Subparagraph is a Class Four violation as described in Title 56.

16. Exceptions

a. The department or an authorized representative of the department may take by any means and possess alligators, alligator eggs, or parts of alligators while in the performance of official duties.

b. These regulations shall not prohibit a person from killing an alligator in immediate defense of his or her life or the lives of others. Alligators killed under this provision must be reported to the department within 24 hours.

17. Penalty for Violation

a. In order to facilitate greater control over alligator trafficking, the Louisiana Department of Wildlife and Fisheries finds that public welfare imperatively requires emergency action when the provisions of these regulations are violated.

b. In addition to all penalties set forth herein, violators may be subject to criminal prosecution under provisions of the Louisiana Revised Statutes, particularly Titles 14 and 56 and under Federal law.

c. In addition to all other penalties provided by these rules and by statute, violation of any part of these regulations may result in the suspension and/or revocation of any or all alligator licenses/permits held by the violator and, as further penalty, for serious, repeat, or multiple violations, the department shall have the right to deny a violator any and all licenses/permits relating to alligators for a period not to exceed three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:

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.

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit comments relative to the proposed Rule to Robert Love, Coastal and Nongame Resources Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, June 2, 2011.

Stephen W. Sagraera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Alligator Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will directly affect various alligator industry participants. Alligator tanners, farmers and dealers will have the option of cutting raw alligator skins into pieces prior to tanning. While this process will improve their ability to market low grade skins, it is not anticipated that this process will increase the value of the skins sold. Additionally, it is anticipated that only a small portion (less than 10%) of the total alligator skins harvested will be handled in this manner, thus having little or no impact on receipts and income of alligator industry participants. Those alligator farmers, dealers and tanners choosing to cut raw alligator skins prior to tanning will be required to adhere to new record keeping requirements which will result in additional paperwork.

Alligator farmers will benefit from being able to have their lost or stolen tags replaced.

Nonresident landowners will benefit from being able to receive harvest tags directly. This will allow these individuals to manage the alligator population on their wetlands just as resident landowners do.

Nonresident sport hunters will benefit from the elimination of the three alligator limit. They will be able to harvest an unlimited number of alligators in the open season as long as they have a tag for each alligator harvested.

Alligator landowners, land managers and hunters submitting an application for property previously hunted will benefit from having a long application period of about six weeks. New alligator hunters submitting applications with new/additional properties will be required to have their application request submitted by August 20th. This will allow time for the office staff of the department to process their request. Other rule modifications are intended to clarify the existing rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any effect on competition and employment in the public and private sectors.

Lois Azzarello
Undersecretary
1104#021

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Civil Fish and Wildlife Values—Threatened and
Endangered Species (LAC 76:I.Chapter 3)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the civil fish and wildlife values, guidelines for determining fish and wildlife values and the list of threatened and endangered species. It also establishes conversion factors to be used to convert the weight of fish and shellfish species not in whole form to whole form weight for the purpose of assigning civil restitution penalty values for commercial fish and shellfish species. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 56:40.1-40.9 and R.S. 56:1904.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies

Thereunder

Chapter 3. Special Powers and Duties

Subchapter D. Wildlife Values

§313. Guidelines for Determining Fish and Wildlife Values

A. The following are the guidelines utilized by the Department of Wildlife and Fisheries in determining fish and wildlife values.

1. With respect to fish and shellfish species, the American Fisheries Society publishes hatchery values reflecting estimated costs involved in rearing various freshwater and saltwater fish. These figures, adjusted by the Consumer Price Index; current data relating to expenditures of both sport and commercial fishermen relating to the animal or species which, directly or indirectly, result in revenues being generated for the state; ex-vessel commercial prices, as reported by the National Marine Fisheries Service and the Department of Wildlife and Fisheries Trip Ticket Program; estimated costs involved in the capture, purchase, transportation and release of species of fish; the current commercial retail selling price of living replacement animals; and, the current commercial selling price of meat and/or other products which are derived from the animal and traded in commerce, shall be considered by the department in formulating its recommendations concerning valuation.

2. With respect to avian species, existing information and estimated costs involved in the capture, purchase, transportation and release of species of birds; cost to purchase replacement animals from other states or

jurisdictions; the costs to zoos and other zoological institutions to raise and maintain like animals; the current commercial retail selling price of meat and/or other products which are derived from the animal and traded in commerce; and, the expenditures of sportsmen and others relating to the animal or species which, directly or indirectly, result in revenue being generated for the state, shall be considered by the department in formulating its recommendations concerning valuation.

3. With respect to mammal species, estimated costs involved in the capture, purchase, transportation, and release of species of mammals; pelt values; costs to zoos and other zoological institutions to raise and maintain like animals; the current commercial retail selling price of meat and/or other products which are derived from the animal and traded in commerce; and the expenditures of sportsmen and others relating to the animal of species which, directly or indirectly, result in revenue being generated for the state, shall be considered by the department in formulating its recommendations concerning valuation.

4. With respect to reptiles and amphibian species, the estimated costs involved in the capture, purchase, transportation and release of species of reptiles and amphibians; pelt or hide values, costs to zoos and other zoological institutions to raise and maintain the animal; the current commercial retail selling price of meat and/or other products which are derived from the animal and traded in commerce; and the expenditures of hunters, trappers, and recreational sportsmen with respect to the animal or species which, directly or indirectly, result in revenues being generated for the state shall be considered by the department in formulating its recommendations concerning valuation.

5. Certain species are highly prized because of their rarity or may have a high intangible perceived value placed on the animal or species by the public. Other species have an intrinsically high value because they are threatened or endangered. In addition to the guidelines set forth above, the department shall, with respect to these rare and/or threatened and/or endangered species which might have limited commercial value but which possess a high intangible, intrinsic, aesthetic, ecological, or biological value, consider those factors when determining its recommendations with respect to valuation.

6. Not all the criteria set forth in the guidelines above will be applicable to each particular series and each criterion or factor shall be considered by the department only insofar as it is applicable to each particular species.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:40.1-40.9.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:200 (March 1989), amended LR 37:

§315. Fish and Wildlife Values

A. All fish and wildlife species found within, or taken from the state have value, regardless of whether a specific value is provided herein. If a specific value is not provided for in this Section, that species is not deemed to be without value and its value may be determined.

B. Fish and Wildlife Values

1. Game Mammals and Game Birds

Deer, Quality ¹	\$2,033.29
Deer, Non-Quality	\$1,624.61
Squirrels	\$ 20.32
Rabbits	\$ 31.71
Turkeys	\$1,539.37
Ducks	\$ 26.61
Geese	\$ 51.58
Coots	\$ 14.63
Gallinules and Rails	\$ 22.02
Snipe	\$ 19.94
Quail	\$ 43.01
Woodcock	\$ 59.81
Doves	\$ 14.27

¹ Quality deer defined as buck with at least eight total points, minimum spread of 13.5 inches and minimum beam length of 16.5 inches using the Boone and Crockett Scoring system defined in Measuring and Scoring North American Big Game Trophies; Third Edition, by Nesbitt, William H. and Wright, Philip L., updated by Buckner, Eldon L., Byers, C. Randall, and Reneau, Jack, 2009.

2. Non-Game Animals

Raptors (Birds)	\$ 87.03
Other Birds	\$ 17.41
Frogs	\$ 6.12/lb.
Turtles	\$ 3.87/lb.
Snakes, Other	\$ 9.00
Pine Snakes	\$ 150.00
Salamanders	\$ 5.00
Alligator (Eggs)	\$ 13.00/egg
Alligator, Other Than Albino (Whole, Skin, or Meat ²)	\$ 375.80
Mink	\$ 6.87
Fox	\$ 18.15
Muskrat	\$ 2.95
Raccoon	\$ 27.75
Otter	\$ 23.77
Bobcat	\$ 27.04
Marine Mammals	\$3,481.19
Other Mammals, Excluding Outlawed Quadrapeds	\$ 17.41

² For alligator meat, 23 pounds of deboned meat and 35 pounds of bone in carcass meat shall equate to one alligator. Civil restitution penalty amounts for illegal possession of alligator meat, absent the presence of other parts of the animal(s), shall be based on the weight of the meat, with the weight rounded up to the next number of whole alligators.

3. Federally Listed Threatened and Endangered Species³

Reptiles (Adult or Young)	\$4,351.49/animal
Reptiles (Eggs)	\$4,351.49/violation
Birds (Adult or Young)	\$4,351.49/animal
Birds (Eggs)	\$4,351.49/violation
Mammals	\$4,351.49/animal
Invertebrates	\$4,351.49/violation
Fish	\$4,351.49/animal
Amphibians	\$4,351.49/animal

³ See LAC 76:1.317 for a list of Threatened or Endangered Species.

4. Species of Special Concern

Fish	
Prohibited fish species as found in LAC 76:VII.145, LAC 76:VII.337.A, and LAC 76:VII.357.B.4 excluding species listed in LAC 76:I.317.	\$2,175.75/animal
Birds	
Bald Eagle	\$4,351.49/animal
Brown Pelican	\$4,351.49/animal
Peregrine Falcon	\$4,351.49/animal
Mammals	
Black Bear	\$10,000.00/animal
Cougars (Felis concolor cougar)	\$4,351.49/animal
Reptiles	
Albino Alligator	\$4,351.49/animal

5. All Fish Not Listed Elsewhere in This Rule

Marine Fish	\$1.14/lb.
Freshwater Fish	\$0.62/lb.

6. Recreational and Commercial Fishes

Species Group	Value per Individual Fish
Drum, Red	\$26.47
Spotted Seatrout	\$28.97
Snapper, Red	\$28.69
White Trout ⁴	\$3.89
Flounder	\$16.08
Croaker	\$4.61
Bass, Largemouth	\$13.43
Bluegill	\$0.91
Crappies	\$5.37
Paddlefish ⁵	\$341.72

⁴ Sand Seatrout and Silver Seatrout⁵ For Paddlefish roe, 4.75 pounds of roe shall equate to one Paddlefish. Civil restitution penalty amounts for illegal possession of Paddlefish roe, absent the presence of other parts of the animal(s), shall be based on the weight of the roe, with the weight rounded up to the next number of whole Paddlefish.

7. Commercial Fish Species

Species Group	Value/Lb ⁶
Amberjacks	\$2.35
Other Jacks	\$1.34
Barracuda	\$1.54
Bonito, Atlantic	\$0.69
Bowfin ⁷	\$2.01
Buffalo	\$0.58
Butterfish	\$0.40
Carp	\$0.25
Catfish, Channel	\$1.16
Catfish, Sea	\$0.61
Catfish, Freshwater	\$0.97
Cobia	\$4.29
Crab, Blue	\$1.53
Crab, Stone	\$5.74
Crawfish, Wild	\$1.38
Dolphin (Fish)	\$1.83
Driftfish	\$2.75
Drum, Black	\$1.54
Drum, Freshwater	\$0.32
Eel, Freshwater	\$2.09
Gar	\$1.74
Grouper, Gag	\$5.32
Grouper, Yellowedge	\$6.38

Species Group	Value/Lb ⁶
Grouper, Other, Hinds and Grunts	\$4.38
Kingfish and Whiting	\$0.85
Mackerel, King	\$2.97
Mackerel, Spanish	\$1.42
Menhaden	\$0.11
Mullet ⁸	\$1.00
Oilfish and Escolar	\$1.47
Oyster (in-shell weight)	\$0.45
Pompano	\$6.35
Porgy	\$1.94
Shad	\$0.40
Shark, Shortfin Mako	\$1.52
Sharks, Other and Rays	\$0.62
Sheepshead	\$0.62
Shrimp	\$2.57
Snapper, Other	\$3.97
Squid	\$0.72
Swordfish	\$3.82
Tilefishes	\$3.06
Triggerfish	\$2.13
Tripletail	\$1.85
Tuna, Albacore	\$1.31
Tuna, Bigeye	\$5.76
Tuna, Blackfin	\$0.64
Tuna, Bluefin	\$8.80
Tuna, Other	\$0.78
Tuna, Yellowfin	\$6.84
Wahoo	\$1.78

⁶ All values listed are for whole form weight. When fish are not in whole form, the conversion factors set out in Section 316, following, shall be applied to convert their product form weight to whole form weight. If product form weight to whole form weight conversion factor is not available for a particular species and is thus not listed in Section 316, any data that is collected in a scientific method to allow estimation of the conversion factor from product form weight to whole form weight for that species shall be allowed to be used to determine civil restitution value for product form.⁷ For bowfin roe, weight of the roe should be multiplied by 1/.12 to convert the roe to whole bowfin weight.⁸ For mullet roe, weight of the roe should be multiplied by 1/.18 to convert the roe to whole mullet weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:40.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:39 (January 1990), amended LR 18:290 (March 1992), LR 37:

§316. Fish and Shellfish Product Form Conversions

A. With respect to fish and shellfish species, the Department of Wildlife and Fisheries Trip Ticket Program uses conversion factors to convert the weight of different product forms of species to their whole form weight. Those conversion factors, as enumerated below, shall be used to convert the weight of fish and shellfish species not in whole form to whole form weight for the purpose of assigning civil restitution penalty values for commercial fish and shellfish species.

B. Fish and Shellfish Product Form Conversion Factors

Fish and Shellfish Product Form Conversion Factors			
Fish and Shellfish	Gutted	Gutted and Headed, or Steaked, or Cleaned, or Tubed	Meat (Fillet, Pieces, or Chunks)
Amberjack, Greater	1.04	1.24	3.14
Amberjack, Lesser	1.04	1.24	3.14

Fish and Shellfish Product Form Conversion Factors			
Fish and Shellfish	Gutted	Gutted and Headed, or Steaked, or Cleaned, or Tubed	Meat (Fillet, Pieces, or Chunks)
Angelfish	1.11	1.33	2.86
Barracuda	1.11	1.33	2.86
Bigeye, Other	1.04	1.24	1.79
Bigeye, Short	1.04	1.24	1.79
Bluefish	1.09	1.43	
Bonito, Atlantic	1.15	1.52	3.03
Bowfin	1.14	1.45	2.33
Brotula, Bearded	1.12	1.39	3.70
Buffalofish	1.11	1.54	3.12
Bulleye	1.04	1.24	1.79
Bullheads	1.14	1.45	2.86
Carp, Bighead	1.04	1.72	3.57
Carp, Common	1.11	1.54	3.12
Carp, Grass	1.04	1.72	3.57
Carp, Silver	1.04	1.72	3.57
Catfish, Blue	1.14	1.45	2.86
Catfish, Channel	1.14	1.45	2.86
Catfish, Flathead	1.14	1.45	2.86
Catfish, Gafftopsail	1.12	1.39	3.70
Catfish, Hardhead	1.12	1.39	3.70
Chubs	1.04	1.24	1.79
Cobia	1.04	1.24	
Crab, Blue		1.25	6.00
Crawfish			6.67
Creole Fish	1.04	1.24	1.79
Dogfish, Other	1.20	1.39	3.33
Dogfish, Spiny	1.20	1.39	3.33
Dolphin	1.20	1.39	3.33
Driftfish, Black	1.11	1.54	2.86
Drum, Black	1.14	1.64	2.86
Eel, Freshwater	1.01	1.04	
Eel, Conger	1.11	1.25	2.22
Eel, Moray	1.11	1.25	2.22
Escolar	1.15	1.52	2.86
Gar, Aligator	1.04	1.33	2.86
Gar, Longnose	1.04	1.33	2.86
Gar, Shortnose	1.04	1.33	2.86
Gar, Spotted	1.04	1.33	2.86
Garfish, Other	1.04	1.33	2.86
Gaspergou	1.17	1.79	2.56
Graysby	1.18	1.43	2.63
Grouper, Black	1.18	1.43	2.63
Grouper, Gag	1.18	1.43	2.63
Grouper, Marbled	1.18	1.43	2.63

Fish and Shellfish Product Form Conversion Factors			
Fish and Shellfish	Gutted	Gutted and Headed, or Steaked, or Cleaned, or Tubed	Meat (Fillet, Pieces, or Chunks)
Grouper, Misty	1.18	1.43	2.63
Grouper, Nassau	1.18	1.43	2.63
Grouper, Red	1.18	1.43	2.63
Grouper, Snowy	1.18	1.43	2.63
Grouper, Warsaw	1.18	1.43	2.63
Grouper, Yellowedge	1.18	1.43	2.63
Grouper, Yellowfin	1.18	1.43	2.63
Grouper, Yellowmouth	1.18	1.43	2.63
Grunts	1.18	1.43	2.63
Hake	1.12	1.39	3.70
Hind, Red	1.18	1.43	2.63
Hind, Rock	1.18	1.43	2.63
Hind, Speckled	1.18	1.43	2.63
Jack, Almaco	1.04	1.24	1.79
Jack, Bar	1.04	1.24	1.79
Jack, Black	1.04	1.24	1.79
Jack, Cravelle	1.04	1.24	1.79
Jack, Horse-Eye	1.04	1.24	1.79
Mackerel, King	1.04	1.33	2.86
Mackerel, Spanish	1.15	1.52	3.03
Mooneye	1.04		
Moonfish	1.04		
Mullet, Striped	1.14	1.45	2.86
Oilfish	1.11	1.54	2.86
Opah	1.04	1.24	1.79
Other Freshwater Finfish Species	1.14	1.33	3.03
Other Saltwater Finfish Species	1.14	1.33	3.03
Oyster			16.23
Parrotfish	1.04	1.24	1.79
Pinfish	1.11	1.54	
Pomfrets	1.04	1.24	1.79
Pompano, African	1.04	1.20	2.63
Pompano, Florida	1.04	1.20	2.63
Porgy, Jolthead	1.04	1.24	
Porgy, Knobbed	1.04	1.24	
Porgy, Red	1.04	1.24	
Porgy, Whitebone	1.04	1.24	
Rainbow Runner	1.04	1.24	3.14
Rover, Crimson	1.04	1.24	1.79
Rudderfish	1.12		
Rudderfish, Banded	1.04	1.24	3.14

Fish and Shellfish Product Form Conversion Factors			
Fish and Shellfish	Gutted	Gutted and Headed, or Steaked, or Cleaned, or Tubed	Meat (Fillet, Pieces, or Chunks)
Runner, Blue	1.09	1.43	3.14
Scamp	1.18	1.43	2.63
Scorpionfish, Longsnout	1.04	1.24	1.79
Scorpionfish, Other	1.04	1.24	1.79
Scorpionfish, Spiny Cheek	1.04	1.24	1.79
Scorpionfish, Spotted	1.04	1.24	1.79
Sculpins	1.12	2.57	5.00
Seabass, Bank	1.04	1.24	1.79
Seabass, Black	1.04	1.24	1.79
Seabass, Longtail	1.04	1.24	1.79
Shark, Bignose	1.20	1.39	3.33
Shark, Blacknose	1.20	1.39	3.33
Shark, Blacktip	1.20	1.39	3.33
Shark, Blue	1.20	1.39	3.33
Shark, Bull	1.20	1.39	3.33
Shark, Dusky	1.20	1.39	3.33
Shark, Finetooth	1.20	1.39	3.33
Shark, Hammerhead	1.20	1.39	3.33
Shark, Lemon	1.20	1.39	3.33
Shark, Longfin Mako	1.20	1.39	3.33
Shark, Night	1.20	1.39	3.33
Shark, Porbeagle	1.20	1.39	3.33
Shark, Sand Tiger	1.20	1.39	3.33
Shark, Sandbar	1.20	1.39	3.33
Shark, Shortfin Mako	1.20	1.39	3.33
Shark, Silky	1.20	1.39	3.33
Shark, Spinner	1.20	1.39	3.33
Shark, Tiger	1.20	1.39	3.33
Shark, White	1.20	1.39	3.33
Sharks, Other	1.20	1.39	3.33
Sharks, Other Large Coastal	1.20	1.39	3.33
Sharks, Other Small Coastal	1.20	1.39	3.33
Sharks, Thresher	1.20	1.39	3.33
Sheepshead	1.17	1.54	4.00
Shrimp, Brown		1.61	1.61
Shrimp, Pink		1.60	1.60
Shrimp, River		1.67	1.67
Shrimp, Rock		1.67	1.67
Shrimp, Royal Red		1.80	1.80
Shrimp, Seabob		1.53	1.53
Shrimp, Trachypenaeus		1.61	1.61

Fish and Shellfish Product Form Conversion Factors			
Fish and Shellfish	Gutted	Gutted and Headed, or Steaked, or Cleaned, or Tubed	Meat (Fillet, Pieces, or Chunks)
Shrimp, White		1.54	1.54
Snapper, Black	1.11	1.54	3.12
Snapper, Blackfin	1.11	1.54	3.12
Snapper, Cubera	1.11	1.54	3.12
Snapper, Dog	1.11	1.54	3.12
Snapper, Gray	1.11	1.54	3.12
Snapper, Lane	1.11	1.54	3.12
Snapper, Mahogany	1.11	1.54	3.12
Snapper, Mutton	1.11	1.54	3.12
Snapper, Queen	1.11	1.54	3.12
Snapper, Silk	1.11	1.54	3.12
Snapper, Vermilion	1.11	1.54	3.12
Snapper, Yellowtail	1.11	1.54	3.12
Soapfish	1.18	1.43	2.63
Spadefish	1.11	1.54	
Spanish Flag	1.04	1.24	1.79
Spot	1.04	1.72	3.57
Squirrelfish	1.14	1.24	1.79
Stingrays, Other	1.12		
Sunfishes, Ocean	1.04	1.72	3.57
Swordfish	1.20	1.33	3.33
Tilefish, Blackline	1.12	1.39	2.94
Tilefish, Blueline	1.12	1.39	2.94
Tilefish, Goldface	1.12	1.39	2.94
Tilefish, Other	1.12	1.39	2.94
Tilefish, Sand	1.12	1.39	2.94
Triggerfish, Gray	1.04	1.72	3.57
Triggerfish, Ocean	1.04	1.72	3.57
Triggerfish, Queen	1.04	1.72	3.57
Tripletail	1.18	1.43	
Tuna, Albacore	1.11	1.33	2.86
Tuna, Bigeye	1.25	1.25	3.03
Tuna, Blackfin	1.25	1.25	3.03
Tuna, Bluefin	1.18	1.25	3.03
Tuna, Little Tunny	1.18	1.25	3.03
Tuna, Skipjack	1.18	1.33	3.03
Tuna, Yellowfin	1.11	1.25	3.03
Wahoo	1.18	1.43	2.86
Wenchman	1.11	1.54	3.12
Whiting	1.14	1.45	2.86

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:40.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 37:

Subchapter E. Louisiana Natural Heritage

§317. Threatened and Endangered Species

A. The Secretary of the Department of Wildlife and Fisheries hereby determines that those species designated as endangered or threatened pursuant to the Federal Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), are designated as such by the U.S. Fish and Wildlife Service at 50 CFR 17.11. Based upon the above determination, said species, which are enumerated below, are deemed to be endangered or threatened species under the provisions of Louisiana Revised Statutes Title 56, Chapter 8, Part IV.

1. Birds (including eggs)		
Whooping Crane	Grus americana	E
Eskimo Curlew	Numenius borealis	E
Piping Plover	Charadrius melodus	T
Interior Least Tern	Sterna antillarum athalassos	E
Ivory-billed Woodpecker	Campephilus principalis	E
Red-cockaded Woodpecker	Picoides borealis	E
Bachman's Warbler	Vermivora bachmanii	E
2. Reptiles (including eggs)		
Green Sea Turtle	Chelonia mydas	T
Hawksbill Sea Turtle	Eretmochelys imbricata	E
Kemp's Ridley Sea Turtle	Lepidochelys kempii	E
Leatherback Sea Turtle	Dermochelys coriacea	E
Loggerhead Sea Turtle	Caretta caretta	T
Gopher Tortoise	Gopherus polyphemus	T
Ringed Sawback Turtle	Graptemys oculifera	T
3. Mammals		
Red Wolf	Canis rufus	E
West Indian Manatee	Trichechus manatus	E
Blue Whale	Balaenoptera musculus	E
Finback Whale	Balaenoptera physalus	E
Sei Whale	Balaenoptera borealis	E
Sperm Whale	Physeter catodon	E
Florida Panther	Felis concolor coryi	E
Louisiana Black Bear	Ursus americanus luteolus	T
4. Invertebrates		
Pink Mucket	Lampsilis abrupta	E
Fat Pocketbook	Potamilus capax	E
Louisiana Pearlshell	Margaritifera hembeli	T
American Burying Beetle	Nicrophorus americanus	E
Inflated Heelsplitter	Potamilus inflatus	T
5. Fish		
Pallid Sturgeon	Scaphirhynchus album	E
Gulf Sturgeon	Acipenser oxyrhynchus desotoi	T
6. Amphibians		
Dusky Gopher Frog	Rana sevosa	E
E = Endangered T = Threatened		

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1904.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 15:1099 (December 1989), amended LR 18:877 (August 1992), LR 37:

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.

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 of the Notice of Intent to Mr. David Lavergne, Socioeconomic Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, June 2, 2011.

Stephen W. Sagrera
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Civil Fish and Wildlife Values
Threatened and Endangered Species**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amendments will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

R.S. 56:40.2 allows the commission to adopt rules to establish guidelines for determining the value of injured or destroyed fish, wild quadrupeds, and other wildlife and aquatic life. The proposed rule amends these values which have not been changed since 1992.

Revenue collections from civil penalty citations during the last three years have averaged \$75,009 and the five (5) fish and wildlife species with the largest revenue collections has a proposed average value increase of 72.9%. When extrapolating the change in value for these five species to all species, the proposed rule amendments are anticipated to increase revenue collections to the Conservation Fund by an average of \$54,682 (\$75,009 x 72.9%) per year.

No effect on revenue collections of local governmental units is anticipated as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals who are found guilty of illegally taking fish and wildlife resources in Louisiana will be negatively affected by the proposed rule amendments because it will, on average, increase the penalties for said actions. All Louisiana residents will benefit from the proposed rule amendments because it will discourage the illegal harvest of fish and wildlife resources which in turn will enhance the availability of these resources in the future.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule amendments are anticipated to have no effect on competition and employment in the public and private sectors.

Lois Azzarello
Undersecretary
1104#022

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	76	V.131	Amended	Feb. 602
V.7317	Adopted	Mar. 816	VII.116		Adopted	Jan. 355	
			VII.341		Amended	Jan. 354	
70	I.1501,1503,1505,1507,1509,1511,1513,1515	Adopted	Jan. 347	XI.309	Adopted	Mar. 922	
	I.1517,1519,1521,1523,1525,1527,1529,1531	Adopted	Jan. 347				
	I.1533,1535,1537,1539,1541,1543,1545,1547	Adopted	Jan. 347				
	I.1549	Adopted	Jan. 347				

Committee Reports

COMMITTEE REPORT

House of Representatives Committee of Ways and Means

AdValorem Taxation (LAC 61:V.101, 703, 901, 907, 1103, 1305, 1307, 1503, 2503, 3101, and 3501)

Editor's Note: This Notice of Intent was published in the December 20, 2010 *Louisiana Register* on page 2922. The full text of this Notice of Intent may be viewed on pages 2761-2771 of the Emergency Rules portion in the same *Louisiana Register*.

Pursuant to the provisions of R.S. 49:968, the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee held a joint meeting on March 14, 2011 to consider rule changes proposed by the Louisiana Tax

Commission relative to Real/Personal Property Rules and Regulations for use in the 2011 (2012 Orleans Parish) tax year. The House Ways and Means Committee determined that most of the proposed rule changes were acceptable. However, the committee found certain parts of the proposed rule to be unacceptable.

The parts found by the House Ways and Means Committee to be unacceptable were Section 901(C) in Chapter 9, as it relates to the definition of "Production Depth", and from Section 907, Table 907.B.3, titled "Serial Number to Percent Good Conversion Chart Horizontal Wells".

Representative Hunter Greene, Chairman
House Ways and Means Committee

1104#005

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Annual Quarantine Listing for 2011

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the state of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

Generally infested area: the entire state.

California

(1) Generally infested area: the entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: the entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

New Mexico

Generally infested area: the entire state.

Texas

Generally infested area: the entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The states of Texas and Florida.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas axonopodis* pv. citri)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

13.0 Citrus Greening [*Candidatus Liberibacter asiaticus*]

Louisiana

Infested parishes: Orleans and Washington.

Any other areas or states designated as infested under the Federal Domestic Quarantine Order: Citrus Greening Disease (CG) and Asian Citrus Psyllid (ACP).

14.0 Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]

Louisiana

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Charles, St. James, St. Tammany and Terrebonne.

Any other areas or states designated as infested under the Federal Domestic Quarantine Order: Citrus Greening Disease (CG) and Asian Citrus Psyllid (ACP).

Mike Strain DVM
Commissioner

1104#019

POTPOURRI

**Department of Children and Family Services
Child Welfare Section**

Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2011 Annual Progress and Services Report (APSR). The APSR is a report on year two of the 2010-2014 Child and Family Services Plan (CFSP) with regard to the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care

Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds. The APSR is the report on the achievement of goals and objectives and/or outcomes, and amends any changes to the agency's CFSP.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protection investigations, family services, foster care, adoption and the youth transition services. The Department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age to 21 years of age, who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment initiatives. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

The DCFS is encouraging public participation in the planning of services and the writing of the document. The report can be found for review on the internet under <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132>, then the 2010 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P O Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 25, 2011 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 25, 2011 at 11 a.m. in Room 1-129 of the Iberville Building located at 627 North Forth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Ruth Johnson
Secretary

1104#027

POTPOURRI

Department of Children and Family Services Child Welfare Section

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block

Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2011, and ending June 30, 2012. The proposed SFY 2011-2012 SSBG Intended Use Report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state services agency, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2011-2012 SSBG expenditures for adoption, child protection, daycare for children, family services, and foster care/residential care services.

Additionally, separate and apart from the traditional SSBG funding priorities, this Intended Use Report describes the expenditure and exhaustion of the Supplemental Appropriations funds for disaster relief as of September 30, 2010. These were federal funds from the Department of Defense Act (HR 2638) for states most severely affected and for expenses related to the consequences of disasters in the calendar year 2008. The use of supplemental funds were previously addressed in a public hearing held May 1, 2009 with funding allocated to the sources named in this document.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2011-2012 are:

- A. adoption (pre-placement to termination of parental rights);
- B. child protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals);
- C. daycare for children (direct care for portion of the 24-hour day as follow-up to investigations of child abuse/neglect);
- D. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);
- E. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the Intended Use Report.

Persons eligible for SSBG funded services include:

- A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of Supplemental Security Income and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2328 would qualify as income eligible for services;

E. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

Post expenditure reports for the SSBG program for SFY 2008-2009 and SFY 2009-2010 are included in the previous year's SSBG Final Intended Use Report for SFY 2010-2011.

Free copies are available by telephone request to (225) 342-3526 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2011 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 25, 2011 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 25, 2011 at 10 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Ruth Johnson
Secretary

1104#026

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Division

Louisiana Engineering Review Activity Form

The Office of Environmental Services, Air Permits Division (APD) has drafted and finalized a review activity form that is required to be attached to all notifications, reports, and other documents submitted for review to the Air Engineering Support Group. The documents to which the review activity form above should be attach include, but is not limited to, New Source Performance Standard (NSPS) reports, initial stack test required by rule or permit, initial certification of continuous emission monitors (CEMs), fugitive emission reports, notifications of testing (submitted by either mail or email), and similar types of documents. The form will be used to standardize the information needed to ensure the proper review, routing, and filing of the documents received by the Air Engineering Support Group.

The Louisiana Engineering Review Activity Form must be completed and attached to each document being submitted to the Office of Environmental Services, Air Permits Division, Air Engineering Support Group; notifications of testing submitted by email should also have the form attached. A guidance document has been prepared to assist in completing the form. The form and guidance document will be available on the Louisiana Department of Environmental Quality website at <http://www.deq.louisiana.gov/portal/HOME.aspx> under the Air information. Beginning May 31, 2011, only documents submitted to the Air Engineering Support Group with a properly completed Louisiana Engineering Review Activity Form attached will be accepted as complete, and therefore reviewed. When the form does not accompany a document, the company contact and the person preparing the document will be notified that the submittal is deemed incomplete until the form is provided.

If there are any questions concerning the use of the Louisiana Engineering Review Activity Form or the guidance for completing the form, please contact Darlene Doshier-Collard at 225-219-3404 or at darlene.doshier-collard@la.gov.

Herman Robinson, CPM
Executive Counsel

1104#014

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Pollutant Discharge Elimination System Exclusions—Pesticide Application (LAC 33:IX.Chapter 23)

Since January 26, 2007, a Louisiana Pollutant Discharge Elimination System (LPDES) permit has not been required for pesticide applications to or around water, provided that the application is consistent with relevant Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requirements. However, on January 9, 2009, a federal court ruled in *National Cotton Council of America v. EPA*, 553 F.3d 927 (6th Cir., 2009), that pesticide applications to or around water required a NPDES or delegated state water permit. Based upon an April 8, 2009 request from the U.S. Environmental Protection Agency (EPA), the court granted a two year stay of the mandate until April 9, 2011. In response to the court ruling, the LDEQ removed the permit exemption previously found in the regulations at LAC 33:IX.2315.A.8 and prepared a general permit for pesticide applications to become effective on April 9, 2011, in accordance with the federal court ruling.

On March 3, 2011, the EPA requested an extension from the court to allow more time for pesticide operators to obtain permits for pesticide discharges. EPA is requesting that the deadline be extended from April 9, 2011 to October 31, 2011. During the period while the court is considering the extension request, and if the extension is granted, until

October 31, 2011, permits for pesticide applications will not be required in Louisiana.

Questions may be directed to Mr. Melvin C. Mitchell at (225) 219-3197 or Mr. Bruce Fielding at (225) 219-3231.

Herman Robinson, CPM
Executive Counsel

1104#015

POTPOURRI

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Low Income and Needy Care
Collaboration—Supplemental Payments

The Department of Health and Hospitals, Bureau of Health Services Financing hereby clarifies the provisions governing inpatient hospital services rendered by acute care hospitals who participate in the Low Income and Needy Care Collaboration (LINCC), pursuant to the provisions of LAC 50:V.953.

For non-rural, non-state hospitals and state or local governmental entities to participate in the LINCC Program, all documentation must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing by June 1, 2011 in order to participate in the June 30, 2011 supplemental payments. For subsequent quarters, documentation must be submitted before the beginning of the quarter in which the hospital plans to participate in a supplemental payment.

If the qualifying hospital is eligible for disproportionate share hospital (DSH) payments, documentation must include confirmation that the most current calculated hospital-specific DSH limit is correct or the calculation of the revised DSH limit must be submitted. If the hospital elects to opt out of DSH participation, notification of such must be submitted to the department.

Bruce D. Greenstein
Secretary

1104#121

POTPOURRI

Office of the Governor Auctioneers Licensing Board

Public Hearing—Substantive Change to Proposed Rules
(LAC 46:III.113)

The board published a Notice of Intent to promulgate rules in the August 20, 2010 edition of the *Louisiana Register*. The notice solicited written comments. As a result of its analysis of the written comments received, the board proposes to repeal a certain portion of the proposed rules. New rules are in the public's interest and support the board in the execution of its duty to regulate the auction industry and promote public safety.

The change to §113.A.14 follows: Repealed.

In accordance with R.S. 49:968(H)(2) of the Administrative Procedure Act, a hearing will be held on May

23, 2011, at 11 a.m. at the Louisiana Auctioneers Licensing Board office located at 5222 Summa Court, Baton Rouge, LA 70809.

Sandy Edmonds
Executive Assistant

1104#018

POTPOURRI

Office of the Governor Division of Administration Tax Commission

Public Hearing—Substantive Changes to Proposed Rule
Oil and Gas Properties
(LAC 61:V.901 and 907)

The commission published a Notice of Intent to promulgate §901, Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties, specifically §901.C, the definition of Production Depth and §907, Valuation of Oil, Gas, and Other Wells, specifically Table 907.B-3, Serial Number to Percent Good Conversion Chart Horizontal Wells, in the December 20, 2010 edition of the Louisiana Register (LR 36:2762-2764). On March 14, 2011 a Legislative Oversight Committee (House Ways and Means and Senate Revenue and Fiscal Affairs) hearing was held regarding these two issues. Both committees found the two issues to be unacceptable and with no response from the governor the committee's decision was final.

A public hearing will be held on May 24, 2011, at 10 a.m. at the Louisiana Tax Commission, 5420 Corporate Blvd., Suite 107, Baton Rouge, LA 70808 regarding this matter. The fiscal and/or economic impact will be to local government having a decrease in the value of these properties and lower tax collections than would have been if the changes had been found acceptable by the committees or the governor.

Title 61

REVENUE AND TAXATION Part V. Ad Valorem Taxation

Chapter 9. Oil and Gas Properties §901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

- A. - B.3. ...
- C. Explanations

Inactive Wells—wells that are shut-in. Shut-in status becomes effective on the date the application for shut-in status is filed, consistent with the Louisiana Department of Conservation requirements.

Injection Wells—wells completed as single or wells reclassified by the Louisiana Department of Conservation after a conversion of another well. Wells are used for gas and water injection for production purposes, also used for disposal wells.

Multiple Completions—wells consisting of more than one producing zone. Deepest or primary completion may or may not be the base well number depending upon the Louisiana Department of Conservation permits and classification.

Production Depth—the depth from the surface to the active lower perforation in each producing zone in which the

well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least fifty feet, "production depth" shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

Single Completions—

- a. well originally completed as a single;
- b. well reclassified by the Louisiana Department of Conservation after a conversion of multiple completed well to a single producing zone.

Water Wells—wells used for production purposes only, both fresh and salt water supply.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:495 (March 2009), LR 36:773 (April 2010), LR 37:

§907. Valuation of Oil, Gas, and Other Wells

A. - A.7. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	35.22	123.24	5.28	18.49
1,250-2,499 ft.	31.79	90.62	4.77	13.59
2,500-3,749 ft.	24.99	60.01	3.75	9.00
3,750-4,999 ft.	34.55	59.80	5.18	8.97
5,000-7,499 ft.	40.64	58.37	6.10	8.76
7,500-9,999 ft.	89.09	78.67	13.36	11.80
10,000-12,499 ft.	259.81	95.44	38.97	14.32
12,500-14,999 ft.	N/A	144.11	N/A	21.62
15,000-Deeper ft.	N/A	164.33	N/A	24.65

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	270.74	122.43	40.61	18.36
1,250-2,499 ft.	93.49	203.50	14.02	30.53
2,500-3,749 ft.	91.29	162.24	13.69	24.34
3,750-4,999 ft.	80.48	129.79	12.07	19.47
5,000-7,499 ft.	109.94	147.42	16.49	22.11
7,500-9,999 ft.	149.98	154.35	22.50	23.15
10,000-12,499 ft.	204.52	201.77	30.68	30.27
12,500-14,999 ft.	268.28	261.04	40.24	39.16
15,000-17,499 ft.	434.55	349.49	65.18	52.42
17,500-19,999 ft.	530.58	495.04	79.59	74.26
20,000-Deeper ft.	283.32	743.21	42.50	111.48

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1357.13	991.64	203.57	148.75
2,500 -3,749 ft.	697.85	762.11	104.68	114.32
3,750 -4,999 ft.	996.11	698.83	149.42	104.82
5,000 -7,499 ft.	495.70	647.26	74.36	97.09
7,500 -9,999 ft.	628.47	612.50	94.27	91.88
10,000 -12,499 ft.	711.48	620.87	106.72	93.13
12,500 -14,999 ft.	618.79	604.21	92.82	90.63
15,000 -17,499 ft.	426.50	626.93	63.98	94.04
17,500 -19,999 ft.	N/A	599.36	N/A	89.90
20,000 - Deeper ft.	N/A	942.14	N/A	141.32

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	17 Year Life Percent Good
2010	240636	Higher	96
2009	239277	240635	91
2008	236927	239276	87
2007	234780	236926	82
2006	232639	234779	77
2005	230643	232638	73
2004	229010	230642	68
2003	227742	229009	62
2002	226717	227741	57
2001	225352	226716	51
2000	223899	225351	46
1999	222882	223898	40
1998	221596	222881	35
1997	220034	221595	31
1996	218653	220033	28
1995	217588	218652	25
1994	216475	217587	21
1993	Lower	216474	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table B.2 of this Section. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Actuators—(See Metering Equipment)	
Automatic Control Equipment—(See Safety Systems)	
Automatic Tank Switch Unit—(See Metering Equipment)	
Barges - Concrete—(Assessed on an individual basis)	
Barges - Storage—(Assessed on an individual basis)	
Barges - Utility—(Assessed on an individual basis)	
Barges - Work—(Assessed on an individual basis)	
Communication Equipment—(See Telecommunications)	
Dampeners—(See Metering Equipment - "Recorders")	
DESORBERS—(No metering equipment included):	
125#	109,990
300#	121,270
500#	138,000
Destroilers—(See Metering Equipment - "Regulators")	
Desurgers—(See Metering Equipment - "Regulators")	
Desilters—(See Metering Equipment - "Regulators")	
Diatrollers—(See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings—(Assessed on an individual basis)	
Dry Dehydrators (Driers)—(See Scrubbers)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Engines-Unattached—(Only includes engine & skids): Per Horsepower	350
Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included): Per Unit	40,350
Flow Splitters—(No metering equipment included):	
48 In. Diameter Vessel	19,640
72 In. Diameter Vessel	26,020
96 In. Diameter Vessel	39,880
120 In. Diameter Vessel	56,660
Fire Control System—(Assessed on an individual basis)	
Furniture and Fixtures—(Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
50 HP and less - Per HP	1,500
51 HP to 100 HP - Per HP	1,290
101 HP and higher - Per HP	940
Gas Coolers—(No metering equipment);	
5,000 MCF/D	31,000
10,000 MCF/D	34,910
20,000 MCF/D	108,590
50,000 MCF/D	246,360
100,000 MCF/D	403,480
Generators—Package Unit only -(No special installation) Per K.W.	230
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	21,760
4.1 to 5.0 MMCF/D	24,270
5.1 to 10.0 MMCF/D	46,780
10.1 to 15.0 MMCF/D	65,080
15.1 to 20.0 MMCF/D	88,590
20.1 to 25.0 MMCF/D	115,200
25.1 to 30.0 MMCF/D	218,810
30.1 to 50.0 MMCF/D	244,430
50.1 to 75.0 MMCF/D	304,070
75.1 & Up MMCF/D	350,850
Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,540
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,480
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,460
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	16,960
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	20,930
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,440
30 In. Diameter Vessel - 500,000 BTU/HR Rate	8,830
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,520
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	16,310
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	20,870
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	8,250
30 In. Diameter Vessel - 450,000 BTU/HR Rate	10,290
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	15,440
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	17,720
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	20,060
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	31,690
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	38,070
Heat Exchange Units-Skid Mounted—(See Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	16,490
4 x 27 ft.	21,230
6 x 20 ft.	22,230
6 x 27 ft.	27,950
8 x 20 ft.	35,610

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
8 x 27 ft.	41,690
10 x 20 ft.	47,080
10 x 27 ft.	55,380
L.A.C.T. (Lease Automatic Custody Transfer) – See Metering Equipment)	
JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Up to 2 MMCF/D	40,930
Up to 5 MMCF/D	58,480
Up to 10 MMCF/D	140,340
Up to 20 MMCF/D	233,900
Liqua Meter Units—(See Metering Equipment)	
Manifolds—(See Metering Equipment)	
Material & Supplies-Inventories—(Assessed on an individual basis)	
Meter Calibrating Vessels—(See Metering Equipment)	
Meter Prover Tanks—(See Metering Equipment)	
Meter Runs—(See Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	6,370
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,990
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	4,850
30 In. Diameter Vessel - 1 bbl. Dump	6,260
36 In. Diameter Vessel - 2 bbl. Dump	8,650
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	4,560
24 In. Diameter Vessel - 1/2 bbl. Dump	5,500
30 In. Diameter Vessel - 1 bbl. Dump	6,910
36 In. Diameter Vessel - 2 bbl. Dump	9,300
L.A.C.T. and A.T.S. Units:	
30 lb. Discharge	30,640
60 lb. Discharge	34,910
Manifolds—Manual Operated:	
High Pressure	
per well	24,040
per valve	8,120
Low Pressure	
per well	11,630
per valve	3,860
Manifolds—Automatic Operated:	
High Pressure	
per well	43,450
per valve	14,330
Low Pressure	
per well	31,000
per valve	10,470
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Meter Runs—piping, valves & supports – no meters:	
2 In. piping & valve	6,550
3 In. piping & valve	7,360
4 In. piping & valve	8,880
6 In. piping & valve	12,390
8 In. piping & valve	18,620
10 In. piping & valve	24,800
12 In. piping & valve	31,000
14 In. piping & valve	42,220
16 In. piping & valve	55,140
18 In. piping & valve	68,300
20 In. piping & valve	88,770
22 In. piping & valve	111,870
24 In. piping & valve	136,950
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,800
5 bbl. calibration plate (24 x 10)	4,090
7.5 bbl. calibration plate (30 x 10)	5,730
10 bbl. calibration plate (36 x 10)	7,130
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,630
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	350
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	19,060
2 1/2 In. nominal size - per mile	25,670
3 & 3 1/2 In. nominal size - per mile	32,740
4, 4 1/2 & 5 In. nominal size - per mile	56,310
6 In. nominal size - per mile	82,680
Poly Pipe	
2 In. nominal size - per mile	10,470
2 1/2 In. nominal size - per mile	14,090
3 In. nominal size - per mile	18,010
4 In. nominal size - per mile	30,930
6 In. nominal size - per mile	45,430
Plastic—Fiberglass	
2 In. nominal size - per mile	16,260
3 In. nominal size - per mile	27,840
4 In. nominal size - per mile	47,840
6 In. nominal size - per mile	70,230
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(Assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit - separator & 1 heater – 500 MCF/D	20,580
Class II - per unit - separator & 1 heater – 750 MCF/D	27,420
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line	
per horsepower rating of motor	290

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pump-Motor Unit—pump and motor only Class I - (water flood, s/w disposal, p/l, etc.) Up to 300 HP - per HP of motor	350
Class II - (high pressure injection, etc.) 301 HP and up per HP of motor	410
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	
16 D	6,730
25 D	12,630
40 D	15,790
57 D	21,050
80 D	35,140
114 D	36,550
160 D	49,180
228 D	53,390
320 D	67,480
456 D	80,110
640 D	97,010
912 D	102,620
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(See Metering Equipment)	
Regulators: per unit	2,690
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	5,380
well & production equipment	6,200
with surface op. ssv, add	9,300
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	15,500
production train	38,760
glycol dehydration system	23,280
P/L pumps and LACT	54,260
Compressors	34,090
Wellhead Actuators (does not include price of the valve)	
5,000 psi	3,860
10,000 psi and over	5,790
NOTE: For installation costs - add 25%	
Sampler—(See Metering Equipment - "Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	3,270
10 In. Diameter Vessel	4,680
12 In. Diameter Vessel	5,320
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,520
12 In. Diameter Vessel	1,990
NOTE: No metering or regulating equipment included in the above.	
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	
6-5/8" OD x 5'-6"	4,790
8-5/8" OD x 7'-6"	5,210
10-3/4" OD x 8'-0"	7,310
12-3/4" OD x 8'-0"	9,820
16" OD x 8'-6"	15,790
20" OD x 8'-6"	23,330
20" OD x 12'-0"	24,560
24" OD x 12'-6"	33,100
30" OD x 12'-6"	48,300
36" OD x 12'-6"	57,420
Separators—(No metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,440
30" OD x 10'-0"	5,840
36" OD x 10'-0"	12,220

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Vertical 3—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,730
24" OD x 10'-0"	6,490
30" OD x 10'-0"	9,010
36" OD x 10'-0"	12,810
42" OD x 10'-0"	14,850
Horizontal 3—Phase /125 psi (Low Pressure)	
24" OD x 10'-0"	8,480
30" OD x 10'-0"	10,870
36" OD x 10'-0"	11,870
42" OD x 10'-0"	18,940
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	3,220
16" OD x 5'-6"	4,790
20" OD x 7'-6"	9,120
24" OD x 7'-6"	11,050
30" OD x 10'-0"	16,840
36" OD x 10'-0"	21,810
42" OD x 10'-0"	34,910
48" OD x 10'-0"	41,170
54" OD x 10'-0"	62,330
60" OD x 10'-0"	77,950
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,610
20" OD x 7'-6"	9,820
24" OD x 7'-6"	11,400
30" OD x 10'-0"	17,600
36" OD x 10'-0"	22,520
42" OD x 10'-0"	36,720
48" OD x 10'-0"	42,570
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,500
20" OD x 7'-6"	8,830
24" OD x 10'-0"	12,050
30" OD x 10'-0"	18,540
36" OD x 10'-0"	23,510
42" OD x 15'-0"	47,710
48" OD x 15'-0"	55,020
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	8,480
20" OD x 7'-6"	9,480
24" OD x 10'-0"	13,800
30" OD x 10'-0"	19,640
36" OD x 10'-0"	28,300
36" OD x 15'-0"	31,630
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	40,750
36" OD x 10'-0"	38,890
36" OD x 12'-0"	56,430
36" OD x 15'-0"	58,890
42" OD x 15'-0"	91,390
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	6,020
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—No metering equipment	Per Barrel*
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. Range (average tank size - 250 bbl.)	37.70
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size - 300 bbl.)	29.30
Storage Tanks (Closed Top)	
1,000 barrel	24.90
1,500 barrel	22.00
2,000 barrel	21.40
2,001 - 5,000 barrel	19.70
5,001 - 10,000 barrel	18.40
10,001 - 15,000 barrel	17.30
15,001 - 55,000 barrel	12.10
55,001 - 150,000 barrel	9.20
Internal Floating Roof	
10,000 barrel	35.50
20,000 barrel	24.10

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
30,000 barrel	17.90
50,000 barrel	15.90
55,000 barrel	15.30
80,000 barrel	13.50
100,000 barrel	11.80
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	46,780
Telephone & data transmission	3,510
Radio telephone	
Supervisory controls:	
remote terminal unit, well	10,000
master station	22,810
towers (installed):	
heavy duty, guyed, per foot	580
light duty, guyed, per foot	40
heavy duty, self supporting, per foot	590
light duty, self supporting, per foot	120
equipment building, per sq. ft.	180
solar panels, per sq. ft.	60
Utility Compressors per horsepower - rated on motor	770
Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	20,470
105 MCF/D max	29,230
250 MCF/D max	38,600
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	
2' diam. x 16'	5,550
3' diam. x 10'	8,300
4' diam. x 10'	11,460
6' diam. x 10'	18,770
6' diam. x 15'	21,690
8' diam. x 10'	27,190
8' diam. x 15'	31,220
8' diam. x 20'	34,620
8' diam. x 25'	38,540
10' diam. x 20'	45,320

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,170
Below ground	490
Air Compressors:	
1/3 to 1 H.P.	1,560
1/2 to 5 H.P.	2,630
Car Wash Equipment:	
In Bay (roll over brushes)	41,920
In Bay (pull through)	65,070
Tunnel (40 to 50 ft.)	141,640
Tunnel (60 to 75 ft.)	189,550
Drive On Lifts:	
Single Post	7,660
Dual Post	8,620
Lights:	
Light Poles (each)	780
Lights - per pole unit	860
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	
Single	3,310
Dual	4,930
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	5,600
Dual	7,550

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Read-Out Equipment (at operator of self service) Per Hose Outlet	1,230
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	3,700
10 ft. lighted - installed on 16 ft. pole	6,770
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	3,080
Lighted "pricing" (5 x 9 ft.)	3,160
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	11,210
2 poles	14,660
3 poles	16,400
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	5,960
Lighted "pricing" (5 x 9 ft.)	3,160
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,310
Tanks—(average for all tank sizes)	
Underground - per gallon	1.90

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), LR 37:

James D. "Pete" Peters
Chairman

1104#024

POTPOURRI

Department of Natural Resources Office of Conservation

Advanced Notice of Rulemaking and Solicitation of Comments on Water Well Registration, Construction and Closure (LAC 56:I.Chapters 1, 3, 5, 7, and 9)

The Department of Natural Resources, Office of Conservation is requesting comments on the following enumerated issues regarding Water Well Registration, Construction and Closure, LAC 56:Part 1.

As part of the ongoing government streamlining effort, Act 437 of the Regular Session of the Louisiana Legislature, 2009 transferred the responsibilities relating to water wells and water well drillers from the Department of Transportation and Development to The Department of Natural Resources. As part of this transfer, the databases maintained by both departments have been merged and modernized. The Department of Natural Resources began the current regulation update in September of 2010 by submitting 18 issues for public comment. Based on comments received, DNR has compiled suggested language intended to implement the best practices on those issues and again seeks input from industry and the public pertaining to the specific wording to be implemented.

Written comments concerning the proposed revisions are due no later than 4:30 p.m., May 20, 2011, and should be submitted to Gary Snellgrove, Office of Conservation, Environmental Division, P.O. Box 94275-Capitol Station, Baton Rouge, LA 70804-9275 or by Fax to (225) 342-3094. Persons commenting should reference this document as ENV 11-06.

Note: The amended Sections are as follows:

**Title 56
PUBLIC WORKS
Part I. Water Wells**

Chapter 1. Registering Water Wells

§101. Authorization

- A. - B. ...
- C. Repealed.

* * *

**§105. Registration of Water Wells and Holes
Completed on or after November 1, 1985**

- A. - G.1. ...

2. If an unregistered well is reworked, deepened or changed in any manner or if screen setting is altered, the proper registration form (DNR-GW-1 or DNR-GW-1S) shall be submitted to the department by the contractor no later than 30 calendar days after the work has been completed. Failure to file the proper registration form may result in enforcement actions including the assessment of civil penalties in accordance with the authority of the Commissioner of Conservation.

- H. - J. ...

§113. Definitions

- A. ...

* * *

Free Flowing Water Well—an artesian well which flows, under natural conditions, at or above the ground surface.

* * *

Relief Well—any well drilled for the sole purpose of relieving the hydrostatic pressure inside a levee system during times of high water.

* * *

est Hole—a temporary exploratory borehole drilled for the sole purpose of obtaining geologic, hydrologic and water quality data.

* * *

Chapter 3. Water Well Construction

§301. Preamble

A. As announced in the October 1985 issue of the *Louisiana Register*, the rules, regulations and standards for constructing water wells and holes were prepared by the Louisiana Department of Transportation and Development (DOTD), Office of Public Works, in accordance with R.S. 38:3091 through 38:3098.8. Effective January 1, 2010, in accordance with Act 437 of 2009, The Department of Natural Resources, Office of Conservation, hereafter referred to as *department*, is responsible for registering water wells and holes in Louisiana.

* * *

§307. Licensing Requirements

- A. - B. ...

C. Drillers operating in the state of Louisiana should, as a best management practice, carry minimum coverage for liability insurance for drilling operations engaged by their company.

* * *

§313. Minimum Distance Requirements for Locating a Water Well

A. Provided that all other applicable rules and regulations are complied with, the minimum distance requirements for locating a water well shall be in accordance with the following Sections.

* * *

§315. Location in Relation to Possible Sources of Contamination

A. The horizontal distance between any water well and any possible sources of contamination shall be as great as possible but in no case less than the following minimum distances.

Possible Sources of Contamination	Minimum Distance (in feet)
Septic Tanks	50
Storm or Sanitary Sewer	50 ¹
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, etc.	100 ²
Sanitary landfills, feed lots, manure piles, solid-waste dumps and similar installations	100
Another water well	25 ³
Drainage canal, ditch, stream pond or lake	50 ⁴

¹This distance may be reduced to 30 feet if the sewer is of cast iron with leaded joints or schedule 40 plastic pipe with water-tight joints.
²For domestic water wells, this distance may be reduced to 50 feet.
³This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.
⁴Horizontally measured from the water edge to the well at the highest water level which may have occurred in a 10 year period.

* * *

§317. Location in Relation to Levees

A. Wells or holes as defined in Part I, except relief wells, shall not be drilled within 250 feet of the levees [R.S. 38:225(6)]. The department interprets this statute to mean that the well or wells shall be at least 250 feet from the land side toe of the levee. For this agency to consider any exception to the above, written approval from the appropriate local authorities such as levee boards or the

Corps of Engineers is necessary and should be submitted with the variance request.

B. ...

C. Requirements for relief wells located within 250 feet from the land side toe of the levee include:

1. written approval from the Corps of Engineers and the local levee authority, if applicable; and

2. minimum construction standards for grouting down to at least 10 feet from the ground surface and a one-way check valve.

* * *

§319. Location in Relation to Flood Water

A. Locations subject to flooding should be avoided, if possible. If a reasonable alternate site does not exist, the well may be constructed in flood-prone areas provided the top of the casing is at least 2 feet above the highest flood level which may have occurred in a 10-year period but in no case less than 2 feet above the ground surface, except when located in coastal areas along the Gulf of Mexico prone to direct impact of storm surge events. Wells with a casing size of 4 inches or less located in coastal areas prone to direct impact of storm surge events shall be constructed with:

1.) well casing material strength of S/40 PVC or greater and a maximum casing height of 24 inches above ground surface;

2.) protective casing material strength of S/80 PVC or greater with a diameter size providing a minimum 3 inch space between the well casing outer diameter and the outer diameter of the protective casing;

3.) protective casing height of 20 to 22 inches above ground surface and a minimum depth below ground surface to 38 inches or greater;

4.) spacing between the protective casing and the well casing filled with Portland cement; and

5.) grouting down to a depth of at least 50 feet below ground surface.

* * *

§321. Location in Relation to Buildings and Other Structures

A. ...

B. For rig supply wells, if the well is located on the constructed work pad for drilling operations or within the ring levee system, it must be constructed with a protective cement slab and four corner posts. If the well is located outside the ring levee system and will be transferred for some other future use or will not be plugged and abandoned within six months of completion of associated oil and gas well drilling activity, it must be surrounded by four corner posts.

* * *

§323. Drilling and Construction

A - C.2. ...

3. record any unusual occurrences, such as loss of circulation, cave-ins, etc., (In the event the unusual occurrence is observable evidence of naturally occurring methane gas, natural gas or similar sub-surface gas, such as bubbling drilling mud or gas venting at the well bore or other nearby surface location or feature, the contractor shall report such event verbally to the Environmental Division of the Office of Conservation within twenty-four hours); and

* * *

C.4. - J.1. ...

2. During the drilling operation, the contractor shall take the necessary precautions to prevent the contamination of any aquifer and the exchange of waters between aquifers.

* * *

§325. Casing

A. - H.1. ...

2. The well casing pipe, couplings, cement, primer and other compounds shall be evaluated and listed as conforming with both ANSI/NSF Standard 14 and ANSI/NSF Standard 61.

H.3. - J.4. ...

5. Exposed PVC casings shall be protected from ultraviolet degradation by appropriate coatings as recommended by the manufacturer.

K. Height of Casing. Well casing shall project at least one foot above ground level, pump-house floor, or the top of concrete slab. For wells in areas subject to flooding, refer to §319.A. The ground surface or concrete slab around the well shall be sloped to drain away from the well in all directions.

* * *

§327. Screen

A. - B. ...

C. Screen Material. The type of screen material is generally dependent upon cost and the quality of water to be pumped. If the water contains a relatively high concentration of carbon dioxide, dissolved solids or hydrogen sulfide, corrosion-resistant materials should be used in the construction of the screen. If a corrosive environment is present, the screen should be made entirely of the same material, and the lap or extension pipe (for not less than 5 feet) above the screen and blank pipe, if used, should be made of the same material as the screen. The likelihood of corrosion and encrustation can also be decreased by maintaining the entrance velocity within acceptable limits, 0.1 foot per second or less.

* * *

§329. Methods and Standards for Cementing the Annular Space

A. ...

B. Methods for Cementing the Annular Space. The following regulations shall apply to all water wells, regardless of use or type.

1. Annular space shall be sealed with cement-bentonite slurry, which is a mixture of cement, bentonite and water, consisting of not more than 8 percent bentonite by dry weight of the cement, and a maximum of 10 gallons of water per sack (94 pounds) of cement. Additives, in the approved and proper ratio, may be added to the slurry if required. If the slurry is to be prepared in the field, it is recommended that the bentonite be added after cement and water are thoroughly mixed. Sodium bentonite with a minimum porosity of 10^{-8} may also be used.

2. - 6. ...

7. If one or more sands between the ground surface and the production sand contain saline water and/or water of objectionable quality, the annular space between the well casing and the hole shall be sealed with cement-bentonite slurry, at a minimum, to a depth of not less than 20 feet below the deepest sand containing the water of objectionable quality unless full depth cementing is required by §329.C.

* * *

§331. Well Development and Disinfection

A. - D.1. ...

2. The acceptable amount of sand per unit volume should be between recommended ratios of 1 ounce of sand per 8,000 gallons of water (about 1 milligram per liter) and one ounce per 100 gallons of water (80 milligrams per liter), depending on the use of water. Because of the possibility of damage by sand to plumbing fixtures and industrial equipment and products, the tolerance for sand in water used for public supply, domestic and most industrial purposes is low and should not exceed 5 milligrams per liter. Many wells that are used for public water supply systems have an acceptable ratio of "no sand." The well owner should specify the acceptable limits of the "sand free" water with equal consideration given to the use of the water, the desired production rate, costs, and well development.

E. - F.3. ...

4. Disinfection of Wells. All new wells and existing wells in which repair work has been done shall be disinfected before being put into use, in accordance with Chapter XII of the State Sanitary Code (LAC 51:XII), if water is to be used for drinking, cooking or washing purposes. Negative bacteriological analysis of water, performed by the Louisiana Department of Health and Hospitals, Office of Public Health (LDHH-OPH) or by a laboratory certified by the state health officer, shall be required for all public supply and domestic water wells.

§335. Enforcement Actions

A. Provisions addressing enforcement of this Chapter appear in R.S. 38:3097.3, as follows.

A.1. - B. ...

C. The penalty provision for falsification of documents required under the provisions of this Part are therefore criminal in nature and will be enforced through the district attorney having jurisdiction where said violation occurs. It should also be noted that utilization of the United States Mail in the falsification of documents constitutes a violation of Title 18 of the United States Code (Mail Fraud), and such information will be referred to the appropriate United States attorney.

Chapter 5. Plugging and Sealing of Abandoned Water Wells and Holes

§501. Organization

A. ...

B. Repealed.

§505. General Rules and Regulations

A. ...

B. Accordingly, the rules, regulations and standards for plugging abandoned water wells and holes stated herein were prepared in response to this legislative directive and were developed in coordination with other state agencies that are also concerned with the protection of the water resources of the state. The regulations and standards are intended to provide for restoration, as nearly as possible, of those subsurface and surface conditions that existed prior to

drilling, boring, digging or augering activities; taking into account any changes that may have occurred as a result of "natural stresses."

§509. Exemptions

A. ...

B. Although the cited activities are not covered by R.S. 38:2094, they are not exempted or excepted by state law; therefore, persons, firms, corporations or others dealing with the cited activities should contact the appropriate regulating agencies for further information and should take any and all action necessary to protect the water resources of the state from contamination. The exclusion of these activities from these regulations does not in any way remove or establish legal liability for health and safety hazards, contamination, or pollution problems alleged to be caused by persons engaged in the activities cited in Subsection A of this Section.

§513. Variance Requests

A. Because of variable hydrologic conditions, differences in well construction, depth, and size, and the irregular occurrence of saltwater sands, the rules, regulations and standards stated herein cannot cover every possible situation. For cases where compliance with the rules, regulations, and standards stated in this chapter is impractical, the owner, engineer, or the waterwell contractor may request a variance and/or clarification on methods specified. Such requests shall be addressed to the department as follows:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-5562

§525. Availability of Water Well Data

A. The drilling and construction records for a water well or test hole may be obtained from the owner, from the water well contractor, and/or from the following:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-8244

B. ...

C. Information on monitoring wells may be obtained from the owner, the water well contractor, the engineer, the Department of Natural Resources, as listed above, and/or from the following agency:

Department of Environmental Quality
Galvez Bldg.
602 North Fifth Street
Baton Rouge, LA 70802

Chapter 7. Installing Control Devices on Free Flowing Water Wells

§701. Authorization

A. ...

B. Repealed.

§703. Purpose

A. The purpose of the rules and regulations, stated herein, is to conserve the ground water resources of the state by requiring that the owner install control devices on free flowing water wells (for glossary of terms, refer to §113.A of this Chapter) the owner shall install a flow control device on each free flowing water well in accordance with the rules and regulations stated in this Section.

§705. General Rules and Regulations

A. The rules and regulations, stated herein, apply to all free flowing water wells. A free flowing well is an artesian well which is allowed to flow, under natural conditions, at or above the land surface.

B. Exemptions. The following water wells are exempt from the provisions of this Chapter:

1. free flowing water wells in existence prior to January 1, 2012; however, wells reworked after January 1, 2012 shall not be exempt.

2. water wells producing saline water in connection with oil and gas production.

C. Repealed.

§707. Responsibility of the Owner

A. The owner shall be the party responsible for installing a flow control device on each free flowing water well.

B. The owner shall allow representatives of the department to enter the property and visit the well site to verify the installation of a control device, or inspect the completed work.

§709. Responsibility of the Department

A. Repealed.

B. Repealed.

C. ...

D. The department may enter into a financial cooperative agreement with the parish police jury or other governmental entity to have control devices installed on free flowing water wells.

E. ...

F. The department, upon receiving information on the existence of a free flowing water well, shall proceed as follows:

1. Repealed.

2. the department will issue an order to the owner to require the installation of a control device on the well within 90 calendar days from the date of the said order. When the installation of the control device is completed, the owner shall apprise the department, in writing, within 30 calendar days after completion of work.

Chapter 9. Installing Environmental Wells

A Chapter 9 will be added which will contain the latest version of the "Green Book".

James H. Welsh
Commissioner

1104#030

POTPOURRI

**Department of Natural Resources
Office of Conservation
Environmental Division**

Legal Notice—Docket No. ENV 2011-05

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, June 1, 2011, at the Arcadia Town Hall located at 1819 S. Railroad Avenue, Arcadia, Louisiana.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Apex Environmental Services, LLC, 9332 Bluebonnet Blvd., Baton Rouge, LA. The applicant requests approval from the Office of Conservation to construct and operate a commercial deep well injection waste disposal facility for disposal of exploration and production waste (E and P Waste) fluids located in Township 18 North, Range 08 West, Sections 11 and 14 in Bienville 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 Bienville Parish Police Jury or the Public Library in Arcadia, Louisiana 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, June 8, 2011, at the Baton Rouge office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket No. ENV 2011-05
Commercial Facility Well Application
Bienville Parish

James H. Welsh
Commissioner

1104#079

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 1 claim in the amount of \$2,419.00 were

received for payment during the period February 1, 2011-February 28, 2011

There were 1 paid and 0 denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2935.065 9143.909 Iberia

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

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 2 claims in the amount of \$8,206.18 were received for payment during the period March 1, 2011-March 31, 2011

There were 2 paid and 0 denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2944.153 8933.133 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

1104#077

POTPOURRI

**Workforce Commission
Office of Workforce Development**

Hearing Notice and Comment Period Revision
Labor and Employment—Apprenticeship Law
(LAC 40:IX.Chapters 1-5)

Revisions to Notice for Public Comments and Hearing, Previously Announced on March 20, 2011 Regarding LAC 40:IX.Chapters 1-5, Apprenticeship Law

Public Comments

Interested persons may submit written comments to Heather Stefan, Director of Apprenticeship, by the close of business on Tuesday, April 26, 2011, at Post Office 94094, Baton Rouge, LA 70804-9094.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 27, 2011 at 9:30 a.m. at the Louisiana Workforce Commission Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802. At that time all interested persons will be afforded an opportunity to submit data, views, arguments, information, or comments concerning the proposed Rule.

Heather Stefan
Director

1104#002

POTPOURRI

**Department of Revenue
Policy Services Division**

Advanced Notice of Proposed Rulemaking and Solicitation of Comments on Mandatory Electronic Filing of Corporate and Individual Income Tax Extensions and Extension Payments (LAC 61:III)

As part of the ongoing effort to maximize the operational efficiency and effectiveness of its Tax Collection Program, the Department of Revenue is hereby providing notice of its intention to proceed with rulemaking to implement mandatory electronic filing of certain extension requests and payments beginning with tax year 2011 with return and payment due dates in 2012.

The Department of Revenue, Office of Legal Affairs, Policy Services Division is requesting comments from industry, tax preparers and the public on the following enumerated issues regarding Mandatory Electronic Filing of Corporate and Individual Income Tax Extensions and Extension Payments:

- Implementation dates;
- Implementation for fiscal year filers;
- Phase-in of the mandatory requirements;
- Income and payment thresholds;
- Hardship and religious exceptions;
- Opt-out provisions;
- Telefile and IVR options;
- Filing needs of preparers with multiple clients;
- Filing needs of taxpayers with multiple accounts;
- Signature documents and preparer authorization for electronic extensions and payments;
- Penalties.

Written comments addressing these issues are due no later than 4:30 p.m., July 1, 2011, and should be submitted to Leonore Heavey, Policy Services Division, Office of Legal Affairs, Louisiana Department of Revenue, P.O. Box 44098 Baton Rouge, LA 70804-4098 or by Fax to (225) 219-2759. Persons commenting should reference this document as "Electronic Extensions and Payments."

Cynthia Bridges
Secretary

1104#122

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