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Executive Orders

EXECUTIVE ORDER BJ 09-18

Bond Allocation—Jefferson Parish Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits (hereafter "Ceiling");

(2) the procedure for obtaining an allocation of bonds under the Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Jefferson Parish Finance Authority has requested an allocation from the 2009 Ceiling to finance the purchase of certain qualifying mortgage loans, secured by mortgages made to qualified individuals for single family residences located within the Parish of Jefferson, Louisiana, through the purchase by the Trustee on behalf of the Authority of mortgage loans and/or mortgage-backed securities issued by FNMA, FHLMC or GNMA with respect to mortgage loans on owner-occupied residential immovable property owned by low and moderate income persons in the Parish of Jefferson to be originated by participating mortgage lenders and guaranteed as to timely payment of principal and interest by the mortgage-backed securities. The mortgage-backed securities will be pledged under the Indenture to the payment of principal and interest on the Bonds, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2009 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$30,000,000	Jefferson Parish Finance Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2009, provided that such bonds are delivered to the initial purchasers thereof on or before December 15, 2009.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of November, 2009.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0912#096

EXECUTIVE ORDER BJ 09-19

DOTD Guidelines for Vehicles, Trucks and Loads Which Haul Hay from Louisiana to Texas

WHEREAS, R.S. 32:387 sets forth the terms and conditions whereby vehicles hauling certain loads may be issued special permits by the Department of Transportation and Development if they are in excess of legal statutory size and weight limits;

WHEREAS, as a result of the continuing severe and extended drought conditions in areas of Texas, there is an ongoing necessity for oversize loads of hay to be expeditiously moved from Louisiana to Texas; and

WHEREAS, in order to provide such emergency assistance to Texas farmers, the State of Louisiana is willing to waive certain permits, fees, and other obligations normally incurred by transporters;

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

SECTION 1: The Department of Transportation and Development, the Department of Public Safety, and the Department of Revenue shall waive the following statutory requirements for the shipment of hay:

A. The following sizes and weights for vehicles transporting hay on highways maintained by the State of Louisiana shall comply with the following limitation:

1. All vehicles transporting round bales of hay shall be loaded and stacked side-by-side, across the trailer and shall not exceed twelve (12) feet in width and fourteen (14) feet in height without permits.

B. Permit fees are waived for all carriers while engaged in the transportation of hay to the victims of the drought in Texas.

C. The following requirements shall remain in effect:

1. All such vehicles must travel during daylight hours only, beginning at sunrise and ending at sunset.

2. All such vehicles must travel with the required signs and flags properly placed and indicating that they bear oversized loads.

3. Vehicles must be equipped with mirrors so that drivers are able to have a clear view of the highway at least 200 feet to the rear of the vehicle.

4. Loads must be securely bound to the transporting vehicles.

D. Carriers, owners and/or drivers of any vehicle being operated under this Order are responsible for verifying in advance that the actual dimensions and weights of the vehicles and loads are acceptable for all routes being traveled.

SECTION 2: Nothing in this Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and similar structures, or relieve any vehicle or carrier, owner or driver of any vehicle from compliance with any restrictions other than those specified, or from any

statute, rule, order or other legal requirement not specifically waived herein.

SECTION 3: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to assist and cooperate with implementing the provisions of this Order.

SECTION 4: This Order is effective upon signature and shall terminate on May 31, 2010, unless amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of November, 2009.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0912#097

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2711 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 for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that established a Mental Health Emergency Room Extension (MHERE) and entered into an agreement with the Office of Mental Health (*Louisiana Register*, Volume 34, Number 8). The department now proposes to amend the August 20, 2008 Rule to change the deadline for hospitals to sign an agreement to participate.

This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of emergency psychiatric services by increasing access to these services. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2009-2010.

Effective December 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-state acute care hospitals that establish a Mental Health Emergency Room Extension.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

A. Medicaid-enrolled non-state, acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and sign an addendum to the Provider Enrollment form (PE-50) by July 1, 2010 shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

A.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 34:1628 (August 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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 Jerry Phillips, 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.

Alan Levine
Secretary

0912#064

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home and Community-Based Services Waivers
Children's Choice—Family Training Services
(LAC 50:XXI.11303 and 12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.11303 and §12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 the provisions governing the Children's Choice Waiver for codification in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 28, Number 9). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions governing the Children's Choice Waiver to clarify the family training service description and the components of this service that qualify for Medicaid payment (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2009 Emergency Rule. This action is being taken to assure that service definitions in the Children's Choice Waiver meet the federal guidelines set forth by the Centers for Medicare and Medicaid Services (CMS).

Effective January 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends

the provisions governing family training services covered under the Children's Choice Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children's Choice

Chapter 113. Service

§11303. Service Definitions

A. - D.5. ...

E. Family training consists of formal instruction offered through training and education designed to assist the families of Children's Choice Waiver (CCW) participants in meeting the needs of their children.

1. The training must be conducted by professional organizations or practitioners and offer formal instruction that is relevant to the waiver participant's needs as identified in the plan of care.

2. Family training must be prior approved by the Bureau of Health Services Financing or its designee, the Office for Citizens with Developmental Disabilities, and incorporated into the approved plan of care.

3. For purposes of this service only, "family" is defined as unpaid persons who live with or provide care to the waiver participant, and may include a parent, stepparent, grandparent, sibling, legal guardian or foster family.

4. Payment for family training services includes coverage of registration and training fees associated with formal instruction in areas relevant to the participant's needs as identified in the plan of care. Payment is not available for the costs of travel, meals and overnight lodging to attend a training event or conference.

F. - F.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 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:

§12101. Reimbursement Methodology

A. - B.1. ...

2. Family training shall be reimbursed at cost.

3. - 4.j.iv. ...

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 35:

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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#069

DECLARATION OF EMERGENCY

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 amends 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 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at 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, 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 and to avoid a budget deficit in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to reduce the reimbursement rates paid for certain services (*Louisiana Register*, Volume 35 Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which further reduced the reimbursement rates paid for NOW services (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the August 4, 2009 Emergency Rule to clarify the provisions governing the rate reduction for individualized and family support services (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to amend the

provisions of the September 1, 2009 Emergency Rule in order to revise the formatting of LAC 50:XXI.14301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for the New Opportunities Waiver. This action is being taken to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective December 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions of the September 1, 2009 Emergency Rule governing the reimbursement methodology for the New Opportunities Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community
Based Services Waivers
Subpart 11. New Opportunities Waiver
Chapter 143. Reimbursement
§14301. Reimbursement Methodology

A. - G.2.e. ...

H. Effective for dates of service on or after August 4, 2009, the reimbursement rates for certain services provided in the NOW Waiver shall be reduced.

1. The reimbursement rates for individualized and family support (IFS) services shall be reduced by 3.11 percent of the rates in effect on August 3, 2009.

a. Repealed.

2. The reimbursement rates for residential habilitation-supported independent living (SIL) services shall be reduced by 10.5 percent of the rates in effect on August 3, 2009.

I. Effective for dates of service on or after September 1, 2009, IFS-Night services and shared IFS services shall be excluded from the 3.11 percent 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 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:

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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home Health Program—Durable Medical Equipment
Reimbursement Reduction (LAC 50:XIII.10301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.10301 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 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at 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, 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 and to avoid a budget deficit in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates and to repromulgate the general provisions governing the reimbursement methodology, in its entirety, in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule which further reduced the reimbursement rates paid for medical equipment, supplies and appliances (*Louisiana Register*, Volume 35, Number 5).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions in state fiscal year 2010. The department determined that it was necessary to repeal the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and amended the reimbursement methodology for durable medical equipment, supplies and appliances to adjust the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction

(*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to amend the provisions of the September 1, 2009 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances under the Home Health Program. This action is being taken to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective December 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the September 1, 2009 Emergency Rule governing the reimbursement methodology for medical equipment, supplies and appliances under the Home Health Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 103. Reimbursement Methodology

§10301. General Provisions

A. – C.4. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 4 percent of the rates on file as of August 3, 2009.

1. The following medical equipment, supplies and appliances are excluded from the rate reduction:

- a. enteral therapy pumps and related supplies;
- b. intravenous therapy and administrative supplies;
- c. apnea monitor and accessories;
- d. nebulizers;
- e. hearing aids and related supplies;
- f. respiratory care (other than ventilators and oxygen);
- g. tracheostomy and suction equipment and related supplies;
- h. ventilator equipment;
- i. oxygen equipment and related supplies;
- j. vagus nerve stimulator and related supplies; and
- k. augmentative and alternative communication devices.

2. Effective for dates of service on or after September 1, 2009, medical equipment, supplies and appliances provided to recipients under the age of 21 are exempt from the 4 percent rate reduction implemented on August 4, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), amended LR 36:

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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Hospital Licensing Standards—Crisis Receiving Centers
(LAC 48:I.9303 and Chapter 96)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9303 and to adopt LAC 48:I.Chapter 96 as authorized by R.S. 36:254 and 40:2100-2115. 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 promulgated a Rule that established new regulations governing the licensing of hospitals (*Louisiana Register*, Volume 29, Number 11). This Emergency Rule is being promulgated to amend the provisions of the November 20, 2003 Rule governing hospital licensing standards to establish provisions for crisis receiving centers. Crisis receiving centers are specialty units of a hospital that provide health care services to individuals who are experiencing a behavioral health crisis.

This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who rely on skilled clinical interventions during behavioral health crisis. It is anticipated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2009-2010.

Effective December 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing hospital licensing standards to establish provisions for crisis receiving centers.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9303. Definitions

A. The following definitions of selected terminology are used in connection with these hospital licensing standards:

* * *

Crisis Receiving Center—a specialty unit of a hospital that shall receive, examine, triage, refer or treat an individual who is experiencing a behavioral health crisis.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 96. Hospitals—Crisis Receiving Centers

Subchapter A. General Provisions

§9601. Introduction

A. A crisis receiving center is a specialty unit of a hospital that provides health care services to individuals who are experiencing a behavioral health crisis.

B. Crisis receiving centers shall receive, examine, triage, refer or treat individuals that present to the unit and are in need of assistance with a behavioral health crisis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9603. Licensure Requirements

A. All crisis receiving center specialty units must be licensed by the department and shall comply with the provisions of §9333 of these hospital licensing standards.

B. A crisis receiving center specialty unit (CRC-SU) shall have approval from the Office of Mental Health (OMH) and/or the human service district before applying to become licensed as part of the hospital.

C. Prior to securing licensure and operating the CRC-SU, the hospital shall submit architectural plans of the CRC-SU to the department's Division of Engineering for approval.

D. A CRC-SU shall not operate until it has been licensed by the Health Standards Section (HSS) as a specialty unit of the hospital. No retroactive licenses shall be granted.

E. A CRC-SU shall be located in a designated area of the hospital or offsite campus of the hospital. The CRC-SU shall not relocate to another location, even within the hospital, without prior written approval from HSS.

F. If the CRC-SU is located at the main campus of the hospital, the hospital shall have a dedicated emergency department which shall comply with all Emergency Medical Treatment and Active Labor Act (EMTALA) regulations.

G. If the CRC-SU is located at an offsite campus, the CRC-SU shall be considered a dedicated emergency department. The CRC-SU shall comply with all EMTALA regulations if the unit meets one of the following criteria:

1. the entity is licensed by the state as an emergency department;
2. holds itself out to the public as providing emergency care; or
3. during the preceding calendar year, the entity provided at least one-third of its outpatient visits for the treatment of emergency medical conditions.

H. The following levels of a CRC-SU may be licensed as an optional service of the hospital:

1. Level I CRC-SU; and
2. Level II CRC-SU.

I. A CRC-SU shall comply with:

1. Office of Public Health (OPH) regulations;
2. Office of State Fire Marshal regulations; and
3. the physical plant requirements of this Chapter.

J. The CRC-SU shall develop and implement policies and procedures regarding the segregation of child and adolescent patients from adult patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9605. Licensing Process

A. The hospital shall submit the following items to the department in order to add a CRC-SU to its existing license:

1. a licensing application on the department's designated form;
2. the appropriate licensing fee, if applicable;
3. a copy of the prerequisite approval from OMH and/or the appropriate human service district; and
4. other documentation as required by the department, including a current Office of Public Health (OPH)/Sanitation approval, Division of Engineering approval and Office of State Fire Marshal approval for occupancy.

B. Following receipt of the completed licensing application, the department shall conduct an on-site survey and inspection to determine compliance with the licensing laws, regulations, and standards.

1. For a Level I CRC-SU, the department may, in its sole discretion, allow a verified attestation by the licensed hospital to substitute for an on-site survey and inspection.

C. If the on-site inspection determines that the hospital is compliant with the requirements and licensing standards for a CRC-SU, the department shall issue the hospital a sub-license/certificate indicating that the CRC-SU is licensed as a specialty unit of the hospital.

1. The sub-license/certificate shall designate the level of the CRC-SU and the number of beds licensed in the CRC-SU.

2. The sub-license/certificate shall be posted in a conspicuous place in the designated CRC-SU.

D. A hospital shall not operate a CRC-SU at a level higher than what has been licensed and designated by the department on the sub-license/certificate.

E. The expiration date of the sub-license/certificate shall coincide with the expiration date of the hospital license. The CRC-SU sub-license/certificate shall be renewed at the time the hospital's license is renewed. The licensing agency may perform an on-site survey and inspection for an annual renewal.

F. The sub-license/certificate shall be valid only for the designated geographical location and shall be issued only for the person/premises named in the application. The geographical location of the CRC-SU shall not be moved, changed, or relocated without notification to HSS, approval by HSS, and the re-issuance of the sub-license/certificate.

G. The sub-license/certificate shall not be transferable or assignable. If the hospital undergoes a change of ownership, the new owning entity shall obtain written consent from OMH and/or the appropriate human service district, and shall submit a new license application to the department for the CRC-SU.

H. The department may conduct on-site surveys and inspections at the CRC-SU as necessary to ensure compliance with these licensing standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9607. Discharges, Referrals or Transfers

A. Patients that are discharged home from the CRC-SU shall be given verbal and written discharge instructions and any referral information regarding follow-up care and treatment.

B. If it is deemed necessary that the patient be admitted for inpatient behavioral health services, the CRC-SU shall provide an appropriate and immediate mechanism for transporting the individual to such inpatient facility. Copies of pertinent patient information shall be transferred to the treating facility.

C. The CRC-SU shall establish and implement a standard method of follow-up to ensure that the patient has been received and engaged in the referred service(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9609. Training Requirements

A. A CRC-SU shall ensure that all staff providing direct patient care has documentation of crisis services and intervention training in accordance with this Chapter.

B. Crisis services and intervention training shall include, but is not limited to the following:

1. an organized training program that includes an initial 40 hours of training to be completed upon hire and a minimum of 12 hours of training to be completed annually thereafter. Required training includes, but is not limited to the following areas:

- a. components of the crisis cycle;
- b. recognizing the signs of anxiety and escalating behavior;
- c. therapeutic communication;
- d. high-risk behavior assessment techniques;
- e. verbal de-escalation techniques;
- f. positive behavior management and limit-setting;
- g. nonviolent physical intervention techniques;
- h. establishing a therapeutic rapport and professional boundaries;
- i. levels of observation;
- j. maintaining a safe and therapeutic milieu;
- k. an overview of mental illness and substance abuse;
- l. safe application of physical and mechanical restraints;
- m. physical assessment of the restrained individual;
- n. statutes, regulations, standards and policies related to seclusion and restraint;
- o. confidentiality and Health Insurance Portability and Accountability Act (HIPPA) regulations; and
- p. an overview of behavioral health settings and levels of care.

C. All formal training shall be provided by qualified behavioral health personnel with extensive experience in the field in which they provide training. Nonviolent physical interventions shall be taught by a trainer with documented current certification by a nationally established crisis intervention program (e.g. Crisis Prevention and Intervention, Tactical Crisis Intervention, Crisis Intervention Training, etc.).

D. In addition to the initial 40 hour crisis services and intervention training, nurses shall receive 24 hours of training focused on psychotropic medications, their side effects and adverse reactions as part of their initial training. At least four hours of nurses' annual training shall focus on psychopharmacology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter B. Level I Crisis Receiving Centers

§9615. General Provisions

A. A Level I CRC-SU shall operate 24 hours per day, seven days per week.

B. The length of a patient stay for a Level I CRC-SU shall not exceed 24 hours.

C. Services required of a Level I CRC-SU include, but are not limited to:

1. 24-hour telephone hotline;
2. triage and screening services;
3. assessment services;
4. intervention and stabilization; and
5. linking and referral services.

D. The Level I CRC-SU shall develop and implement policies and procedures for instituting an increased level of supervision for patients at risk for suicide and other self injurious behaviors.

E. The CRC-SU Level I shall comply with the provisions of the state Mental Health Law regarding the execution of emergency certificates pursuant to R.S. 28:53, or a successor law.

F. The CRC-SU shall maintain a policy manual that outlines the procedures to access CRC services and procedures for managing voluntary and involuntary commitments with specific focus on ensuring the patient's civil rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9617. Level I Services

A. 24-Hour Telephone Hotline

1. A Level I CRC-SU shall either maintain a telephone hotline that operates 24 hours per day, seven days per week or enter into a formal cooperative agreement with an existing 24-hour hotline as specified in the region's crisis response systems plan.

2. The hotline shall be staffed at all times by trained crisis workers.

a. A trained crisis worker is one who is:

- i. trained in the assessment and management of crisis phone calls;
- ii. able to assess the priority of the call; and
- iii. able to provide interventions that are appropriate to the level of acuity of the caller.

b. The trained crisis worker shall have resource data available whenever calls are answered in order to facilitate crisis intervention.

c. The trained crisis worker shall have the ability to provide active intervention (i.e. contacting emergency medical services, police, fire department, etc.) in life-threatening situations.

3. The CRC-SU shall have written procedures for handling crisis calls.

4. The telephone settings shall be set up so as to protect the confidentiality of callers.

5. The CRC-SU shall have well written procedures to expand the facility's capacity to handle multiple calls coming into the CRC-SU simultaneously.

B. Triage and Screening

1. The Level I CRC-SU shall conduct a triage/screening of each individual who applies for crisis assistance or is under an order for involuntary examination.

2. The triage/screening shall be available 24 hours per day and shall be conducted within 15 minutes of the individual presenting to the unit. The CRC-SU shall have procedures to prioritize imminently dangerous patients and to differentiate between medical emergencies and behavioral health emergencies.

3. Until a patient receives triage/screening, he or she shall wait in a location with restricted access and egress with constant staff observation and monitoring.

4. The triage/screening shall include:

a. an evaluation of the existence of a medical emergency;

b. an evaluation of imminent threat of harm to self or others;

c. an evaluation for the presence or absence of cognitive signs suggesting delirium or dementia;

d. an evaluation of the need for an immediate full assessment;

e. an evaluation of the need for an emergency intervention; and

f. a medical screening including at a minimum, vital signs and a medical history, whenever possible.

5. The triage/screening shall be conducted by licensed professionals in the medical or behavioral health fields that have the training and experience to screen individuals for both behavioral and medical emergent needs in accordance with the scope of practice of their licensed discipline.

6. When emergency medical services are not available onsite at the Level I CRC-SU, the staff shall be prepared to render first-responder healthcare (basic cardiac life support, first aid, etc.) at all times. A CRC-SU shall also ensure that access to emergency transportation services to the nearest emergency department is available.

7. A Level I CRC-SU shall have procedures in place to ensure that based on the triage/screening, patients are prioritized for further assessment and services according to their risk level, or they are referred to other resources for care.

C. Assessments

1. After the triage/screening is completed, patients who have not been referred to other resources shall receive a full assessment.

2. Assessments shall be conducted based on the priority level determined by the triage/screening. Every patient under the age of 18 shall be assessed by staff with appropriate training and experience in the assessment and treatment of children and adolescents in a crisis setting.

3. The assessment shall be initiated within two hours of the triage/screening evaluation and shall include:

a. a full behavioral health assessment;

b. a physical health assessment; and

c. an assessment for possible abuse and/or neglect.

4. A full behavioral health assessment shall include:

a. patient interviews by board certified/eligible psychiatrist(s)/trained in emergency psychiatric assessment and treatment;

b. a review of the medical and psychiatric records of current and past diagnoses, treatments, medications and dose response, side-effects and compliance;

c. contact with current mental health providers whenever possible;

d. a psychiatric diagnostic assessment;

e. identification of social, environmental, and cultural factors that may be contributing to the crisis;

f. an assessment of the patient's ability and willingness to cooperate with treatment;

g. a general medical history that addresses conditions that may affect the patient's current state (including a review of symptoms) and is focused on conditions that may present with psychiatric symptoms or that may cause cognitive impairment, e.g., a history of recent physical trauma; and

h. a detailed assessment of substance use, abuse/and misuse.

5. All individuals shall see a psychiatrist within eight hours of the triage/screening. The board certified/eligible psychiatrist shall formulate a preliminary psychiatric diagnosis based on review of the assessment data collected.

6. A physical health assessment shall be conducted by a licensed physician, nurse practitioner, or physician's assistant and shall include the following:

a. vital signs;

b. a cognitive exam that screens for significant cognitive or neuropsychiatric impairment;

c. a neurological screening exam that is adequate to rule out significant acute pathology;

d. medical history and review of symptoms;

e. pregnancy test in all fertile women;

f. urine toxicology evaluation;

g. blood levels of psychiatric medications that have established therapeutic or toxic ranges; and

h. other testing or exams as appropriate and indicated.

7. An assessment for possible abuse and neglect shall be conducted (at the minimum) by a crisis worker trained in how to conduct an assessment to determine abuse and neglect. The CRC-SU must ensure that every patient is assessed for sexual, physical, emotional, and verbal abuse and/or neglect.

D. Brief Intervention and Stabilization

1. If an assessment reveals that immediate stabilization services are required, the Level I CRC-SU shall provide behavioral health interventions and stabilization which may include the use of psychotropic medications which can be administered and benefits generally realized within a 24-hour period.

2. Following behavioral health interventions and stabilization measures, the Level I CRC-SU shall assess the patient to determine if referral to community based behavioral health services is appropriate; or a higher level of care is required.

E. Linking/Referral Services

1. If an assessment reveals a need for emergency or continuing care for a patient, the Level I CRC-SU shall make arrangements to place the patient into the appropriate higher level of care. Patients in a Level I CRC-SU shall be transitioned out of the Level I CRC-SU within 24 hours.

2. If the assessment reveals no need for a higher level of care, the Level I CRC-SU shall provide:

a. referrals to appropriate community-based behavioral health services for individuals with developmental disabilities, addiction disorders, and mental health issues; and

b. brief behavioral health interventions to stabilize the crises until referrals to appropriate community-based behavioral health services are established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9619. Staffing Requirements

A. A Level I CRC-SU shall be under the direction of a qualified member of the medical staff of the hospital.

B. A Level I CRC-SU shall have the following staff on duty at all times:

1. a registered nurse in charge of the unit who meets the following criteria:

a. currently licensed in Louisiana and in good standing;

b. has one year of experience in the field of behavioral health; and

c. has documented crisis services and intervention training in accordance with the provisions of this Chapter; and

2. at least one additional worker with documented crisis services and intervention training.

C. A Level I CRC-SU shall have the following staff on call at all times and available to be onsite at the CRC-SU within one hour:

1. a behavioral health counselor who meets the following criteria:

a. has a master's degree in psychology, social work or counseling;

b. has one year of experience in the field of behavioral health; and

c. has documented crisis services and intervention training in accordance with this Chapter;

2. a licensed practical nurse (LPN) or RN who meets the following criteria:

a. currently licensed in Louisiana and in good standing;

b. has one year of experience in the field of behavioral health; and

c. has documented crisis services and intervention training in accordance with this Chapter.

D. A psychiatrist shall be on call at all times to fulfill these licensing requirements and to meet the needs of the patient(s).

E. A Level I CRC-SU shall have sufficient numbers and types of qualified staff on duty and available at all times to provide necessary care and safety, based on the acuity of the patients, the mix of the patients present in the Level I CRC-SU, and the need for extraordinary levels of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9621. Physical Environment

A. A Level I CRC-SU shall be located in an exterior area of the hospital which is easily accessible to patients seeking CRC-SU services. Patients shall not be required to go through other areas of the hospital to get to a Level I CRC-SU. The CRC-SU may share an entrance with an emergency department.

1. A Level I CRC-SU may also be located in a licensed offsite location of the hospital.

B. The CRC-SU shall give special design considerations to prevent injury and suicide in all patient care areas.

C. The layout, design details, equipment, and furnishings shall be such that patients shall be under continuous visual observation at all times and shall not be afforded opportunities for hiding, escape or injury to themselves or others.

D. Interior finishes, lighting, and furnishings shall suggest a residential, rather than institutional setting, while conforming to applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

E. Grab bars, if provided, must meet the following specifications:

1. of an institutional type;

2. shall not rotate within their fittings;

3. must be securely fastened with tamper-proof screw heads;

4. shall be free of any sharp or abrasive elements; and

5. if mounted adjacent to a wall, the space between the wall and the grab bar shall be one and one-half inches.

F. Towel racks, closet and shower curtain rods, if provided, must be the breakaway type.

G. Plastic bags and trash can liners shall not be used in patient care areas.

H. Electrical receptacles shall be of the safety type or protected by 5 milli ampere ground-fault-interrupters.

I. A Level I CRC-SU shall have at least two rooms that afford privacy for the triage/screening and/or assessment of individuals presenting to the unit. Rooms for triage/screening, and/or assessment shall have:

1. a minimum area of 120 square feet and shall be located within the CRC-SU unit; and

2. doors to these rooms shall swing outward or be double hinged.

J. A Level I CRC-SU shall have at least one designated area for the holding and monitoring of patients who are in the process of being triaged/screened, assessed and awaiting referral.

K. A Level I CRC-SU shall have at least one seclusion room. The seclusion room shall be intended for the short-term occupancy by violent or suicidal patients and provide an area for patients requiring security and protection. The seclusion room shall:

1. enable direct staff supervision of the patient by direct visualization or through the use of electronic monitoring;

a. if electronic monitoring equipment is used, it shall be connected to the hospitals' emergency electrical source;

2. be designated for single occupancy and contain at least 80 square feet;
3. be constructed to prevent patient hiding, escape, injury or suicide;
4. contain a restraint bed;
5. have a minimum ceiling height of 9 feet;
6. have ceiling construction that is monolithic or tamper proof;
7. be located in close proximity to a toilet room;
8. not contain protruding edges or corners;
9. have doors that:
 - a. are 3 feet, 8 inches wide;
 - b. swing out; and
 - c. permit staff observation of the patient while also maintaining provisions for patient privacy; and
10. not have electrical switches and receptacles.

L. There shall be a locked storage area to secure a patient's personal items and to secure contraband.

1. The CRC-SU shall have policies and procedures for the handling of such items.

2. The locked storage area shall be accessible only to authorized personnel.

M. The CRC-SU shall have a minimum of two single-use toilet rooms accessible to patients and at least one toilet room for CRC-SU staff.

1. All toilet rooms shall contain a toilet and a lavatory.
2. All plumbing and piping connections to fixtures shall be enclosed and not accessible to tampering by patients.

3. The doors on the toilet rooms shall swing out or be double hinged.

4. If mirrors are located in the toilet rooms, they shall be fabricated with laminated safety glass or protected by polycarbonate laminate or safety screens.

5. Bathroom/toilet room hardware and accessories shall be of special design to give consideration to the prevention of injury and suicide.

N. The CRC-SU shall have at least one single-use shower facility for the use of patients within the confines of the CRC-SU.

1. Shower sprinkler heads shall be recessed or of a design to minimize patient tampering.

O. All windows in the CRC-SU shall be fabricated with laminated safety glass or protected by polycarbonate laminate or safety screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter C. Level II Crisis Receiving Centers

§9631. General Provisions

A. A Level II CRC-SU is an intermediate level of care unit that provides for:

1. an increased opportunity for observation;
2. improved diagnostic accuracy;
3. brief interventions;
4. psychotropic medications;
5. the ability to denote response to intervention; and
6. an appropriate referral for extended services as necessary.

B. The goal of a Level II CRC-SU is to stabilize the patient and prevent the need for admission to a higher level of psychiatric care.

C. A Level II CRC-SU shall meet all of the requirements of a Level I CRC-SU and shall operate 24 hours per day, seven days per week.

D. The length of a patient stay at a Level II CRC-SU shall not exceed 72 hours.

E. The Level II CRC-SU shall be located adjacent to the Level I CRC-SU.

F. The beds in a Level II CRC-SU shall not be licensed as hospital beds and shall not be counted in the aggregate number of licensed hospital beds.

G. A Level II CRC-SU shall not be included, considered or certified as a portion or part of a distinct part psychiatric unit.

H. Patients may be directly admitted to a Level II CRC-SU from:

1. a Level I CRC-SU after the triage/screening and assessment has been completed;

2. an emergency department of a hospital, provided that the patient has undergone an emergency medical screening; or

3. an outpatient setting, provided that the outpatient setting has within the previous 24-hour period completed a triage/screening and assessment that meets the established criteria under the Level I CRC-SU provisions of this Chapter;

NOTE: If the required components of triage/screening and/or assessment have not been completed by the transferring hospital or outpatient setting, then immediately upon entry, the Level II CRC-SU shall conduct the additional components of the assessment prior to admitting the patient.

I. The Level II CRC-SU shall develop and implement policies and procedures for the use of psychotropic medications and pharmacy services.

J. The Level II CRC-SU shall develop and implement policies and procedures to utilize behavior management and therapeutic interventions to stabilize the behavioral health crisis in the least restrictive manner.

K. The Level II CRC-SU shall develop and implement policies and procedures on seclusion and restraint in accordance with federal requirements. All staff shall be trained on seclusion and restraint policies and procedures, and shall utilize the least restrictive method.

1. Policies shall include procedures and performance improvement measures to minimize the use of seclusion and restraints.

L. The Level II CRC-SU shall develop and implement policies and procedures for instituting an increased level of supervision for patients at risk for suicide and other self injurious behaviors.

M. When a Level II CRC-SU receives a patient with a properly executed emergency certificate, the CRC-SU shall immediately notify the coroner's office.

1. If an emergency certificate is issued by appropriately licensed personnel of the CRC-SU, the CRC-SU shall immediately notify the coroner's office or physician as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9633. Level II Services

A. In addition to the services required in §9617 of this Chapter, the Level II CRC-SU must provide the following services.

1. A Level II CRC-SU shall provide continuous observation of the patient in order to determine the following:

- a. adherence to the initial service plan;
- b. response to medications;
- c. response to therapeutic interventions; and
- d. evidence of deterioration or stabilization of behaviors.

2. The Level II CRC-SU shall assure access to necessary medical supports and services in order to stabilize acute medical conditions.

3. The Level II CRC-SU shall provide therapeutic milieu that encompasses:

- a. a calming physical environment;
- b. staff members knowledgeable of therapeutic communication; and
- c. an atmosphere conducive to enhancing the mental health of the patients being served.

4. The Level II CRC-SU shall conduct a psychosocial assessment on each patient within 24 hours of admission. This assessment shall be conducted by a:

- a. behavioral health counselor who has:
 - i. a master's degree in psychology, social work or counseling;
 - ii. one year of experience in the field of behavioral health; and
 - iii. training in crisis services and intervention.

5. The Level II CRC-SU shall develop an initial service plan for each patient admitted based on their individual needs that includes, but is not limited to the following:

- a. continued reassessments;
- b. brief behavioral health interventions;
- c. family or support system involvement;
- d. substance abuse treatment and relapse prevention, as indicated;
- e. peer support services;
- f. psychotropic medications; and
- g. discharge planning and referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9635. Staffing Requirements

A. A Level II CRC-SU shall meet all of the staffing requirements of the Level I CRC-SU in addition to the following requirements.

1. A Level II CRC-SU shall have an RN in charge of the unit at all times. This RN may be the same nurse in charge of the Level I CRC-SU, providing he/she is not assigned to provide patient care to patients in the Level II CRC-SU.

2. The Level II CRC-SU shall have sufficient numbers and types of qualified staff on duty and available at all times to provide necessary care, services, treatment and safety, based on the acuity of the patients, the mix of the patients present in the CRC-SU, and the need for extraordinary levels of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§9637. Physical Environment

A. A Level II CRC-SU shall meet the physical requirements of a Level I CRC-SU unless otherwise specified herein.

B. A Level II-CRC-SU may be located in an interior area of the hospital provided that it is immediately adjacent to the Level I CRC-SU.

1. A Level II CRC-SU may be located in a licensed offsite location of the hospital.

C. A Level II CRC-SU shall not be required to have the triage/screening rooms within the area of the Level II CRC-SU.

D. The Level II CRC-SU shall have patient rooms that meet the following requirements:

1. single occupancy rooms;
2. minimum of 100 square feet of space;
3. monolithic or tamper-proof ceilings;
4. have closet or storage space for personal belongings; and
5. electrical receptacles shall be of the safety type or protected by 5 milli ampere ground-fault-interrupters; and
6. doors that swing outward or are double hinged.

E. Electric patient beds shall not be used.

F. An electronic nurse call system is not required, but if it is included, provisions shall be made for easy removal and for covering call button outlets. The CRC-SU shall have policies and procedures to address calls where no electronic system is in place.

G. Bathrooms

1. The Level II CRC-SU shall have a minimum of two toilet rooms that contain all of the following:

- a. toilet;
- b. shower; and
- c. lavatory;

i. if the lavatory is in the patient room and not contained within the bathroom, the lavatory shall be adjacent to the bathroom.

2. If the Level II CRC-SU has more than 12 patient beds, there shall be one additional bathroom for each additional four beds.

3. The bathrooms shall be outfitted as follows.

a. All plumbing and piping connections to fixtures shall be enclosed and not accessible to tampering by patients.

b. The doors on the toilet rooms shall swing out or be double hinged.

c. If mirrors are located in the toilet rooms, they shall be fabricated with laminated safety glass or protected by polycarbonate laminate, or safety screens.

d. Bathroom/toilet room hardware and accessories shall be of special design to give consideration to the prevention of injury and suicide.

4. Shower sprinkler heads shall be recessed or of a design to minimize patient tampering.

H. The Level II CRC-SU shall have a toilet room and a break room designated for staff use.

I. Separate and apart from the seclusion room required in a Level I CRC-SU, the Level II CRC-SU shall have a minimum of one seclusion room for every 12 beds.

1. The seclusion room in the Level II CRC-SU shall meet the same requirements specified for the seclusion room in the Level I CRC-SU.

2. The patient rooms in the Level II CRC-SU may be used as seclusion rooms provided they meet the same requirements as specified for the seclusion room in the Level I CRC-SU.

J. The Level II CRC-SU shall have separate consultation room(s) with a minimum floor space of 100 square feet each, provided at a room-to-bed ratio of one consultation room for each 12 beds. Consultation rooms within the unit shall be used for interviews with the patient and/or their families. The room shall be designed for acoustical and visual privacy.

K. The Level II CRC-SU shall have a room with a minimum of 225 square feet for group therapy, treatment team planning and conferencing.

L. The Level II CRC-SU shall have a room within the unit with a minimum of 120 square feet for examination and treatment of patients.

M. The Level II CRC-SU shall have an area for accommodation of charting, storage of records, and the storage and preparation of medications. Provisions shall be made for securing patient records and medications in this area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0912#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Children’s Specialty Hospitals
(LAC 50:V.909 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.909 and §967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals and implemented

prospective per diem rates for various hospital peer groups (*Louisiana Register*, Volume 20, Number 6). Separate peer group payment rates were established for certain specialty hospital services rendered in the general acute care setting. Children’s hospitals were categorized as a specialty hospital within the acute care general hospital peer group.

The department promulgated an Emergency Rule to amend the June 1994 Rule governing inpatient hospital services to revise the reimbursement methodology for children’s specialty hospitals (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule. This action is necessary to promote the health and welfare of children who are in critical need of inpatient specialty services.

Effective December 31, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by children’s specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§909. Children’s Specialty Hospitals

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter B. Reimbursement Methodology

§967. Children’s Specialty Hospitals

A. Routine Pediatric Inpatient Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

B. Inpatient Psychiatric Services. These services shall be paid at the lesser of cost or the target rate per discharge

ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by CMS beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants. Payment shall be the lesser of costs or the per diem limitation for each specialty service or type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each specialty or type of transplant per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each specialty or type of transplant multiplied times the per diem limitation for the period.

D. Children's specialty hospitals shall not be eligible for outlier payments after September 1, 2009.

1. Outlier payments made in SFY 2010 in excess of \$12,798,000 shall be considered as an interim payment in the determination of the cost settlement.

E. These provisions shall not preclude children's specialty hospitals from participation in the Medicaid Program under the high Medicaid or graduate medical education supplemental payment provisions.

1. All Medicaid supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Implementation of the provisions of this Emergency 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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Methodology (LAC 50:V.953)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend 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 rendered by non-rural, non-state hospitals to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). Provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department has now determined that it is necessary to amend the October 20, 2009 Rule to repeal the children's specialty hospital provisions from the rate adjustment for acute care hospitals. This action is being taken to promote the health and welfare of Medicaid recipients who rely on the services provided by acute care hospitals. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2009-2010.

Effective December 20, 2009, 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 acute care 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. - G.3. ...

H. Neonatal Intensive Care Units (NICU).

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU).

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

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), LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 35:

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 Jerry Phillips, 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.

Alan Levine
Secretary

0912#068

DECLARATION OF EMERGENCY

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICF/DD) to implement a wage enhancement payment for direct care staff employed with the facility

(Louisiana Register, Volume 33, Number 10). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the per diem rate paid to non-state ICF/DDs (Louisiana Register, Volume 35, Number 2). The bureau also reduced the rate paid to ICF/DDs for leave of absence days (Louisiana Register, Volume 35, Number 9).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions. As a result of the allocation of these funds, the department amended the provisions governing the reimbursement methodology for ICF/DDs to increase the per diem rates (Louisiana Register, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients and to insure continued provider participation in the Medicaid Program.

Effective December 31, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities to increase the reimbursement rates.

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. - I.2.a. ...

J. Effective for dates of service on or after September 1, 2009, the reimbursement rate for non-state intermediate care facilities for persons with developmental disabilities shall be increased by 1.59 percent of the per diem rate on file as of August 31, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0912#071

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 proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at 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, 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 emergency and non-emergency ambulance transportation services to increase the reimbursement for ground mileage and ancillary services (*Louisiana Register*, Volume 34, Number 5) and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code*. The bureau amended the provisions governing the reimbursement methodology for emergency medical transportation to increase the reimbursement rates for rotor winged aircraft emergency transportation services and repromulgated the existing Rule in its entirety for the purpose of adopting the provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 1).

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing reimbursement for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 5).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions in state fiscal year 2010. The department determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and amended the reimbursement methodology for emergency medical transportation services to reduce the reimbursement for

disposable and routine supplies (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the August 4, 2009 Emergency Rule to clarify the reimbursement methodology for aircraft transportation (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2009 Emergency Rule. This action is necessary to promote the health and welfare of participants by assuring continued access to emergency medical transportation services through ongoing participation of providers.

Effective January 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation 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. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following supplies shall be reduced by 36 percent of the rate on file as of August 3, 2009:

1. advanced life support special service disposable intravenous supplies; and

2. advanced life support routine disposable supplies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - D. ...

E. - E.2. 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 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facility Minimum Licensing Standards Emergency Preparedness Electronic Reporting Requirements (LAC 48:I.9729)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9729 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2009.2–2009.11. 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 emergency preparedness requirements for nursing facilities to allow a licensed nursing facility to inactivate its license for a period of time due to a declared disaster or other emergency situation (*Louisiana Register*, Volume 35, Number 2). The department amended the February 20, 2009 Rule to establish provisions requiring all nursing facilities licensed in Louisiana to file electronic reports of their operational status during declared disasters or other emergency situations (*Louisiana Register*, Volume 35, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2009 Emergency Rule. This action is being taken to prevent imminent peril, during and immediately after declared disasters or other emergencies, to the health and well-being of Louisiana citizens who depend on nursing facility services.

Effective January 2, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing emergency preparedness for all nursing facilities licensed in Louisiana.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Facilities

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. - B.3. ...

4. Effective immediately, upon declaration by the secretary and notification to the Louisiana Nursing Home Association and Gulf States Association of Homes and Services for the Aging, all nursing facilities licensed in Louisiana shall file an electronic report with the HSS emergency preparedness webpage/operating system, or a successor operation system, during a declared disaster or other public health emergency.

a. The electronic report will enable the department to monitor the status of nursing facilities during and immediately following an emergency event.

b. The electronic report shall be filed twice daily at 7:30 a.m. and 2:30 p.m. throughout the duration of the disaster or emergency event.

c. The electronic report shall include, but is not limited to the following:

i. status of operation (open, limited or closed);

ii. availability of beds;

iii. resources that have been requested by the nursing facility from the local or state Office of Emergency Preparedness;

iv. generator status;

v. evacuation status;

vi. shelter in place status; and

vii. other information requested by the department.

NOTE: The electronic report is not to be used to request resources or to report emergency events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.2–2009.11.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), amended LR 34:1917 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing LR 35:248 (February 2009), amended LR 35:

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

Alan Levine
Secretary

0912#073

DECLARATION OF EMERGENCY

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

Nursing Facilities Admissions
(LAC 50:II.501-511, 10146 and 10157)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopts LAC 50:II.501-511 and repeals 50:II.10146 and 10157 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which repealed the Standards for Payment for Intermediate Care Facility I and II Services and Skilled Nursing Services (*Louisiana Register*, Volume 11, Number 9) in its entirety and adopted revised Standards for Payment for Nursing Facility Services (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to adopt provisions governing medical eligibility

determination requirements (*Louisiana Register*, Volume 23, Number 10). The Bureau of Health Services Financing and the Office of Aging and Adult Services now propose to repeal the provisions contained in the January 20, 1996 and the October 20, 1997 Rules governing admission reviews, preadmission screening and medical eligibility determination requirements and to adopt revised provisions governing nursing facility admissions.

This action is being taken to avoid federal sanctions. It is anticipated that implementation of this Emergency Rule will not have an effect on programmatic expenditures in the Medicaid Program for state fiscal year 2009-2010.

Effective January 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals the provisions of the January 20, 1996 and the October 20, 1997 Rules governing admission reviews, preadmission screening and medical eligibility determination requirements and adopts revised provisions governing nursing facility admissions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 1. General Provisions

Chapter 5. Admissions

§501. Preadmission Screening

A. Preadmission screening shall be performed for all individuals seeking admission to a Medicaid-certified nursing facility, regardless of the source of payment for the nursing facility services or the individual's known diagnoses. The purpose of the preadmission screening and resident review (PASRR) process is to identify applicants or residents who have a diagnosis of serious mental illness or mental retardation and to determine whether these individuals require nursing facility services and/or specialized services for their mental condition.

1. An individual is considered to have a serious mental illness (MI) if the individual meets the requirements on diagnosis, level of impairment and duration of illness as described in federal regulations.

a. Diagnosis. The individual has a diagnosis of major mental disorder as categorized by the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM IV) or its successor.

i. A mental disorder may include schizophrenia, mood, paranoid, panic, or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder that may lead to a chronic disability.

ii. A primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia would not be included as a mental disorder unless the primary diagnosis is a major mental disorder as previously defined.

b. Level of Impairment. Within the past three to six months, the mental disorder has resulted in functional limitations in major life activities that would be appropriate for the individual's developmental stage.

c. Duration of Illness. The individual's treatment history indicates that he/she:

i. received psychiatric services more intensive than outpatient treatment more than once in the past two years; or

ii. as a result of the disorder, experienced an episode of significant disruption to the normal living situation within the last two years that either required supportive services to maintain functioning at home (or in a residential treatment environment) or resulted in intervention by housing or law enforcement officials.

2. An individual is considered to have mental retardation (hereafter referred to as intellectual disability) if the individual meets the criteria as described in the *American Association on Intellectual and Developmental Disabilities' Manual on Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th edition, or its successor.

a. Intellectual disability (ID) is a disability that originates before the age of 18 and is characterized by significant limitations in both intellectual functioning (reasoning, learning, problem solving) and adaptive behavior, which covers a range of everyday social and practical skills.

b. These provisions also apply to persons with related conditions as described in federal regulations.

B. A Medicaid-certified nursing facility shall not admit a person with a diagnosis of a serious mental illness or intellectual disability without a preadmission screening.

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 36:

§503. Medical Certification

A. Evaluative data for medical certification (level of care determination) must be submitted to the Office of Aging and Adult Services (OAAS) or its designee for all admissions to Medicaid-certified nursing facilities, regardless of payer source.

1. The following documents are required for all nursing facility admissions:

a. a Preadmission Screening and Resident Review (Level I PASRR) form completed by a physician licensed in Louisiana. The Level I PASRR form addresses the specific identifiers of MI or ID that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined prior to admission; and

b. a Level of Care Eligibility Tool (LOCET) assessment performed by an appropriate professional.

NOTE: These documents must not be dated more than 30 days prior to the date of admission. The Level I PASRR form must be signed and dated on the date that it is completed by the physician.

2. If the individual is seeking nursing facility admission under a specialized level of care, a Notification of Admission, Status Change, or Discharge for Facility Care form (BHSF Form 148) indicating which specialized level of care is being sought must also be submitted to OAAS.

3. OAAS or its designee may require the submittal of additional documentation for an admission.

B. If the information on the Level I PASRR does not indicate that the individual may have a diagnosis of MI and/or ID and he/she meets nursing facility level of care, the OAAS may approve the individual for admission to the nursing facility.

1. Once approval has been obtained, the individual must be admitted to the facility within 30 days of the date of the approval notice. The nursing facility shall submit a completed BHSF Form 148 to the parish Medicaid Office and OAAS indicating the anticipated payment source for the nursing facility services.

C. If the information on the Level I PASRR indicates that the individual may have a diagnosis of MI and/or ID, the individual shall be referred to the Office of Mental Health or the Office for Citizens with Developmental Disabilities (the state's mental health and intellectual disability Level II authorities) for a Level II screening to determine level of care and the need for specialized services.

1. Medical certification is not guaranteed for an individual who has been referred for a Level II screening.

2. A Medicaid-certified nursing facility shall not admit an individual identified for a Level II screening until the screening has been completed and a decision is made by the Level II authority.

D. Vendor Payment. Medicaid vendor payment shall not begin prior to the date that medical and financial eligibility is established, and shall only start once the individual is actually admitted to the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

§505. Categorical Advance Group Determinations

A. In order to assure timely and appropriate care for applicants, the Level II authority may make an advance group determination by category that takes into account that certain diagnoses, levels of severity of illness or need for a particular service clearly indicates the need for nursing facility admission or that the provision of specialized services is not normally needed. The applicable Level II authority may make an advance group determination that nursing facility care is needed for persons in the following categories.

1. Convalescent Care. If an applicant appears to be in need of Level II assessment but is hospitalized for a serious illness and needs time to convalesce before a valid Level II assessment can be performed, provisions may be made for temporary medical certification for nursing facility care. The maximum period of time that a Level II assessment may be delayed is 90 days. The period of convalescence allowed will be consistent with the diagnosis and medical condition of the individual.

2. Terminal Illness. Terminally ill applicants, who are not a danger to themselves or others, may be categorically approved for nursing facility admission. This categorical eligibility determination is valid for six months at a time, in accordance with the definition of terminal illness used for hospice purposes, and remains valid as long as the applicant's mental condition does not create a barrier to receiving the necessary nursing facility services.

3. Severe Physical Illness. Severely ill applicants, who are not a danger to themselves or others and whose medical condition prevents them from engaging in specialized services, may be categorically approved for nursing facility admission. The attending physician shall determine that the applicant is unable to benefit from specialized services due to the severe level of physical impairment. This categorical

determination also remains valid for six months to allow for an individualized assessment of the resident's needs. Severe physical conditions considered in this category include, but are not limited to:

- a. coma;
- b. ventilator dependence;
- c. functioning at a brain stem level;
- d. chronic obstructive pulmonary disease;
- e. Parkinson's disease;
- f. Huntington's disease;
- g. amyotrophic lateral sclerosis; and
- h. congestive heart failure.

4. Provisional Admissions

a. An applicant who is not a danger to himself or others, but who exhibits symptoms of delirium, may be categorically approved for nursing facility admission pending further assessment when the delirium clears and an accurate diagnosis can be made. This categorical determination may be valid for a period not to exceed 30 days.

b. An applicant who is in an emergency situation and requires protective services may be categorically approved for nursing facility admission pending further assessment. This categorical determination may be valid for a period not to exceed seven days.

5. Respite Care. An applicant who qualifies for nursing facility care and is not a danger to self or others, but resides at home with care from a family member or other caregiver, may be categorically approved for admission in order to provide respite to the in-home caregiver. Respite provides relief to the caregiver when that individual is unable to provide care for a short period of time.

6. Dementia/ID. This category applies to applicants who are intellectually disabled or have indications of intellectual disability, but also exhibit symptoms associated with dementia. These individuals require supervision in a structured environment and a planned program of activities. This categorical determination may remain valid for a period not to exceed one year or until such time that the Level II authority makes a determination that an alternative placement is more appropriate.

B. Although an advanced group determination may be made at admission, the applicable Level II authority must still make a determination regarding the need for specialized services (based on an individual evaluation) for continuation of stay.

C. In each case that specialized services are determined not to be necessary, it remains the responsibility of the nursing facility to notify the appropriate agency if the resident's mental condition changes and becomes a barrier to utilizing nursing facility services, or the resident becomes a danger to himself or others.

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 36:

§507. Exempted Hospital Discharges

A. An individual who is being discharged from a hospital and is seeking nursing facility admission may be exempt from preadmission screening if all of the following criteria are met:

1. the individual is being admitted to a nursing facility (NF) directly from a hospital after receiving acute inpatient care;

2. the individual requires NF services for the condition for which he or she received care in the hospital; and

3. his/her attending physician has certified before the admission to the facility that he or she is likely to require less than 30 days of nursing facility services.

B. If after admission it becomes apparent that a longer stay is required, the nursing facility must refer the individual to the appropriate Level II authority for assessment within 30 days of the admission date.

1. Approval for the admission will continue to the fortieth calendar day from the date of admission pending the Level II determination.

C. Exempted hospital discharges are only applicable for persons with MI and/or ID. This exempted discharge does not apply to any other program or for transfers between nursing facilities.

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 36:

§509. Changes in Level of Care and Status

A. The nursing facility shall notify the parish Medicaid office via the BHSF Form 148 of the following changes in a resident's circumstances:

1. changes in the level of care;
2. transfers to another nursing facility;
3. changes in payer source;
4. hospital/home leave and returns; or
5. discharges home, death or any other breaks in facility care.

B. The nursing facility must inform the appropriate Level II authority if an individual with a diagnosis of MI and/or ID is subject to readmission or interfacility transfer and there has been a substantial change in the individual's condition. Readmissions and interfacility transfers are subject to annual resident reviews rather than preadmission screening.

1. An individual is considered to be a readmission if he/she was readmitted to a facility from a hospital to which he/she was transferred for the purpose of receiving care.

2. Interfacility transfer occurs when an individual is transferred from one NF to another NF, with or without an intervening hospital stay.

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 Office of Aging and Adult Services, LR 36:

§511. Denials and Appeals Process

A. If an individual is determined not to need nursing facility services and is denied admission, the individual has a right to appeal the decision through the department's established appeal procedures.

1. A denial notice will be sent to the individual and he/she may use that letter to request a fair hearing.

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 Office of Aging and Adult Services, LR 36:

Subpart 3. Standards for Payment

Chapter 101. Nursing Facilities

Subchapter F. Vendor Payments

§10146. Medical Eligibility Determination Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR.23:1317 (October 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

Subchapter H. Admission Review and Pre-admission Screening

§10157. General Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural, Non-State
Hospitals—Children's Specialty Hospitals
(LAC 50:V.Chapter 51, 5317, 5517, 5719, 5917 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 51 and §§5317, 5517, 5719, 5917 and 6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and

Hospitals, Bureau of Health Services Financing amended the provisions governing outpatient hospital services to revise the reimbursement methodology for services rendered by small rural hospitals and state-owned hospitals (*Louisiana Register*, Volume 35, Number 5).

The Department promulgated and Emergency Rule to amend the provisions governing outpatient hospital services to revise the reimbursement methodology for services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule. This action is necessary to promote the health and welfare of children who are in critical need of outpatient hospital specialty services.

Effective December 31, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 51. General Provisions

§5109. Children's Specialty Hospitals

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5317. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital surgery services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 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 35:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5517. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty

hospitals for outpatient hospital clinic services shall be the Medicaid fee schedule amount on file for each service.

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:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5719. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

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:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5917. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for rehabilitation services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 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 35:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6119. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Qualifying hospitals shall receive an interim payment that is equal to 97 percent of the hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 97 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 35:

Implementation of the provisions of this Emergency 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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0912#074

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Louisiana Risk Review Panels (LAC 22:I.107)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the Louisiana Risk Review Panels is necessary and that for the following reasons failure to adopt the rule on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act No. 403 of the 2001 Regular Session of the Louisiana Legislature at R.S. 15:574.22 created the Louisiana Risk Review Panel within the Department of Public Safety and Corrections. The Act specified the composition of the panel(s), call of meetings, powers and duties with regard to evaluation of the risk to society of release of incarcerated individuals.

Act No. 45 of the 2006 Regular Session declared that the provisions of Act No. 403 provided for more lenient provisions for certain enumerated crimes and that these penalty provisions were to be applied prospectively. Act No. 45 also provided that the revisions were to be applied retroactively and applied to any crime committed subject to the revised penalties. Thus, increasing the pool of potential risk review applicants.

Act No. 103 of the 2009 Regular Session also added additional crimes to further increase the pool of potential applicants.

In order for the Risk Review Panel to meet its statutory obligation to properly review each applicant for consideration relative to his risk of danger to society if released and in order to assist the department in meeting revised funding schedules, it is imperative that the panel(s) be operational as statutorily mandated as soon as possible.

Delays in the implementation of the Risk Review Panel will greatly impede the ability of the department to meet the stringent fiscal goals established by the legislature for this fiscal year. The inability to immediately process applications and make the requisite recommendations to the Boards of Parole and Pardon may result in significant fiscal problems that will negatively impact programs and conditions of confinement.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of the following Emergency Rule effective November 10, 2009, in accordance with R.S. 49:953(B). This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 1. Secretary's Office

§107. Louisiana Risk Review Panels

A. Purpose: To provide a consistent and reliable decision-making process for assessing certain non-violent offender's risk to commit another crime if released from incarceration. This process shall also be designed to enhance the motivation of offenders to participate in the types of programming that are available to reduce their risk and to prepare them to reenter the community successfully without further offense and victimization.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Regional Wardens, Wardens, Director of Probation and Parole, Chairman of the Parole Board, Chairman of the Board of Pardons and the Sheriff or Administrator of local jail facilities. 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 that the Louisiana Risk Review Panels shall assess the risk posed by certain non-violent offenders. The panels shall develop decisional guidelines to ensure that the criteria utilized to achieve the decisions, are clear, grounded in evidence-based practice and centered primarily around the goal of enhancing public safety and government efficiency.

D. Definitions

Offense—an infraction of any law, rule or code and, for the purpose of this regulation, includes both felonies and misdemeanors.

Regional Facility—a state correctional facility located within one of nine regions of the state, as designated by the Secretary. Each warden of a regional facility shall be responsible for certain requirements pursuant to the provisions of this regulation for offenders housed in their state correctional facility, as well as DPS&C offenders housed in local jail facilities within their respective region.

E. Panel Composition and Guidelines

1. A total of three risk review panels are hereby created in the north, central and south regions of the state. An employee of the secretary's office shall serve as the headquarters risk review administrator for all panels. Three employees of the department (one for each region - north, central and south) shall serve as regional coordinator for an assigned panel. Each panel shall consist of five members as follows:

- a. the secretary or designee who shall be chairman;
- b. a psychologist (either licensed or working directly under the supervision of a licensed psychologist), who shall be authorized and approved by the secretary;
- c. the warden (or his deputy) at the state facility where the offender is housed or the warden (or his deputy) of the regional facility for offenders housed in local jail facilities.
- d. a retired judge with criminal law experience who shall be appointed by the governor; and
- e. a probation and parole officer with a minimum of 10 years experience, who shall be appointed by the governor.

2. A majority of the members of each panel shall constitute a quorum. All official actions of the panel shall require an affirmative vote of a majority of members present.

3. Each panel and/or panel member may serve in any region. Each panel shall convene quarterly, as scheduled by the department, or on the call of the chairman or upon the request of any three members.

4. Panel members, not employed by the department, may receive a per diem for each day in actual attendance at a hearing. The amount shall be fixed by the secretary in accordance with R.S. 15:574.22(D). All members shall receive travel reimbursement in accordance with established procedures.

5. Each chairman shall adhere to and ensure all meetings are conducted in accordance with the provisions of R.S. 42:4.1 et seq. (Public Policy for Open Meetings Law) and Roberts Rules of Orders. Each regional coordinator shall serve as the official recording officer of the panel, keeping and distributing notices and decisions of panel meetings.

6. Recommendations submitted for a panel's consideration by individuals other than those employed by the department or the local jail facility where the offender is assigned shall be in writing and made part of the panel's review and hearing record.

F. Selection Criteria

NOTE: For the purpose of this regulation:

Any offender who is currently serving a sentence for a conviction of a crime of violence (instant offense) shall be statutorily ineligible for panel consideration.

Any offender, other than those covered in section F.1.d., who has a previous conviction of a crime of violence, but who has fully served the sentence imposed for that crime, may be eligible for panel consideration; however, the previous crime of violence shall be considered in the criminal history and suitability review.

1. The following offenders shall not be eligible for review by the risk review panels:

a. an offender convicted of a crime defined or enumerated as a crime of violence in R.S. 14:2(B);

b. an offender convicted of a sex offense as defined in R.S. 15:540 et seq. when the victim was under the age of 18 at the time of the commission of the offense.

c. an offender convicted of a violation of the Uniform Controlled Dangerous Substances Law, except that the following offenders shall be evaluated by the panels:

i. An offender convicted of possession as defined in R.S. 40:966 (C), 967(C), 968(C), or 970(C);

ii. an offender convicted of distribution or possession with the intent to distribute cocaine where the offense of conviction involved less than 28 grams of cocaine;

iii. an offender convicted of distribution or possession with the intent to distribute marijuana where the offense of conviction involved less than one pound of marijuana;

iv. an offender sentenced under any other violation of the Uniform Controlled Dangerous Substances Law who has served the mandatory minimum sentence in actual custody for the offense or one-half of the sentence imposed whichever is less;

v. an offender sentenced to a term of life imprisonment for a violation of the Uniform Controlled Dangerous Substances Law who has served at least seven

years of the term of imprisonment in actual custody. However, this provision shall not apply to:

(a) any offender convicted of a sex offense as provided in Subparagraph F.1.b.;

(b) any offender sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes for which the offender was convicted and sentenced under R.S. 15:529.1 was a crime of violence defined or enumerated in R.S. 14:2(B) as provided for in section F.1.d.

d. An offender sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes for which the offender was convicted and sentenced under R.S. 15:529.1 was a crime of violence defined or enumerated in R.S. 14:2(B).

2. Pursuant to this regulation, an offender's application may also be denied by the panel for one or any combination of the following reasons:

a. Participating in or recommended for participation in pre-release programming, including IMPACT and/or a work release program;

b. 365 days or less until earliest release date;

c. Felony detainer(s) or open warrant(s);

d. Poor conduct and/or disciplinary record, including, but not limited to, habitual and compulsive violent behavior, consistent signs of bad work habits, lack of cooperation or good faith effort and/or other undesirable behavior;

e. Maximum custody status, except those offenders assigned to maximum custody based solely upon classification criteria other than disciplinary reasons;

f. Low level of program activity and/or completion when compared to program opportunity and availability;

g. Extensive habitual and/or violent criminal history;

h. Extensive supervision revocation history;

i. History of mental illness and/or condition that would lead to the conclusion that the individual is a danger to society;

j. Communicable or contagious disease and/or condition for which the offender has not been non-receptive or non-compliant with prescribed or recommended medical treatment;

k. Possession or use of an illegal or controlled dangerous substance during the offender's current term of incarceration;

l. Poor personal and/or victim restitution payment history;

m. Pursuant to R.S. 15:308, certain offenders are entitled to apply to the risk review panel; however, such offenders must meet the eligibility requirements under R.S. 15:1574.22 (G).

G. Application Procedures

1. Offenders must complete the application for risk review. An offender's request for review submitted in any format other than the official application form may be returned to the offender without action.

2. Offenders assigned to a state correctional facility shall submit their application for risk review to the warden of the facility where they are housed. Offenders assigned to a local jail facility shall submit their Application for Risk Review to the warden of the regional facility within which the local jail facility is located.

3. The application shall be reviewed by a classification manager or designee of the receiving state facility to determine whether the offender meets the minimum statutory eligibility and suitability requirements. If the classification manager determines the offender is eligible for panel consideration, the classification manager or designee shall forward the completed application packet, including the documents and information specified below, and a written summary recommendation to the appropriate regional coordinator:

- a. presentence, post sentence and pre-parole report, if available;
- b. bill of information;
- c. sentencing minutes;
- d. master prison record;
- e. reentry accountability plan (ReAP);
- f. Louisiana Risk Need Assessment II (LARNA II);
- g. classification/security summary;
- h. institutional or jail progress report(s)*;
- i. conduct record;
- j. medical, mental health and psychological assessments and summary*;
- k. educational and vocational assessment(s), participation and completion summary*;
- l. anticipated release plans and other resources available to the offender in the event of release. If the panel makes a recommendation to the pardon or parole boards, the offender must complete all recommended release programming and submit approved release plans, including residence plans and other available resources, prior to actual release.

*The unit head or designee shall ensure this information is entered into lotus notes on the risk review screening form and into the department's CAJUN database.

4. If the offender is found to be statutorily eligible, but not suitable for one of the reasons listed in section F.2., the classification manager or designee shall forward the application, along with the documentation and information required in Paragraph G.3 and a written summary of the reason(s) for the determination, to the regional coordinator for final disposition by the panel.

5. If the offender is found to not be statutorily eligible for risk review panel consideration, the classification manager shall forward the application to the regional coordinator noting the reason for the offender's statutory ineligibility.

6. The regional coordinator shall create an official record upon receipt of a risk review application packet or ineligibility notice by entering each application into the CAJUN database and assigning the application a case number. For ineligible applications, the regional coordinator shall notify the offender utilizing the Notice of Decision and provide additional instructions for reapplication, if necessary.

7. A comprehensive analysis of each eligible offender's application packet shall be conducted by the regional coordinator, confirming the offender is statutorily, technically and subjectively eligible for review by a risk review panel. Offenders shall then be placed on the appropriate docket in accordance with current panel guidelines.

8. Each regional coordinator shall maintain a complete and accurate record of all applications received, including disposition and reasons, etc. utilizing the department's CAJUN database.

H. Panel Review

1. The panel shall review all assimilated and/or pertinent information during deliberations and assess the offender's risk to commit another crime if released from incarceration. At a minimum, this information shall include the following:

- a. presentence report, if available, master prison records, medical and psychological records;
- b. risk assessment score of the Louisiana Risk Need Assessment II (LARNA II);
- c. recommendations and/or comments submitted by the sentencing judge, district and/or assistant district attorney, probation and parole staff, victim and/or victim's family and the offender;
- d. age of the offender (to include consideration of chronological age and length of confinement, which may reduce the offender's risk of committing another crime);
- e. current medical condition (which may reduce the offender's risk of committing another crime);
- f. damage or injury that resulted by the crime committed;
- g. resources available to the offender if released (e.g., housing, job, educational or skill level, family or other support); and
- h. extent to which the sentence for the instant offense exceeded the minimum sentence in effect at the time of sentencing.

2. The relevance of any witness testimony shall be determined solely at the discretion of the risk review panel.

3. At the discretion of the panel, hearings may be conducted by live interview, record review, telephone or video conference or other form of meeting technology.

4. All members of the panel shall vote individually to recommend or deny (with or without instructions) the offender to the pardon board or parole board for release consideration. The panel may also include their recommendation(s) regarding conditions of an offender's release, if granted by a board. Any recommendation of the panel shall not be binding on the part of either board.

5. The panel may also recommend new or additional program participation and/or require completion of current programming, such as IMPACT, substance abuse treatment, educational or vocational training, etc.

6. The chairman shall notify each offender in writing of the panel's decision with instructions, if applicable. All decisions shall be compiled and disseminated by the regional coordinator.

a. A copy of all decisions shall be sent to the warden, sheriff or jail administrator and the headquarters risk review administrator. A copy shall also be maintained in the offender's master prison record. Unless otherwise directed by the panel, offenders may only submit an application for risk evaluation once in a twelve-month period and acceptance shall be at the discretion of the panel.

7. The decision of a risk review panel is final and shall not be appealed through the administrative remedy procedure.

I. Victim Notification. The regional coordinator shall ensure registered victims receive written notification at the time the offender is docketed for review by the panel and a copy of the notification shall be maintained in the offender's master prison record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 28:94 (January 2002), amended LR 29:2847 (December 2003), LR 32:1247 (July 2006), LR 36:

James M. Le Blanc
Secretary

0912#038

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Ad Valorem Taxation

(LAC 61:V.101, 303, 304, 703, 901, 907, 1103, 1305, 1307, 1503, 2503, 3101, 3103, 3105, 3106, and 3107)

The Louisiana Tax Commission, at its meetings on September 23, 2009, and October 13, 2009, exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2010. Cost indexes required to finalize these assessment tables are not available to this office until late October 2009. The effective date of this Emergency Rule is January 1, 2010.

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. - 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 \$64,410 for tax year 2010 (2011 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 37:

Chapter 3. Real and Personal Property

§303. Real Property

A. - C.1. ...

2. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with their Rulemaking Session.

a. It is recommended that the capitalization rate for affordable rental housing properties categorized as Second-Tier be 7.5 percent, increased by the effective tax rate, and it is recommended that the capitalization rate for affordable rental housing properties categorized as Third-Tier be 8.5%, increased by the effective tax rate. The Tiers are as established and defined by the Real Estate Research Corporation for Apartment Investment Properties. These capitalization rates shall remain in effect until modified by the Louisiana Tax Commission in accordance with its Rulemaking authority.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 37:

§304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications

A.

* * *

B. Property Classifications Standards

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
Real Estate				
10	Agricultural Lands Class I	1000	Agricultural Lands Class I (Use Value)	Agricultural Land-Class I containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1050	Agricultural Lands Class I Less Than 3 Acres (Use Value)	Agricultural Land-Class I containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
11	Agricultural Lands Class II	1100	Agricultural Lands Class II (Use Value)	Agricultural Land-Class II containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1150	Agricultural Lands Class II Less Than 3 Acres (Use Value)	Agricultural Land-Class II containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
12	Agricultural Lands Class III	1200	Agricultural Lands Class III (Use Value)	Agricultural Land-Class III containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1250	Agricultural Lands Class III Less Than 3 Acres (Use Value)	Agricultural Land-Class III containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
		1265	Agricultural Lands Class IIIW (Use Value)	Agricultural Land – Class III (65%) Class IV (35%) containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
13	Agricultural Lands Class IV	1300	Agricultural Lands Class IV (Use Value)	Agricultural Land-Class IV containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1350	Agricultural Lands Class IV Less Than 3 Acres (Use Value)	Agricultural Land-Class IV containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
15	Timberlands Class I	1500	Timberlands Class I (Use Value)	Timberland-Class I containing 3 acres or more in area capable of producing more than 120 cubic feet of timber per acre per annum.
		1550	Timberlands Class I Less Than 3 Acres (Use Value)	Timberland-Class I containing less than 3 acres in area capable of producing more than 120 cubic feet of timber per acre per annum.
16	Timberlands Class II	1600	Timberlands Class II (Use Value)	Timberland-Class II containing 3 acres or more in area capable of producing more than 85 but less than 120 cubic feet of timber per acre per annum.
		1650	Timberlands Class II Less Than 3 Acres (Use Value)	Timberland-Class II containing less than 3 acres in area capable of producing more than 85 but less than 120 cubic feet of timber per acre per annum.
17	Timberlands Class III	1700	Timberlands Class III (Use Value)	Timberland-Class III containing 3 acres or more in area capable of producing less than 85 cubic feet of timber per acre per annum.
		1750	Timberlands Class III Less Than 3 Acres (Use Value)	Timberland-Class III containing less than 3 acres in area capable of producing less than 85 cubic feet of timber per acre per annum.
18	Timberlands Class IV	1800	Timberlands Class IV (Use Value)	Timberland-Class IV containing 3 acres or more in area capable of producing less than 85 cubic feet of timber per acre per annum and which is subject to periodic overflow from natural or artificial water courses, and which is otherwise consider to be swampland.
		1850	Timberlands Class IV Less Than 3 Acres (Use Value)	Timberland-Class IV containing less than 3 acres in area capable of producing less than 85 cubic feet of timber per acre per annum and which is subject to periodic overflow from natural or artificial water courses, and which is otherwise consider to be swampland.
20	Fresh Water Marsh	2000	Fresh Water Marsh (Use Value)	Fresh Water Marsh containing 3 acres or more in area being wetland not devoted to agricultural, horticultural or timber purposes.
		2050	Fresh Water Marsh Less Than 3 Acres (Use Value)	Fresh Water Marsh containing less than 3 acres in area being wetland not devoted to agricultural, horticultural or timber purposes.
22	Brackish Water Marsh	2200	Brackish Water Marsh (Use Value)	Brackish Water Marsh containing 3 acres or more in area being wetland not devoted to agricultural, horticultural or timber purposes.
		2250	Brackish Water Marsh Less Than 3 Acres (Use Value)	Brackish Water Marsh containing less than 3 acres in area being wetland not devoted to agricultural, horticultural or timber purposes.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
24	Salt Water Marsh	2400	Salt Water Marsh (Use Value)	Salt Water Marsh containing 3 acres or more in area being wetland not devoted to agricultural, horticultural or timber purposes.
		2450	Salt Water Marsh Less Than 3 Acres (Use Value)	Salt Water Marsh containing less than 3 acres in area being wetland not devoted to agricultural, horticultural or timber purposes.
30	Other Acreage (Greater than 3 Acres)	3000	Agricultural Acreage (Market Value)	Agricultural Land 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3010	Timber Acreage (Market Value)	Timber Land 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3020	Marsh Acreage (Market Value)	Marsh Land 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3022	Lake Servitude Lands (Market Value)	Lake servitude land containing 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3024	Batture Land (Market Value)	Batture land containing 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3030	Commercial Acreage (Market Value)	Commercial land 3 acres or more in area designated for office and retail use.
		3040	Industrial Acreage (Market Value)	Industrial land 3 acres or more in area designated for industrial use.
		3050	Institutional Acreage (Market Value)	Institutional land 3 acres or more in area designated for public buildings, schools, churches and properties that have unique uses.
		3060	Residential Acreage (Market Value)	Residential land 3 acres or more in area used for residential permanent improvements such as single-family residences, townhouses and apartments.
		3070	Trailer Parks (Market Value)	Residential land 3 acres or more in size used for trailer parks.
32	Other Acreage (Greater than 1 Acre but less than 3 Acres)	3200	Agricultural Acreage (Market Value)	Agricultural land more than 1 acre but less than 3 acres in area valued as market value since use value form has not been filed with the Assessor's Office.
		3210	Timber Acreage (Market Value)	Timber land more than 1 acre but less than 3 acres in area valued as market value since use value form has not been filed with the Assessor's Office.
		3220	Marsh Acreage (Market Value)	Marsh lands more than 1 acre but less than 3 acres in area valued at market value since use value form has not been filed with the Assessor's Office.
		3222	Lake Servitude Lands (Market Value)	Lake servitude land containing more than 1 acre but less than 3 acres in area valued at market value since use value form has not been filed with the Assessor's Office.
		3224	Batture Lands (Market Value)	Batture land containing more than 1 acre but less than 3 acres in area valued at market value since use value form has not been filed with the Assessor's Office.
		3230	Commercial Acreage (Market Value)	Commercial land more than 1 acre but less than 3 acres in area designated for office and retail use.
		3240	Industrial Acreage (Market Value)	Industrial land more than 1 acre but less than 3 acres in area designated for industrial use.
		3250	Institutional Acreage (Market Value)	Institutional land more than 1 acre but less than 3 acres in area designated for public buildings, schools, churches and properties that have unique uses.
		3260	Residential Acreage (Market Value)	Residential land more than 1 acre but less than 3 acres in area used for residential permanent improvements such as single-family residences, townhouses and apartments.
		3270	Trailer Parks (Market Value)	Residential land more than 1 acre but less than 3 acres in area used for residential trailer parks.
34	Subdivision Lots	3400	Residential Subdivision Lot	Residential subdivision lots that have recorded plats.
	(As Per Recorded Subdivision Plats)	3410	Trailer Park	Trailer park lots that have recorded plats.
		3420	Commercial Subdivision Lot	Commercial subdivision lots that have recorded plats.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
		3430	Industrial Subdivision Lot	Industrial subdivision or business park lots that have recorded plats.
		3440	Institutional Subdivision Lot	Institutional subdivision or campus lots that have recorded plats.
36	Other Lots	3600	Residential Non-Subdivision Lot	Residential non-subdivision lot or parcel not having recorded plats.
	(Consisting of 1 Acre or Less)	3610	Trailer Park	Trailer park non-subdivision lot or parcel not having recorded plats.
		3620	Commercial Non-Subdivision Lot	Commercial acreage less than 3 acres in size (market value).
		3630	Industrial Non-Subdivision Lot	Industrial acreage less than 3 acres in size (market value).
		3640	Institutional Non-Subdivision Lot	Institutional acreage less than 3 acres in size used by government, schools or churches (market value).
37	No Land Value	3700	No Land Value (Leased Property)	Land leased by tenant for placement of manufactured homes (mobile home/trailer) or leasehold improvements. (this land class could be used for condominiums where land value is part of the improvement value.)
40	Improvements: Residential	4000	Single Family Residence	Single family residence (free standing structure or improvement) including decks, patios, pavement, swimming pools, hot tubs (jacuzzi), gazebos, etc.
		4010	Manufactured Housing	Manufactured housing (mobile homes/trailers).
		4020	Townhouse/Duplexes	Includes townhouse or duplexes. (includes stand alone triplexes and fourplexes.)
		4030	Urban Row Houses	Includes urban row houses.
		4040	Multi-Family (Apartments)	Includes dormitories; high-rise apartments; homes for the elderly; group care homes; fraternity/sorority houses; rooming and boarding houses; bed & breakfast inns; and high-rise row houses. (includes fourplexes or larger units consisting of multiple buildings.)
		4050	Clubhouses	Includes clubhouses used by homeowner associations or apartment complexes.
		4060	Resort Cottages and Cabins	Includes resorts cottages and cabins being used as a residential rental unit.
		4070	Log and Dome Houses	Includes log and dome houses.
		4080	Tropical Housing (Camps)	Includes tropical housing; camps; and boathouses.
		4090	Old Residences (Historical)	Includes older residences that have classified as antique or historical in nature.
		4095	Storage, Garages and Workshops	Includes residential storage facilities, workshops, barns, stables, detached garages, greenhouses and apartment complex laundromats.
		4099	Unidentified Residential Improvements	Includes those residential improvements yet to be classified by assessor's staff.
45	Improvements: Commercial or Industrial	4500	Clubs and Hotels	Includes hotels; city clubs; mortuaries; clubhouse; senior centers; country clubs; recreational enclosures; and health clubs.
		4510	Motels	Includes motels (extended-stay motels); lodges; bath houses; and guest cottages.
		4520	Stores and Commercial Buildings	Includes restaurants table service, dining atriums and cafeterias (truck stops, fast food and playrooms); markets; drugstores; discount stores; retail stores; department stores; barber shop and beauty salons; laundromats; laundry and dry cleaning stores; shopping centers; bars/taverns and cocktail lounges; convenience markets and mini-marts; dairy sales building; department and mall anchor stores; florist shops; roadside and farmers' markets; neighborhood (community, regional, discount, mixed retail with apartments & offices); shopping center shells; snack bars; warehouse stores; discount, food and showroom.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
		4530	Garages, Industrials, Lofts and Warehouses	Includes industrial buildings; laboratories; lofts; computer centers; passenger terminals; broadcasting facilities (radio/tv stations); armories; post offices; warehouses; cold storage facilities; creameries; transit warehouses; mini-warehouses; shipping docks; loading docks; hangers: maintenance, storage and t-hangers; complete auto dealerships; showrooms; garages: service and repair, storage (municipal and service sheds) industrials, engineering/r&d (laboratories, manufacturing, light/heavy); flex-mall buildings; mini-lube garages; parking structures; underground parking garages; misc. buildings: bakery, bottle & cannery plants; control towers, laundry, boiler, recycling, sound stage and telephone.
		4540	Offices, Medical and Public Buildings	Includes office buildings; atriums/ vestibules; mechanical penthouses; parking level floors; banks: branch, central office and mini-banks; medical office buildings and dental clinics; dispensaries; general hospitals, outpatient and surgical centers; convalescent hospitals; veterinary hospitals; kennels; government buildings, community service, mixed-use facilities; fire stations: staffed and volunteer; jails, correctional facilities and police stations; offices and office building shells; and public libraries.
		4550	Churches, Theaters and Auditoriums	Includes churches, sanctuaries, churches with sunday schools; church fellowship halls, classrooms and foyers/narthexes; fraternal buildings; theaters: cinemas and live stage; auditoriums; casinos; museums; convention centers; arcade buildings; visitor centers; skating rinks; bowling centers; fitness centers; community recreation centers; indoor tennis clubs; handball/racquetball and pavilions.
45	Improvements: Commercial or Industrial	4560	Sheds and Farm Buildings	Includes utility buildings; equipment buildings; golf cart buildings; boat storage buildings and sheds; shed office structures; materials storage buildings; bulk oil storage buildings; toolsheds; prefabricated sheds; lumber storage, vertical buildings; and horizontal sheds; potato storage buildings; fruit packing barns; bulk fertilizer storage; bag fertilizer storage; seed warehouses; cotton gin buildings; dehydrator buildings; dairies; milk houses; barns; free stall barns; barn lofts; hog barns and sheds; sheep barns and sheds; tobacco barns; stables; arenas; poultry houses; greenhouses; labor dormitories; transient labor cabins; corn cribs; farm silos; grain handling systems; grain elevators; livestock, hay and sun shelters; enclosed and screened cages; poultry floor operation, breeder, broiler and turkey barns; sheds, cattle, loafing and feeding; environmental storages; controlled atmosphere buildings; shop buildings and sheds.
		4570	Schools and Classrooms	Elementary, middle, high, alternative, vocational schools; day care centers; colleges and universities; classroom buildings; special education or learning classrooms; laboratory classrooms; lecture classrooms; administrative buildings; academic libraries; fine arts buildings; manual arts and college technical trades buildings; multipurpose buildings; bookstores; gymnasiums; physical education buildings; fieldhouses; natatoriums; shower buildings; restroom buildings; commercial or institutional greenhouses; and maintenance buildings.
		4590	Old Commercial Buildings (Historical)	Includes older residences that have classified as antique or historical in nature.
		4599	Unidentified Commercial Improvements	Commercial Improvements yet to be classified by Assessor's Staff

Personal Property

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
50	Inventories and Merchandise	5000	Inventories and Merchandise	Inventories of items that are tangible personal property which are held for sale, process of production, consumed in the production of the goods or services to be available for sale or are utilized in marketing or distribution activities.
51	Machinery and Equipment	5100	Machinery and Equipment	Machinery and equipment
52	Business Furniture and Fixtures	5200	Business Furniture and Fixtures	Office furniture and equipment.
53	Miscellaneous Personal Property	5300	Computer Hardware/Software	Includes computer hardware, software, computer network equipment, printers, etc.
		5310	Electronics	Includes electronic typewriters, copy machines, postage machines, etc.
		5320	Leasehold Improvements	Includes all leasehold improvements being expensed by tenant of rental property.
		5330	Telecommunications Equipment	Includes all telephone systems, telephone switching equipment not public service.
		5340	Cell Towers	Includes cell towers and related equipment not part of public service.
		5350	Video Poker Machines	Includes video poker machines, slot machines and other gambling related equipment.
		5390	Other	Non-classified miscellaneous personal property not falling into any of the existing defined miscellaneous personal property classes.
		5399	Non-Reporting of LAT	Assessor's adjustment for non-reporting of LAT Forms.
54	Credits (Insurance and Finance Companies)	5400	Credits	Loan and finance companies personal property.
55	Leased Equipment	5500	Leased Equipment	Lease equipment such as copiers, postage machines, computers, phone systems, heavy equipment, etc.
56	Pipelines (Other than Public Service)	5600	Lease Lines	Pipelines - leased
		5610	Gathering Lines	Pipelines - gathering lines
		5620	Pipelines other than Public Service	Pipelines other than public service pipelines.
57	Oil and Gas Surface Equipment (Units not to Exceed Total Number of Wells)	5700	Oil and Gas Surface Equipment	Oil and gas surface equipment.
60	Watercraft	6000	Watercraft	Watercraft, other than those employed in interstate commerce, is subject to valuation and assessment by parish assessor.
62	Aircraft	6200	Private Aircraft	Privately held aircraft.
		6210	Commercial Aircraft	Commercial aircraft other than public service airlines aircraft.
64	Financial Institutions	6400	Financial Institutions	Financial institutions shares of stock of all banks, banking companies, firms, associations or corporations in the banking business.
66	Drilling Rigs	6600	Drilling Rigs	Drilling rigs and related equipment.
68	Oil and Gas Wells	6800	Oil Wells	Oil wells, abandon wells, orphan wells, plug wells
		6801	Future Utility	Future utility
		6802	Non Future Utility	Non future utility
		6810	Gas Wells	Gas wells.
		6811	Future	Future
		6812	Non Future	Non future
		6820	Injection Wells, Service Wells	Injection wells, service wells, saltwater disposal, brine wells, water wells
		6830	Commercial Disposal Wells	Commercial disposal wells
Public Service				
80	Airline Companies	8000	Aircraft	Commercial Airline Companies' aircraft assessed by the Louisiana Tax Commission.
		8010	Ground Equipment	Commercial Airline Companies' ground equipment assessed by the Louisiana Tax Commission.
81	Barge Line Companies	8100	Barge Lines	Barge Line Companies' assets assessed by the Louisiana Tax Commission.
82	Electric, Gas and Water Companies	8200	Lines	Electric, Gas and Water Companies' lines assessed by the Louisiana Tax Commission.
		8202	Utility Coop - Lines	Coop
		8206	Utility Noncoop - Lines	Noncoop
		8210	Land	Electric, Gas and Water Companies' land assessed by the Louisiana Tax Commission.
		8220	Improvements	Electric, Gas and Water Companies' improvements assessed by the Louisiana Tax Commission.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
		8230	Machinery & Equipment	Electric, Gas and Water Companies' machinery and equipment assessed by the Louisiana Tax Commission.
		8240	Construction Work In Progress	Electric, Gas and Water Companies' construction work in progress assessed by the Louisiana Tax Commission.
		8250	Other	Electric, Gas and Water Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
83	Pipeline Companies	8300	Lines	Pipeline Companies' pipelines assessed by the Louisiana Tax Commission.
		8310	Oil and Gas Storage	Pipeline Companies' oil and gas storage tanks assessed by the Louisiana Tax Commission.
		8320	Machinery and Equipment	Pipeline Companies' machinery and equipment assessed by the Louisiana Tax Commission.
		8330	Land	Pipeline Companies' land assessed by the Louisiana Tax Commission.
		8340	Right of Ways	Pipeline Companies' right of ways assessed by the Louisiana Tax Commission.
		8350	Open Access	Pipeline Companies' open access assessed by the Louisiana Tax Commission.
		8360	Improvements	Pipeline Companies' improvements assessed by the Louisiana Tax Commission.
		8370	Construction Work in Progress	Pipeline Companies' construction work in progress assessed by the Louisiana Tax Commission.
		8380	Other	Pipeline Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
84	Private Car Line Companies	8400	Private Car Lines	Private Car Line Company assets assessed by the Louisiana Tax Commission.
85	Railroad Companies	8500	Main Lines	Railroad Companies' main lines assessed by the Louisiana Tax Commission.
		8510	Second Lines	Railroad Companies' secondary lines assessed by the Louisiana Tax Commission.
		8520	Side Lines	Railroad Companies' side lines assessed by the Louisiana Tax Commission.
		8530	Land	Railroad Companies' land assessed by the Louisiana Tax Commission.
		8540	Improvements	Railroad Companies' improvements assessed by the Louisiana Tax Commission.
		8550	Other	Railroad Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
		8560	Rolling Stock	Railroad Companies' rolling stock assessed by the Louisiana Tax Commission.
86	Telephone Companies	8600	Lines	Telephone Companies' lines assessed by the Louisiana Tax Commission.
		8610	Land	Telephone Companies' land assessed by the Louisiana Tax Commission.
		8620	Improvements	Telephone Companies' improvements assessed by the Louisiana Tax Commission.
		8630	Machinery and Equipment	Telephone Companies' machinery and equipment assessed by the Louisiana Tax Commission.
		8640	Construction Work in Progress	Telephone Companies' construction work in progress assessed by the Louisiana Tax Commission.
		8650	Other	Telephone Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.

C. Electronic Tax Roll Export Specifications

NOTES: Programmer must allow for optional fields not used. The tilde (~) will be used as the delimiter for character data and the comma (,) will be used as the field delimiter. (See examples) It is not necessary to use spaces between commas that contain no data. Programmer must allow for optional fields not used. Each record is a line in the ASCII text file and

must have a carriage return and line feed at the end of each line. ASCII text file names must adhere to naming convention listed behind file information title.

Please Note: Please contact the Louisiana Tax Commission for the latest specifications before creating the files listed below.

* * *

Assessment Information (Assmt.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
Tax_year	Numeric	4	Yes	Tax year submitting (format: 1999, 2000,2001,2002,2003,2004, etc.)
FIPS_code	Numeric	5	Yes	Parish identification number. (See FIPS table.)
Assessment_no	Character	20	Yes	Assessment number.
Parcel_no	Character	20	Yes	Parcel Identification Number (PIN). (If your system currently does not support PINs use the assessment number as the PIN.)
Assessment_type	Character	2	Yes	"RE" = Real Estate, "PP" = Personal Property, "PS" = Public Service
Assessment_status	Character	2	Yes	"AC" = Active, "AJ" = Adjudicated, "EX" = Exempt/Tax Free
Homestead_exempt	Numeric	1	Yes	0 = None (Default), 1 = Homestead Exemption, 2 = Over 65 Freeze, 3 = Disabled, 4 = Disabled Vet and 5 = Widow of POW/MIA
homestead_percent	Numeric	6.2	Yes	Homestead Exemption percentage to be applied to assessment. (Format: 100.00 (Default) = 100%)
Restoration_tax_expmt	Character	1	Yes	Restoration Tax Abatements on historical property. "N" = No (Default), "Y" = Yes
Tax_acct	Numeric	6	No	Tax account or tax bill number for grouping assessments together.
Place_FIPS	Numeric	5	Yes	FIPS Place Code of Ward or Municipality. (See FIPS Table)
Taxpayer_id	Numeric	10	No	Taxpayer's identification number. (Social Security or Federal ID numbers.)
Taxpayer_name	Character	50	Yes	Taxpayer's name.
Contact_name	Character	50	No	Contact's name for company taxpayers or for in care of (C/O) contacts.
Taxpayer_addr1	Character	40	Yes	Taxpayer's address line 1.
Taxpayer_addr2	Character	40	Yes	Taxpayer's address line 2.
Taxpayer_addr3	Character	40	No	Taxpayer's address line 3.
Transfer_date	Character	10	No	Date of purchase. (Sample: ~01/01/1999~)

* * *

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), 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
2009	1.013	1	94	.95
2008	1.042	2	87	.91
2007	1.083	3	80	.87
2006	1.142	4	73	.83
2005	1.195	5	66	.79
2004	1.285	6	58	.75
2003	1.330	7	50	.67
2002	1.352	8	43	.58
2001	1.360	9	36	.49
2000	1.372	10	29	.40
1999	1.396	11	24	.34
1998	1.401	12	22	.31
1997	1.413	13	20	.28

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
2009	1.013	1	97	.98
2008	1.042	2	93	.97
2007	1.083	3	90	.97
2006	1.142	4	86	.96
2005	1.195	5	82	.95
2004	1.285	6	78	.94
2003	1.330	7	74	.93
2002	1.352	8	70	.92
2001	1.360	9	65	.88
2000	1.372	10	60	.82
1999	1.396	11	55	.77
1998	1.401	12	50	.70
1997	1.413	13	45	.64
1996	1.436	14	40	.57
1995	1.457	15	35	.51
1994	1.510	16	31	.47
1993	1.552	17	27	.42
1992	1.582	18	24	.38
1991	1.602	19	22	.35
1990	1.634	20	21	.34
1989	1.678	21	20	.34

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 37:

Chapter 9. Oil and Gas Properties

§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

A. ...

B. The Well

1. The well includes all of the equipment and any other taxable property located below the wellhead, as well as the casinghead, wellhead and/or Xmas tree.

2. Each string of casing runs from the surface down. There will always be at least two sizes of casing; the surface pipe which seals off fresh water zones, and the production string. The larger surface pipe usually extends only a few feet, depending on the depth of usable underground water, while the small production string extends to the depth of the oil producing formations. However, in some wells, and in particular the deeper wells, it may be necessary to set more than two strings of casing, each of which extends to a specific depth.

3. Each well is normally assessed in accordance with guidelines establishing "fair market value".

C. - 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 37:

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

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. 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.

Procedure for Arriving at Assessed Value

1. Indicate an appraised value of \$100 for each well shut-in for two years or longer. All other oil and gas property assessments may be based on procedures in this chapter or an individual cost basis. For wells with individual cost reported, begin with step c. below, except apply composite multiplier. If individual cost is not provided, begin with step a. below.

a. Determine if well is located in Region 1 by reference to Table 907.B-1. See note for Region 2 or Region 3 (offshore state waters) wells.

b. Multiply depth of well by appropriate Cost-New amount as indicated in Table 907.A-1 or 907.A-2. Use Oil Cost-New to assess all active service wells for region where located.

c. Multiply the appropriate percent good factor based on type and age of the well as found in Table 907.B-2. See explanations in Section 901.E regarding the assessment of multiple completion wells. For wells recompleted, use new perforation depth to determine fair market value.

d. Deduct obsolescence

i. 40% for all wells producing 10 barrels oil or 100 mcf (thousand cubic feet) gas, or less, per day, as well as, all active service wells (i.e., injection, salt water disposal, water source, etc.). Taxpayer must provide the assessor with proper documentation to obtain this reduction.

ii. 76% for all wells producing 1 barrel oil or 10 mcf (thousand cubic feet) gas, or less, per day. Taxpayer must provide the assessor with proper documentation to obtain this reduction.

iii. 90% for all wells inactive (shut-in) for less than two years.

iv. Additional obsolescence for any operating or inactive well, appropriately documented. 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.

e. Multiply fair market value determined by above steps by 15 percent to arrive at assessed value.

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.	33.82	118.33	5.07	17.75
1,250-2,499 ft.	30.52	87.01	4.58	13.05
2,500-3,749 ft.	23.99	57.62	3.60	8.64
3,750-4,999 ft.	33.17	57.42	4.98	8.61
5,000-7,499 ft.	39.02	56.04	5.85	8.41
7,500-9,999 ft.	85.54	75.54	12.83	11.33
10,000-12,499 ft.	249.46	91.64	37.42	13.75
12,500-14,999 ft.	N/A	138.37	N/A	20.76
15,000-Deeper ft.	N/A	157.78	N/A	23.67

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.	259.95	117.55	38.99	17.63
1,250-2,499 ft.	89.76	195.39	13.46	29.31
2,500-3,749 ft.	87.65	155.78	13.15	23.37
3,750-4,999 ft.	77.27	124.62	11.59	18.69
5,000-7,499 ft.	105.56	141.55	15.83	21.23
7,500-9,999 ft.	144.00	148.20	21.60	22.23
10,000-12,499 ft.	196.37	193.73	29.46	29.06
12,500-14,999 ft.	257.59	250.64	38.64	37.60
15,000-17,499 ft.	417.23	335.56	62.58	50.33
17,500-19,999 ft.	509.44	475.31	76.42	71.30
20,000-Deeper ft.	272.03	713.60	40.80	107.04

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

serial number is unknown, use spud date to determine appropriate percent good.

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.	1303.05	952.13	195.46	142.82
2,500 -3,749 ft.	670.04	731.74	100.51	109.76
3,750 -4,999 ft.	956.42	670.98	143.46	100.65
5,000 -7,499 ft.	475.95	621.47	71.39	93.22
7,500 -9,999 ft.	603.43	588.09	90.51	88.21
10,000 -12,499 ft.	683.13	596.13	102.47	89.42
12,500 -14,999 ft.	594.13	580.13	89.12	87.02
15,000 -17,499 ft.	409.51	601.95	61.43	90.29
17,500 - 19,999 ft.	N/A	575.48	N/A	86.32
20,000 - Deeper ft.	N/A	904.60	N/A	135.69

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

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

Year	Beginning Serial Number	Ending Serial Number	17 Year Life Percent Good
2009	239277	Higher	94
2008	236927	239276	88
2007	234780	236926	82
2006	232639	234779	76
2005	230643	232638	71
2004	229010	230642	65
2003	227742	229009	59
2002	226717	227741	53
2001	225352	226716	47
2000	223899	225351	41
1999	222882	223898	35
1998	221596	222881	29
1997	220034	221595	24
1996	Lower	220033	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

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 907.B.2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

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.

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#	105,610
300#	116,440
500#	132,500
Destroilets—(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	340

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included): Per Unit	38,740
Flow Splitters—(No metering equipment included): 48 In. Diameter Vessel	18,860
72 In. Diameter Vessel	24,980
96 In. Diameter Vessel	38,290
120 In. Diameter Vessel	54,400
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.):	
50 HP and less – Per HP	1,440
51 HP to 100 HP – Per HP	1,240
101 HP and higher – Per HP	900
Gas Coolers—(No metering equipment):	
5,000 MCF/D	29,760
10,000 MCF/D	33,520
20,000 MCF/D	104,260
50,000 MCF/D	236,540
100,000 MCF/D	387,400
Generators—Package Unit only -(No special installation) Per K.W.	220
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	20,890
4.1 to 5.0 MMCF/D	23,300
5.1 to 10.0 MMCF/D	44,920
10.1 to 15.0 MMCF/D	62,490
15.1 to 20.0 MMCF/D	85,060
20.1 to 25.0 MMCF/D	110,610
25.1 to 30.0 MMCF/D	210,090
30.1 to 50.0 MMCF/D	234,690
50.1 to 75.0 MMCF/D	291,950
75.1 & Up MMCF/D	336,870
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	7,240
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,100
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,000
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	16,280
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	20,100
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,180
30 In. Diameter Vessel - 500,000 BTU/HR Rate	8,480
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,060
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	15,660
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	20,040
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,920
30 In. Diameter Vessel - 450,000 BTU/HR Rate	9,880
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	14,820
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	17,010
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	19,260
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	30,430
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	36,550
Heat Exchange Units-Skid Mounted—(See Production Units)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	15,830
4 x 27 ft.	20,380
6 x 20 ft.	21,340
6 x 27 ft.	26,840
8 x 20 ft.	34,190
8 x 27 ft.	40,030
10 x 20 ft.	45,200
10 x 27 ft.	53,170
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	39,300
Up to 5 MMCF/D	56,150
Up to 10 MMCF/D	134,750
Up to 20 MMCF/D	224,580
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	6,120
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,910
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	4,660
30 In. Diameter Vessel - 1 bbl. Dump	6,010
36 In. Diameter Vessel - 2 bbl. Dump	8,310
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	4,380
24 In. Diameter Vessel - 1/2 bbl. Dump	5,280
30 In. Diameter Vessel - 1 bbl. Dump	6,630
36 In. Diameter Vessel - 2 bbl. Dump	8,930
L.A.C.T. & A.T.S. Units:	
30 lb. Discharge	29,420
60 lb. Discharge	33,520
Manifolds—Manual Operated:	
High Pressure	
per well	23,080
per valve	7,800
Low Pressure	
per well	11,170
per valve	3,710
Manifolds—Automatic Operated:	
High Pressure	
per well	41,720
per valve	13,760
Low Pressure	
per well	29,760
per valve	10,050
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	6,290
3 In. piping & valve	7,070
4 In. piping & valve	8,530
6 In. piping & valve	11,900
8 In. piping & valve	17,880
10 In. piping & valve	23,810
12 In. piping & valve	29,760
14 In. piping & valve	40,540
16 In. piping & valve	52,940
18 In. piping & valve	65,580
20 In. piping & valve	85,230
22 In. piping & valve	107,410
24 In. piping & valve	131,490
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,650
5 bbl. calibration plate (24 x 10)	3,930
7.5 bbl. calibration plate (30 x 10)	5,500
10 bbl. calibration plate (36 x 10)	6,850
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,530
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	340
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	18,300
2 1/2 In. nominal size - per mile	24,650
3 & 3 1/2 In. nominal size - per mile	31,440
4, 4 1/2 & 5 In. nominal size - per mile	54,070
6 In. nominal size - per mile	79,390
Poly Pipe	
2 In. nominal size - per mile	10,050
2 1/2 In. nominal size - per mile	13,530
3 In. nominal size - per mile	17,290
4 In. nominal size - per mile	29,700
6 In. nominal size - per mile	43,620
Plastic-Fiberglass	
2 In. nominal size - per mile	15,610
3 In. nominal size - per mile	26,730
4 In. nominal size - per mile	45,930
6 In. nominal size - per mile	67,430
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	19,760
Class II - per unit - separator & 1 heater – 750 MCF/D	26,330
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	280
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	340
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	390

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	
16 D	12,130
25 D	6,460
40 D	12,130
57 D	15,160
80 D	20,210
114 D	33,740
160 D	35,090
228 D	47,220
320 D	51,260
456 D	64,790
640 D	76,920
912 D	93,140
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	98,530
Regenerators (Accumulator)—(See Metering Equipment)	
Regulators:	
per unit	2,580
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	5,170
well & production equipment	5,950
with surface op. ssv, add	8,930
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	14,880
production train	37,220
glycol dehydration system	22,350
P/L pumps and LACT	52,100
Compressors	32,730
Wellhead Actuators (does not include price of the valve)	
5,000 psi	3,710
10,000 psi and over	5,560
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	3,140
10 In. Diameter Vessel	4,490
12 In. Diameter Vessel	5,110
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	1,460
12 In. Diameter Vessel	1,910
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"	4,600
8-5/8" OD x 7'-6"	5,000
10-3/4" OD x 8'-0"	7,020
12-3/4" OD x 8'-0"	9,430
16" OD x 8'-6"	15,160
20" OD x 8'-6"	22,400
20" OD x 12'-0"	23,580
24" OD x 12'-6"	31,780
30" OD x 12'-6"	46,380
36" OD x 12'-6"	55,130

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Separators—(No metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,220
30" OD x 10'-0"	5,610
36" OD x 10'-0"	11,730
Vertical 3—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,500
24" OD x 10'-0"	6,230
30" OD x 10'-0"	8,650
36" OD x 10'-0"	12,300
42" OD x 10'-0"	14,260
Horizontal 3—Phase /125 psi (Low Pressure)	
24" OD x 10'-0"	8,140
30" OD x 10'-0"	10,440
36" OD x 10'-0"	11,400
42" OD x 10'-0"	18,190
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	3,090
16" OD x 5'-6"	4,600
20" OD x 7'-6"	8,760
24" OD x 7'-6"	10,610
30" OD x 10'-0"	16,170
36" OD x 10'-0"	20,940
42" OD x 10'-0"	33,520
48" OD x 10'-0"	39,530
54" OD x 10'-0"	59,850
60" OD x 10'-0"	74,840
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,390
20" OD x 7'-6"	9,430
24" OD x 7'-6"	10,950
30" OD x 10'-0"	16,900
36" OD x 10'-0"	21,620
42" OD x 10'-0"	35,260
48" OD x 10'-0"	40,870
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,280
20" OD x 7'-6"	8,480
24" OD x 10'-0"	11,570
30" OD x 10'-0"	17,800
36" OD x 10'-0"	22,570
42" OD x 15'-0"	45,810
48" OD x 15'-0"	52,830
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	8,140
20" OD x 7'-6"	9,100
24" OD x 10'-0"	13,250
30" OD x 10'-0"	18,860
36" OD x 10'-0"	27,170
36" OD x 15'-0"	30,370
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	39,130
36" OD x 10'-0"	37,340
36" OD x 12'-0"	54,180
36" OD x 15'-0"	56,540
42" OD x 15'-0"	87,750
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	
	5,780
Sump/Dump Tanks—(See Metering Equipment - "Fluid Tanks")	
Tanks—No metering equipment	
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. Range (average tank size - 250 bbl.)	36.20
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size - 300 bbl.)	28.10

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Storage Tanks (Closed Top)	
1,000 barrel	23.90
1,500 barrel	21.10
2,000 barrel	20.50
2,001 - 5,000 barrel	18.90
5,001 - 10,000 barrel	17.70
10,001 - 15,000 barrel	16.60
15,001 - 55,000 barrel	11.60
55,001 - 150,000 barrel	8.80
Internal Floating Roof	
10,000 barrel	34.10
20,000 barrel	23.10
30,000 barrel	17.20
50,000 barrel	15.30
55,000 barrel	14.70
80,000 barrel	13.00
100,000 barrel	11.30
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone & data transmission	44,920
Radio telephone	3,370
Supervisory controls:	
remote terminal unit, well	9,600
master station	21,900
towers (installed):	
heavy duty, guyed, per foot	560
light duty, guyed, per foot	40
heavy duty, self supporting, per foot	570
light duty, self supporting, per foot	120
equipment building, per sq. ft.	170
solar panels, per sq. ft.	60
Utility Compressors	
per horsepower - rated on motor	740
Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	19,650
105 MCF/D max	28,070
250 MCF/D max	37,060
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	
2' diam. x 16'	5,330
3' diam. x 10'	7,970
4' diam. x 10'	11,000
6' diam. x 10'	18,020
6' diam. x 15'	20,830
8' diam. x 10'	26,110
8' diam. x 15'	29,980
8' diam. x 20'	33,240
8' diam. x 25'	37,000
10' diam. x 20'	43,510

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 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	916,500	137,500
4,000	1,013,100	152,000
5,000	1,319,200	197,900
6,000	1,772,200	265,800
7,000	2,317,600	347,600
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,909,000	436,400
9,000	3,508,200	526,200
10,000	4,085,100	612,800
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	4,617,800	692,700
12,000	5,092,500	763,900
13,000	5,503,400	825,500
14,000	5,853,000	878,000
15,000	6,151,900	922,800
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	6,418,800	962,800
17,000	6,680,400	1,002,100
18,000	6,971,900	1,045,800
19,000	7,336,200	1,100,400
20,000	7,824,500	1,173,700
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,496,400	1,274,500
25,000 +	9,419,200	1,412,900

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.

Living quarters are to be assessed on an individual basis.

* * *

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- Up ft.	\$ 200,000,000	\$ 30,000,000

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. The fair market values and assessed values indicated by the tables above for drilling rigs are based on the current market (sales) appraisal approach and not the cost approach.

2. These tables assume complete rigs in good condition. If it is documented to the assessor that any drilling rig is incomplete or is in less than good condition, these amounts should be adjusted.

3. Significant variations from the "Good" condition are possible and must be considered when the drilling rig is valued. These variations in condition are acknowledged by HADCO in the newsletter pricing. Conditions from "poor" to "excellent" are priced for all depth ratings. If adjustments are needed, the most recent HADCO newsletter shall be used to determine the proper adjusted condition.

a. Significant factors that would DOWNGRADE the condition can be identified by:

i. a detailed estimate and description of substantial capital repairs needed on the rig and/or rig data sheet verifying the rig is of outdated technology (mechanical rig or the like).

b. Significant factors that would UPGRADE the condition can be identified by:

i. a rig manufactured date on the LAT form of less than three (3) years.

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	218,000	32,700
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	270,000	40,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	310,000	46,500
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	358,000	53,700
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	436,000	65,400
VII	117' X 215M#	(2) 8V92 (2) 12V71	500,000	75,000

1. The RCNLD values given in the table above for service rigs have been determined with 60% default depreciation rate. The HADCO data for RCN of service rigs does not contain a stated condition (excellent, good, fair, etc.) similar to drilling rigs.

E. Consideration of Obsolescence

1. Functional and/or economic obsolescence is a loss in value of personal property above and beyond physical deterioration. 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.

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 37:

Chapter 13. Pipelines

§1305. Reporting Procedures

A. - D. ...

E. Refer to current cost tables (1307.A and 1307.B) and depreciation guidelines (Table 1307.C) adopted by the Louisiana Tax Commission. Yearly depreciation will be allowed, according to actual age, on an economic life of 26.5 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than that allowed for the maximum actual age shown in Table 1307.C.

F. Assessment will be based on fair market value. 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.

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

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 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	\$ 165,820	\$ 24,870
4	193,690	29,050
6	226,260	33,940
8	264,300	39,650
10	308,730	46,310
12	360,640	54,100
14	421,270	63,190
16	492,100	73,820
18	574,830	86,220
20	671,470	100,720

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
22	784,370	117,660
24	916,240	137,440
26	1,070,280	160,540
28	1,250,220	187,530
30	1,460,410	219,060
32	1,705,950	255,890
34	1,992,760	298,910
36	2,327,790	349,170
38	2,179,150	326,870
40	3,176,310	476,450
42	3,710,330	556,550
44	4,334,120	650,120
46	5,062,800	759,420
48	5,913,980	887,100

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	\$ 943,380	\$ 141,510
8	953,870	143,080
10	962,890	144,430
12	979,960	146,990
14	1,005,080	150,760
16	1,038,260	155,740
18	1,079,500	161,930
20	1,128,780	169,320
22	1,186,120	177,920
24	1,251,520	187,730
26	1,324,970	198,750
28	1,406,470	210,970
30	1,496,020	224,400
32	1,593,640	239,050
34	1,699,300	254,900
36	1,813,020	271,950
38	1,934,790	290,220
40	2,064,620	309,690
42	2,202,500	330,380
44	2,348,430	352,260
46	2,502,420	375,360
48	2,664,460	399,670

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	26.5 Year Life Percent Good
1	96
2	92
3	89
4	85
5	81
6	77
7	74
8	70
9	66
10	62
11	58
12	55
13	51
14	47
15	43

Actual Age	26.5 Year Life Percent Good
16	40
17	36
18	32
19	28
20	25
21	21
22 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 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
2009	1.013	1	97	.98
2008	1.042	2	93	.97
2007	1.083	3	90	.97
2006	1.142	4	86	.96
2005	1.195	5	82	.95
2004	1.285	6	78	.94
2003	1.330	7	74	.93
2002	1.352	8	70	.92
2001	1.360	9	65	.88
2000	1.372	10	60	.82
1999	1.396	11	55	.77
1998	1.401	12	50	.70
1997	1.413	13	45	.64
1996	1.436	14	40	.57
1995	1.457	15	35	.51
1994	1.510	16	31	.47
1993	1.552	17	27	.42
1992	1.582	18	24	.38
1991	1.602	19	22	.35
1990	1.634	20	21	.34
1989	1.678	21	20	.34

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 37:

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

* * *

B. Cost Indices

Year	Age	National Average 1926 = 100	January 1, 2009 = 100*
2009	1	1468.6	1.013
2008	2	1427.3	1.042
2007	3	1373.3	1.083
2006	4	1302.3	1.142
2005	5	1244.5	1.195
2004	6	1157.3	1.285
2003	7	1118.6	1.330
2002	8	1100.0	1.352
2001	9	1093.4	1.360
2000	10	1084.3	1.372
1999	11	1065.0	1.396
1998	12	1061.8	1.401
1997	13	1052.7	1.413
1996	14	1036.0	1.436
1995	15	1020.4	1.457
1994	16	985.0	1.510
1993	17	958.0	1.552
1992	18	939.8	1.582
1991	19	928.5	1.602
1990	20	910.2	1.634
1989	21	886.5	1.678
1988	22	841.4	1.768
1987	23	806.9	1.843
1986	24	795.4	1.870
1985	25	787.9	1.888
1984	26	776.4	1.916

*Reappraisal Date: January 1, 2009 – 1487.2 (Base Year)

C. ...

* * *

D. Composite Multipliers 2010 (2011 Orleans Parish)

Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.71	.86	.88	.91	.93	.95	.96	.98	.99
2	.51	.72	.76	.82	.88	.91	.94	.97	.99
3	.37	.56	.62	.73	.82	.87	.92	.97	.98
4	.18	.39	.47	.62	.77	.83	.90	.96	.97
5		.27	.36	.51	.69	.79	.87	.95	.96
6			.23	.42	.63	.75	.87	.94	.95
7				.24	.35	.67	.82	.93	.94
8					.30	.41	.58	.74	.92
9						.27	.33	.49	.67
10							.29	.40	.59
11								.28	.34
12									.31
13									
14									
15									

Table 2503.D Composite Multipliers 2010 (2011 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
16							.30	.47	.72
17								.42	.68
18								.38	.62
19								.35	.54
20								.34	.49
21								.34	.47
22									.46
23									.44
24									.37
25									.36
26									.36

1. - 1.c....

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 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. ...

B.1. Each assessor shall publish the dates, time and place of the public exposure of the assessment lists of both real and personal property in a newspaper of general circulation in their respective parishes. Notice shall be published at least twice within a period of not sooner than 21 days nor later than seven days prior to the beginning of the 15 calendar day period of exposure.

2. Each assessor shall notify the Louisiana Tax Commission of the public exposure dates at least 21 days prior to the public exposure period, which dates shall be published by the Louisiana Tax Commission on its website.

C. - D. ...

E.1. Each assessor shall publish two notices of the parish's Board of Review appeal hearing dates in the local newspaper within a period of 21 and 7 days prior to the actual hearing date(s). Each assessor shall then notify the Tax Commission in writing of the Board of Review hearing date(s) and shall provide the commission with an affidavit executed by the local paper demonstrating proof of publication. Appeals must be received by the Board of Review no later than seven days prior to the public hearing.

2. Each assessor shall notify the Louisiana Tax Commission of the Board of Review appeal hearing dates prior to the beginning of the public exposure period, which

dates shall be published by the Louisiana Tax Commission on its website.

F. - H.1.

2. The Board of Review shall consider all written complaints which have been filed in compliance with the following procedure.

a. The complaint form provided by the board, through the office of the assessor, must be completed in conformity with the requirements of the Board of Review.

b. The complaint form must be received in the assessor's office within five business days after the last date on which the lists are exposed.

c. The form must be forwarded by the assessor and received by the Board of Review within seven business days after the last date on which the lists are exposed.

d. The taxpayer must have timely filed the reports as required by R.S. 47:2301 et seq., and R.S. 47:2321 et seq.

H.3. - I. ...

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The notice of determination shall be sent to the assessor and the taxpayer at the address shown on the appeal form by certified mail.

K. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the Board of Review notice of determination. Either or both parties may appeal the Board of Review determination to the Tax Commission.

Form 3101

Exhibit A

Appeal to Board of Review by Taxpayer for Real and Personal Property

Name: _____ Parish/District: _____

Taxpayer

Address: _____ City, State, Zip: _____

Ward: _____ Assessment/Tax Bill Number: _____

Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of BOR's written determination. For further information, call LTC at (225) 925-7830.

Appellant _____
Address: _____
Telephone No. _____

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 37:

§3103. Appeals to the Louisiana Tax Commission

A. ...

B. An appeal to the Louisiana Tax Commission shall be filed with the commission within 10 business days after the Board of Review's written decision is delivered to the appealing taxpayer or assessor via certified mail. In order to institute a proceeding before the commission, the taxpayer or assessor shall file Form 3103.A and, if applicable, Form 3103.B. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101(J).

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

D.1. All parties shall receive notice of the scheduling of an appeal hearing at least 30 days prior to the scheduled hearing date.

2. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision may attach a pleading containing further information concerning the appeal.

3. A taxpayer (except a homeowner appealing their personal residence) or assessor who has appealed the decision of the Board of Review shall file and serve on the opposing party at least 15 days prior to the scheduled hearing date a pleading containing the following:

- a. name under which the property is assessed;
- b. description of the property;
- c. determination of the Board of Review;
- d. a prayer stating the type of relief, action or order desired by the pleading party;

- e. a list of exhibits to be presented at the hearing;
- f. a list of witnesses who may be called, with a brief description of the anticipated testimony of the witness;
- g. anticipated time needed to present the case; and
- h. an appraisal report or other appropriate evidence concerning the fair market value of the property.

4. The party who has not appealed the Board of Review decision shall notify the Louisiana Tax Commission and the opposing party at least 10 days prior to the scheduled hearing of the following:

- a. a list of exhibits to be presented at the hearing; and
- b. a list of witnesses who may be called with a brief description of the anticipated testimony of the witness.

E. - X. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 37:

§3105. Practice and Procedure for Public Service Properties Hearings

A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days after receipt of the Public Service Section's Certificate of Value. In order to institute a proceeding before the commission, the taxpayer shall file Form 3103.A and, if applicable Form 3103.B.

B.1. All filings to the Louisiana Tax Commission shall be filed, in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

2. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. - L. ...

M. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

N. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude

evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

O. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

P. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

Q. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

R. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

S. The word *commission* as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 37:

§3106. Practice and Procedure for the Appeal of Bank Assessments

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of the Administrator. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. - T. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 37:

§3107. Practice and Procedure for the Appeal of Insurance Credit Assessments

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of the Administrator. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. - T.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), amended LR 34:690 (April 2008), LR 37:

James D. "Pete" Peters
Chairman

0912#019

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

Prepaid Wireless 911 Service Charge
(LAC 61:I.5401)

Act 531 of the 2009 Regular Session of the Legislature imposed a service charge upon the sales of prepaid wireless telecommunications. In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative

LTC Docket No. _____
Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer
La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Public Service Section of the Louisiana Tax Commission is:
Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____
I am requesting that the Fair Market Value be fixed at:
Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

* If you are not appealing personal property, leave this section blank.
I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant
Address: _____

Telephone No.: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

Procedure Act, which allows the Department of Revenue to use emergency procedures to establish rules, and R.S. 47:1511, which allows the department to make reasonable rules and regulations, the secretary hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective January 1, 2010 and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to allow the secretary to provide needed information to Louisiana taxpayers regarding the collection and remittance of the prepaid wireless 911 service charge as provided by R.S. 33:9101.1. The effective date of this new law is January 1, 2010. The Department of Revenue is charged with the responsibility of administering the prepaid wireless 911 service charge.

Title 61

REVENUE AND TAXATION

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

Chapter 54. Prepaid Wireless 911 Service Charge

§5401 Prepaid Wireless 911 Service Charge

A. Revised Statute 33:9109.1 imposes a service charge of 2 percent upon a consumer's retail purchase of prepaid wireless telecommunications service. .

B. Definitions

Consumer—a person who purchases prepaid wireless telecommunications service in a retail transaction.

Person—includes both businesses and individuals.

Prepaid Wireless Telecommunications Service—a wireless telecommunications system that allows a caller to dial 911 to access the 911 system, which service shall be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

Prepaid Wireless 911 Service Charge—the charge that is required to be collected by a seller from a consumer.

Provider—a person that provides prepaid wireless telecommunications service from a seller pursuant to a license issued by the Federal Communications Commission.

Retail Transaction—each individual purchase of prepaid wireless telecommunications from a seller for any purpose other than resale.

Seller—a person who sells prepaid wireless telecommunications to another person.

Wireless Telecommunications Service—commercial mobile radio service as defined by 47 C.F.R. 20.3, as amended.

C. Calculation of the Service Charge. Retail sellers of prepaid wireless telecommunications service will collect a 2 percent 911 service charge.

1. The seller must separately state the service charge for each transaction on an invoice, receipt or similar document provided to the consumer.

2. If the seller fails to separately state the service charge, the seller will be deemed to have collected the service charge.

3. When a tax or other fee is calculated on the retail transaction, the prepaid wireless 911 service charges is not included in the base for measuring the tax, fee, surcharge or other charge imposed by the state, political subdivision of the state or any intergovernmental agency.

4. There is no service charge imposed on the sale of a cellular phone that does not include preloaded minutes or units of airtime or rebates for minutes or units of airtime.

D. To determine whether or not a transaction occurs in Louisiana and is subject to the prepaid wireless 911 service charge, the following criteria should be used.

1. If a consumer purchases prepaid wireless telecommunications at a Louisiana location of a seller's business, then the transaction is to be treated as occurring in Louisiana.

2. If a customer does not physically purchase the prepaid wireless telecommunication service at the vendor's place of business, then the retail transaction shall be deemed to take place in the following locations:

a. the consumer's shipping address, if there is a shipment;

b. the consumer's billing address;

c. another address of the consumer, that is known by the vendor; or

d. the vendor's address or alternatively in the case of prepaid wireless calling service, the location associated with the mobile telephone number.

E. Quarterly Filing and Payment

1. Sellers must file and remit all prepaid wireless service charges collected to the Louisiana Department of Revenue (LDR) on a quarterly basis.

2. The return must be filed on or before the 20th day of the month following the end of the quarter.

3. The first quarter return for fees collected January 1, through March 31, 2010, will be due on or before April 20, 2010.

4. Sellers must file a return for the first quarter, even if no service charges were collected to be remitted to LDR.

F. Electronic Filing and Payment of 911 Service Fee Required

1. Sellers must file the 911 service fee return and pay the 911 service fees collected electronically via the LDR web site.

2. Sellers must register for the electronic filing system and select an electronic payment method.

G. Administration Fee

1. Sellers are allowed to deduct and retain 4 percent of the prepaid wireless 911 service charges collected from consumers as compensation for administering the service charge.

2. For the first quarter of 2010, sellers will be permitted to deduct and retain all service charges collected from consumers on retail transactions as compensation for establishing a system for administering the service charge.

3. LDR is allowed to retain up to 2 percent of the remitted service charges for reimbursement of direct administrative costs.

4. For the fiscal year 2009-2010, LDR may retain up to \$800,000 of the remitted service fees for implementation costs to establish an electronic system for collection and remittance of the prepaid wireless 911 service charges.

H. Distribution of 911 Service Charges to Eligible Communication Districts

1. Each communications district will receive a distribution of the 911 service charges remitted within 30 days of the end of each quarter.

2. The distribution will be calculated on a per capita basis by dividing the communication district's population by the state's population and multiplying the quotient by the total revenues remitted after deducting the administrative fee retained by LDR.

I. Audit and appeal procedures applicable to state sales tax under Chapter 2 of Title 47 of the Louisiana Revised Statutes shall apply to the prepaid wireless 911 service charge. Prescription of the prepaid wireless 911 service charge is governed by Article VII § 16 of the Louisiana Constitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 33:9109.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:

Cynthia Bridges
Secretary

0912#019

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Boeuf WMA Closure

Due to excessive high water from extraordinary rainfall in northeast Louisiana, Boeuf Wildlife Management Area is experiencing flooding, causing a concentration of deer and other wildlife into what little high ground remains. Continued hunting under these circumstances poses a potential risk of overharvest of the wildlife resource, eliminates fair chase, and poses a significant safety risk to the hunting public because of the concomitant concentration of hunters in the areas where deer and other wildlife are located. Further, human-wildlife contact even by the non-hunting public causes further stress to wildlife population already displaced by the flood event. Therefore it is necessary to close Boeuf Wildlife Management Area to all public access until the high water recedes. In accordance with the provisions of R.S. 56:6.1, the Boeuf Wildlife Management Area is hereby closed to all public access. During this closure, no person shall enter upon Boeuf Wildlife Management Area. This Declaration of Emergency shall become effective November 20, 2009 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded by the secretary.

Robert J. Barham
Secretary

0912#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Lake Borne Temporary Reef and Oyster Season

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) which allows the Wildlife and Fisheries Commission to use emergency procedures when it is determined there exists imminent peril to public health, safety, or welfare, R.S. 49:967(D) which allows the commission to use emergency procedures to set oyster seasons, and in accordance with R.S. 56:6(12) and R.S. 56:434(A) which allows the commission to enlarge the natural reefs of the state and to designate and set aside state water bottoms for the planting, growth, propagation, and policing of seed oysters, the Wildlife and Fisheries Commission does hereby declare and designate a temporary natural reef on those public water bottoms of Lake Borgne in St. Bernard Parish, more specifically described below as per the seasonal framework described below.

Due to the declining availability of oyster resources on the public oyster seed grounds, the current unavailability of these un-leased state-owned water bottoms for oyster leasing, the closure of portions of the public oyster grounds in St. Bernard Parish, and the availability of oyster resource located on un-leased water bottoms adjacent to the current Lake Borgne public oyster seed ground, the designation of the Lake Borgne temporary natural reef area is needed to assist with the economic sustainability of the Louisiana oyster industry; an industry that is still rebounding from the hurricanes of 2005 and 2008. The oyster resource in this area would be immediately placed under active state management. This would allow harvest of this resource providing immediate economic benefit to the oyster industry.

The Lake Borgne temporary natural reef shall be those state-owned water bottoms not currently under lease within the following description:

Beginning at the most southerly point of the Lake Borgne seed ground at latitude 29 degrees 53 minutes 22.749 seconds North and longitude 89 degrees 42 minutes 12.538 seconds West; thence northeasterly along the boundary of the Lake Borgne seed ground to a point at latitude 30 degrees 01 minutes 18.470 seconds North and longitude 89 degrees 35 minutes 03.662 seconds West; thence northeasterly continuing along the boundary of the Lake Borgne seed ground to a point at latitude 30 degrees 01 minutes 25.814 seconds North and longitude 89 degrees 34 minutes 51.025 seconds West; thence southeasterly continuing along the boundary of the Lake Borgne seed ground to a point at latitude 30 degrees 00 minutes 26.497 seconds North and longitude 89 degrees 34 minutes 05.521 seconds West; thence northeasterly continuing along the boundary of the Lake Borgne seed ground to a point at latitude 30 degrees 02 minutes 25.177 seconds North and longitude 89 degrees 30 minutes 22.277 seconds West; thence north continuing along the boundary of the Lake Borgne seed ground to a point at latitude 30 degrees 04 minutes 01.816 seconds North and longitude 89 degrees 30 minutes 22.277 seconds West; thence northeasterly

continuing along the boundary of the Lake Borgne seed ground to a point at latitude 30 degrees 04 minutes 48.216 seconds North and longitude 89 degrees 29 minutes 02.247 seconds West; thence southerly to the Lake Borgne shoreline at latitude 30 degrees 04 minutes 42.4 seconds North and longitude 89 degrees 29 minutes 01.7 seconds West; thence southwesterly along the Lake Borgne shoreline to the boundary of the Lake Borgne seed ground at latitude 29 degrees 56 minutes 12.711 seconds North and longitude 89 degrees 44 minutes 11.750 seconds West; thence southeasterly along the Lake Borgne seed ground to the point of beginning. Less and except all oyster leases within the described area.

The commission originally scheduled the oyster season in this area to open on December 8, 2009; however, under authority delegated by the commission and in order to allow time for leaseholders to mark their leases and thereby avoid enforcement problems, the secretary has delayed the opening until one-half hour before sunrise on December 14, 2009. The season shall close at one-half hour after sunset on April 1, 2010. The Lake Borgne temporary natural reef will be opened with the following provisions. These provisions shall also be in effect for the entire Lake Borgne Public oyster seed grounds as described in *Louisiana Administrative Code* (LAC) 76:VII.513.

1. The daily take and possession limit shall be no more than 60 sacks of oysters per vessel.

2. Bedding from the Lake Borgne public oyster seed grounds and the Lake Borgne temporary natural reef shall be prohibited.

3. No person harvesting oysters from the Lake Borgne public oyster seed grounds or the Lake Borgne temporary natural reef shall take, sell or possess more than 60 sacks of oysters on any calendar day regardless of where the oysters are harvested.

4. All oysters harvested within the Lake Borgne public oyster seed grounds or the Lake Borgne temporary natural reef must be contained within properly tagged sacks prior to leaving these areas.

5. Any oysters contained in sacks or containers that contain fewer oysters than a standard sack shall be included into the 60 sack limit. Any sack or container larger than a standard sack shall be prohibited.

6. If a vessel is harvesting on the Lake Borgne public oyster seed grounds or the Lake Borgne temporary natural reef, all oysters on that vessel are deemed to have been taken from the Lake Borgne public grounds.

7. It shall be prohibited to harvest oysters from any private oyster lease and any area of the Lake Borgne public oyster seed grounds or the Lake Borgne temporary natural reef on the same day.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring, or where it is found that there are excessive amounts of non-living reef material in harvested loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

All statutes, regulations, and policies pertaining to the use of public oyster seed grounds remain in effect except:

1. Any additional compensation requirements levied from time to time for construction, oil and gas exploration, or pipeline construction activities within this temporary natural reef area, and

2. The policy pertaining to non-renewal of expired oyster leases within this temporary natural reef area.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

This Declaration of Emergency will become effective on December 14, 2009 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until revocation by the commission or the department.

Robert J. Barham
Secretary

0912#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Closure Portion of State Outside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude to 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. This closure is effective at official sunset, Tuesday, December 22, 2009.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October fifteenth through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of state outside waters do not average 100 possession count and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if enforcement problems develop, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp

seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations.

Robert J. Samanie, III
Chairman

0912#003

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 102—Louisiana Physical Education Content Standards (LAC 28:LIII.Chapters 5, 7, 9, 11 and 15)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 102—Louisiana Physical Education Content Standards*: Chapters 5, 7, 9, 11, and 15. The policy change to *Bulletin 102—Louisiana Physical Education Content Standards* is the result of R.S. 17:17.4, which requires the development of physical education curricula in all public elementary and secondary schools in the state. The change makes additions and deletions to existing standards and benchmarks. New grade-level expectations (GLEs) are to replace the contents of Chapter 15 in *Bulletin 102*.

Title 28 EDUCATION

Part LIII. Bulletin 102—Louisiana Physical Education Content Standards

Subpart 3. Cluster Levels

Chapter 5. Grades K-2—Primary Cluster Level

§501. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

1. Intent. The intent of this standard is to enable students to demonstrate mature locomotor and non-locomotor skills and combine these movements in smooth and rhythmical sequences in a variety of conditions.

B. Benchmarks

1-P-1	Performs locomotor and non-locomotor skills at a basic level progressing to simple sequences utilizing shapes, levels, directions, pathways, and ranges.	(2,4)
1-P-2	Demonstrates ways to manage body weight in a variety of situations alone or within a group.	(1,3,4)
1-P-3	Performs manipulative skills using a variety of equipment in different environmental conditions.	(1,2,4,5)
1-P-4	Performs basic rhythmic skills alone, with a partner or within a group.	(1,2,5)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1177 (June 2002), amended LR 35:2724 (December 2009)

§503. Standard 2

A. - A.1 ...

B. Benchmarks

2-P-1	Integrates other content areas through movement.	(1,2,3,4,5)
2-P-2	Demonstrates and uses a variety of relationships with objects.	(1,2,4)

2-P-3	Identifies fundamental movement patterns.	(1,2,4)
2-P-4	Establishes a beginning movement vocabulary.	(1,2,4)
2-P-5	Applies appropriate concepts to performance.	(1,2,4)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1177 (June 2002), amended LR 35:2724 (December 2009).

Chapter 7. Grades 3-5—Elementary Cluster Level §701. Standard 1

A. - A.1 ...

B. Benchmarks

1-E-1	Demonstrates mature forms in locomotor, non-locomotor, and manipulative skills.	(1,3,5)
1-E-2	Combines a variety of motor skills for specific sports with a stationary and/or moving partner.	(1,3,5)
1-E-3	Exhibits ability to manipulate objects with the skills necessary to participate in games and lead-up activities (e.g., engages in simple games requiring manipulative skills).	(2,3,5)
1-E-4	Demonstrates the ability to perform rhythmic movement patterns and dances (e.g., performs rhythmic body movements and communicates ideas and feelings with and without music).	(1,4)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002), amended LR 35:2724 (December 2009).

§703. Standard 2

A. Standard 2 applies movement concepts and principles to the learning and development of motor skills.

1. Intent. The intent of this standard is for students to use critical elements to refine personal performance of fundamental motor skills and selected specialized motor skills. They should be able to identify and apply concepts that impact the quality of movement performance in increasingly complex movement situations.

B. Benchmarks

2-E-1	Integrates movement concepts with other content areas (e.g., measuring distances and timing races or events).	(2,4)
2-E-2	Applies critical elements to improve personal performance in fundamental and selected specialized motor skills (e.g., describes and demonstrates body positions for each part of an overhand throw).	(1,4)
2-E-3	Recognizes and describes critical elements of more complex movement patterns (e.g., describes the use of the arms, as well as the legs, in performing jumping for distance and height).	(1,4)
2-E-4	Employs the concept of efficient and effective practice to improve skills in appropriate settings (e.g., repeating the skill of basketball lay-ups in a gym or playground setting).	(2,5)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002), amended LR 35:2724 (December 2009)

§705. Standard 3

- A. - A.1. ...
- B. Benchmarks

3-E-1	Describes the physical benefits of participation in health-related activities.	(1,5)
3-E-2	Identifies several moderate to vigorous physical activities that provides personal pleasure and participates in them (e.g., participates in youth league soccer after school, or joins in a pick-up game of basketball).	(1,4,5)
3-E-3	Selects and participates regularly in physical activities for the purpose of improving skill and health (engages in activities that promote cardiovascular fitness).	(2,4)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002), amended LR 35:2725 (December 2009).

§707. Standard 4

- A. - A.1. ...
- B. Benchmarks

4-E-1	Identifies several activities related to each component of health-related fitness.	(1,4)
4-E-2	Participates in self-assessment for health-related fitness.	(1,2,4)
4-E-3	Selects an activity program that is designed to improve health-related fitness.	(2)
4-E-4	Adopts personal goals based upon results of fitness assessments.	(1,2,3,4,5)
4-E-5	Achieves reasonable levels in all components of health-related fitness.	(1,2,3,4,5)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002), amended LR 35:2725 (December 2009).

§711. Standard 6

- A. - A.1. ...
- B. Benchmarks

6-E-1	Displays positive attitudes toward self and others through physical activity.	(1,5)
6-E-2	Demonstrates tolerance for individual differences.	(1,5)
6-E-3	Explores the role of history in physical activities /games and sports of the United States and other countries.	(1,4,5)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002), amended LR 35:2725 (December 2009).

§713. Standard 7

- A. - A.1. ...
- B. Benchmarks

7-E-1	Exhibits positive feelings about participation in physical activity.	(1,5)
7-E-2	Engages in the challenge of new activities.	(1,3,4)
7-E-3	Participates enthusiastically in independent and interactive physical activities.	(1,2,3,5)
7-E-4	Participates in and designs games, gymnastics and/or dance to increase participation and enjoyment of activities.	(1,2,3,4,5)
7-E-5	Acknowledges the role of games, sports, and dance in getting to know and understand self and others.	(1,4,5)

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002), amended LR 35:2725 (December 2009).

Chapter 9. Grades 6-8—Middle School Cluster Level §901. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

B. The middle school student is expected to demonstrate competence in a variety of movement forms. As a result of an increased ability to vary skills, students are able to participate successfully in dance activities, outdoor pursuits, and modified versions of team and individual sports. To do this, students should demonstrate competence in the basic skills and their application to modified versions of these movement forms.

C. Benchmarks

1-M-1	Demonstrates the ability to combine locomotor, non-locomotor, and manipulative skills.	(3)
1-M-2	Exhibits basic strategies related to specific lead-up games.	(1,2,4)
1-M-3	Demonstrates basic competency in more complex motor skills and advanced specialized skills related to specific sports activities (e.g., modified versions of team or individual sports).	(2,4)
1-M-4	Demonstrates the ability to create rhythmic movement patterns.	(1,2,4,5)
1-M-5	Demonstrates strategies for net and invasion games.	(1,2,4,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002), amended LR 35:2725 (December 2009).

§903. Standard 2

A. Standard 2 applies movement concepts and principles to the learning and development of motor skills.

B. Middle school students' increasing competence affords them opportunities to develop more advanced knowledge and understanding. This is exemplified through their application of more advanced movement, knowledge of critical elements of advanced movement skills, and the

identification of biomechanical principals important to highly skilled performance. Concepts of practice indicative of the increasing complexity of discipline-specific knowledge that can be identified and applied to movement.

C. Benchmarks

2-M-1	Analyzes and applies basic concepts to improve movement, dance, fitness, game and sports skills being practiced.	(2,4)
2-M-2	Demonstrates how practicing movement skills improves performance and compares differences in successful throws from first attempts to last attempts.	(4)
2-M-3	Analyzes and applies advanced movement and game strategies.	(2,4)
2-M-4	Recognizes and applies principles necessary for safe and skilled physical performance.	(2,4)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1181 (June 2002), amended LR 35:2725 (December 2009).

§905. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

B. The middle school student should participate in at least one physical activity outside of the school setting on a regular basis. It is the intent of this standard to increase awareness of the opportunities for participation and interest in participating in a superfluous of different kinds of physical activity experiences. Students should be able to independently set physical activity goals and participate in individualized programs of physical activity and exercise based on the results of fitness assessments, personal fitness goals and interest. Greater and more specific understanding of long-term health benefits and understanding the relationship of health maintenance to the quality of lifelong health is expected.

C. Benchmarks

3-M-1	Identifies opportunities in the school and community for regular participation in physical activity.	(2,3,4)
3-M-2	Explores a variety of new physical activities for personal interest in and out of physical education class.	(2,3,4)
3-M-3	Establishes and pursues personal physical activity goals through regular physical activity.	(1,2,3,4)
3-M-4	Describes the elements of a healthy lifestyle.	(1,2,3,4)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1181 (June 2002), amended LR 35:2726 (December 2009).

§907. Standard 4

A. - B. ...

C. Benchmarks

4-M-1	Participates in and sustains moderate to vigorous physical activity in a variety of settings.	(4)
4-M-2	Develops individual goals for each of the health-related fitness components.	(2,4)

4-M-3	Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate age group.	(3,4)
4-M-4	Analyzes and applies basic principles of training to improve health-related fitness.	(2,4)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1181 (June 2002), amended LR 35:2726 (December 2009).

§911. Standard 6

A. - B. ...

C. Benchmarks

6-M-1	Analyzes, describes and participates in simple forms of dances and games of various cultures from around the world.	(3,4)
6-M-2	Recognizes commonalties and differences in people of different genders, cultures, ethnicity, abilities and skill levels, and seeks to learn more about both.	(2,4,5)
6-M-3	Recognizes the role of sport, games and dance in getting to know and understand others of like and different backgrounds.	(3,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1182 (June 2002), amended LR 35:2726 (December 2009).

§913. Standard 7

A. - B. ...

C. Benchmarks

7-M-1	Participates in challenging activities and in activities requiring the utilization of newly acquired skills.	(2,4)
7-M-2	Identifies the social, emotional and physical benefits of participation in physical activities.	(1,4)
7-M-3	Demonstrates enjoyment from participation in physical activities.	(5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1182 (June 2002), amended LR 35:2726 (December 2009).

Chapter 11. Grades 9-12—High School Cluster Level

§1101. Standard 1

A. - B. ...

C. Benchmarks

1-H-1	Demonstrates proficiency in applying advanced skills, strategies and rules for specific activities.	(1,2,3,4,5)
1-H-2	Develops outdoor and lifelong leisure pursuits.	(1,3,4,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002), amended LR 35:2726 (December 2009).

§1103. Standard 2

- A. - B. ...
- C. Benchmarks

2-H-1	Synthesizes previously learned skills and incorporates them into dynamic physical activity settings.	(1,2,3,4)
2-H-2	Identifies and applies critical elements to enable the development of movement competence/proficiency.	(1,2,3,4)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002), amended LR 35:2727 (December 2009).

§1105. Standard 3

- A. - B. ...
- C. Benchmarks

3-H-1	Utilizes available community resources to promote an active lifestyle.	(1,2,3,4,5)
3-H-2	Participates in lifetime recreational activities specific to fitness components.	(1,2,3,4,5)
3-H-3	Participates regularly in physical activities that contribute to improved physical fitness and wellness.	(3,4,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002), amended LR 35:2727 (December 2009).

§1107. Standard 4

- A. - B. ...
- C. Benchmarks

4-H-1	Participates in a variety of health-enhancing physical activities in both school and non-school settings.	(3,4,5)
4-H-2	Identifies and evaluates personal physiological response to exercise.	(2,3,4)
4-H-3	Designs health-related fitness programs based on accurately assessed fitness profiles.	(1,2,3,4,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002), amended LR 35:2727 (December 2009).

§1109. Standard 5

- A. - B. ...
- C. Benchmarks

5-H-1	Demonstrates safe and appropriate use and care of equipment and facilities.	(1,3,4)
5-H-2	Identifies the inherent risks associated with physical activity in extreme environments.	(1,2,4,5)
5-H-3	Initiates and models independent and interdependent personal behaviors in physical activity settings.	(1,2,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1184 (June 2002), amended LR 35:2727 (December 2009).

§1113. Standard 7

- A. - B. ...
- C. Benchmarks

7-H-1	Participates for enjoyment in a variety of physical activities in competitive and recreational settings.	(1,2,4,5)
7-H-2	Identifies positive aspects of participation in several different physical and social activities with others.	(1,2,4,5)
7-H-3	Illustrates benefits of physical education on social and emotional well-being.	(1,2,5)

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1184 (June 2002), amended LR 35:2727 (December 2009).

Subpart 5. Cluster Level Charts
Chapter 15. Grade-Level Expectations
§1501. Kindergarten Grade-Level Expectations

A. Standard 1

1. Benchmark 1-P-1

- a. 1-P-1.1 Demonstrate an awareness of personal and general space while moving in different directions.
- b. 1-P-1.2 Demonstrate correct form for the locomotor skills of walk, run, jump, hop, and gallop.
- c. 1-P-1.3 Demonstrate selected elements of space awareness movement concepts for levels and directions, such as low, medium, high, up/down, forward/backward, right/left, clockwise/counter-clockwise.

2. Benchmark 1-P-2

- a. 1-P-2.1 Maintain balance on preferred and non-preferred leg in a variety of positions and levels for a minimum of five seconds.
- b. 1-P-2.2 Walk forward and sideways (feet should not cross) on a two inch line for a distance of ten feet.
- c. 1-P-2.3 Demonstrate climbing up and down steps using alternating feet.
- d. 1-P-2.4 Demonstrate the ability to support body weight while hanging, without feet touching the ground.

3. Benchmark 1-P-3

- a. 1-P-3.1 Demonstrate the ability to strike an object using a variety of body parts.
- b. 1-P-3.2 Demonstrate the ability to roll a ball.
- c. 1-P-3.3 Demonstrate the ability to catch a tossed ball using the hands and/or body.
- d. 1-P-3.4 Demonstrate the ability to kick a stationary object.
- e. 1-P-3.5 Demonstrate the ability to throw an object underhand.
- f. 1-P-3.6 Demonstrate the ability to bounce a ball continuously using two hands.

4. Benchmark 1-P-4

- a. 1-P-4.1 Perform locomotor and non-locomotor movements to a steady beat.
- b. 1-P-4.2 Clap hands to a simple, rhythmic beat.

- B. Standard 2
1. Benchmark 2-P-1
 - a. 2-P-1.1 Identify parts of the body (e.g., head, knee, shoulder, back, elbow, hips, and ankle).
 - b. 2-P-1.2 Demonstrate the ability to incorporate language arts, math, social studies, and science concepts through movement activities (e.g., recognition of letters, numbers, animal movements).
 2. Benchmark 2-P-2
 - a. 2-P-2.1 Understand and respond appropriately to the terms of over, under, behind, next to, through, right, left, up, down, forward, backward, and in front of, using the body and other objects.
 - b. 2-P-2.2 Demonstrate the ability to move directionally upon verbal cue (forward, backward, sideways, around).
 3. Benchmark 2-P-3
 - a. 2-P-3.1 Recognize the locomotor skills of walk, run, jump, hop, gallop, levels, and pathways when demonstrated.
 - b. 2-P-3.2 Identify non-locomotor skills of push, pull, bend, twist, stretch, and turn when demonstrated.
 4. Benchmark 2-P-4
 - a. 2-P-4.1 Demonstrate the ability to follow directions given the following movement vocabulary: slow/fast, forward/backward, sideways, up/down, straight.
 5. Benchmark 2-P-5
 - a. 2-P-5.1 Demonstrate the ability to change movement patterns of walk, run, jump, hop, and gallop on command.

C. Standard 3

1. Benchmark 3-P-1
 - a. 3-P-1.1 Participate regularly in a variety of non-structured and minimally organized physical activities outside of physical education class (e.g., at home, recess, before school and after school). Record using teacher/parent log.
2. Benchmark 3-P-2
 - a. 3-P-2.1 Explain how physical activity can improve one's health.
3. Benchmark 3-P-3
 - a. 3-P-3.1 Willingly participate in and attempt new physical activities during free time.

D. Standard 4

1. Benchmark 4-P-1
 - a. 4-P-1.1 Participate for short periods of time (10 minutes) in moderate to vigorous physical activities that cause increased heart rate and respiration.
2. Benchmark 4-P-2
 - a. 4-P-2.1 Observe and describe the relationship and immediate effect of physical activity on the heart, respiration, and perspiration.
3. Benchmark 4-P-3
 - a. 4-P-3.1 Demonstrate sufficient muscular strength by supporting body weight in various activities (bear walk, crab walk, seal walk).
4. Benchmark 4-P-4
 - a. 4-P-4.1 Demonstrate the ability to correctly perform a variety of teacher-led flexibility activities regularly during physical education.

D. Standard 5

1. Benchmark 5-P-1
 - a. 5-P-1.1 Follow rules, directions, and procedures from the instructor with reinforcement.
2. Benchmark 5-P-2
 - a. 5-P-2.1 Demonstrate self-discipline and responsibility while actively participating in group, individual and partner activities.
3. Benchmark 5-P-3
 - a. 5-P-3.1 Cooperate with another student or small group in sharing equipment and space to complete a task.
4. Benchmark 5-P-4
 - a. 5-P-4.1 Demonstrate the characteristics of sharing and positive interaction during physical activity.
 - b. 5-P-4.2 Resolve conflicts with others in socially acceptable ways.

E. Standard 6

1. Benchmark 6-P-1
 - a. 6-P-1.1 Choose partners or playmates without regard to physical differences.
2. Benchmark 6-P-2
 - a. 6-P-2.1 Willingly participate with partners or groups in physical education activities regardless of gender, cultural differences, and/or special needs.
3. Benchmark 6-P-3
 - a. 6-P-3.1 Demonstrate a willingness to encourage and help others in the physical activity setting through actions and words.

F. Standard 7

1. Benchmark 7-P-1
 - a. 7-P-1.1 Communicate likes and dislikes of activities when given an opportunity to share (thumbs up, thumbs down, raising of hands, verbal responses).
2. Benchmark 7-P-2
 - a. 7-P-2.1 Express positive feelings when describing activities.
 - b. 7-P-2.2 Develop and demonstrate positive attitudes towards physical activity.
3. Benchmark 7-P-3
 - a. 7-P-3.1 Willingly choose new activities in which to participate when given several options.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.; R.S. 17:17.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1185 (June 2002), amended LR 35:2727 (December 2009).

§1503. Grade 1 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-P-1
 - a. 1-P-1.1 Demonstrate all locomotor skills (walk, run, leap, jump, hop, slide, gallop, and skip).
 - b. 1-P-1.2 Demonstrate clear contrasts between slow and fast movements traveling in different directions and in personal and general space without bumping into others or falling.
 - c. 1-P-1.3 Demonstrate selected non-locomotor skills (push, pull, bend, twist, stretch, turn).
 - d. 1-P-1.4 Distinguish between straight, curved, and zigzag pathways while traveling in various ways.

e. 1-P-1.5 Roll sideways, right or left, without hesitating (e.g., log roll).

f. 1-P-1.6 Demonstrate the following body shapes: narrow, round, wide, and twisted.

2. Benchmark 1-P-2

a. 1-P-2.1 Jump and land using a combination of one and two-footed takeoffs and landings

b. 1-P-2.2 Demonstrate proper foot patterns in hopping, jumping, skipping, leaping, galloping, and sliding.

c. 1-P-2.3 Demonstrate control in balancing and locomotor movement activities.

3. Benchmark 1-P-3

a. 1-P-3.1 Demonstrate the underhand and overhand throw patterns.

b. 1-P-3.2 Demonstrate the two-handed overhead throw pattern.

c. 1-P-3.3 Catch and gently throw an object from self or another person.

d. 1-P-3.4 Move to approach a stationary ball and kick it.

e. 1-P-3.5 Strike an object upward continuously using a variety of body parts and/or equipment.

f. 1-P-3.6 Dribble a ball continuously using the preferred hand while stationary.

4. Benchmark 1-P-4

a. 1-P-4.1 Create or imitate movement in response to rhythmic patterns and music.

b. 1-P-4.2 Combine locomotor patterns in time to music.

c. 1-P-4.3 Perform rhythmic patterns using body movements and manipulatives (e.g., parachute, balls, sticks, ribbons).

B. Standard 2

1. Benchmark 2-P-1

a. 2-P-1.1 Identify the right and left sides of the body and movement from right to left and left to right (dance).

b. 2-P-1.2 Identify various body parts and levels in performing physical activities.

c. 2-P-1.3 Demonstrate the ability to incorporate language arts, math, social studies, and science concepts through movement activities (alphabetize letters, counting, mass and weight, folk/line dance).

2. Benchmark 2-P-2

a. 2-P-2.1 Identify and demonstrate selected elements of relationship movement concepts of objects, such as over/under, on/off, near/far, in front/behind, along/through, meeting/parting surrounding, around, and alongside in isolated settings.

b. 2-P-2.2 Demonstrate the ability to move directionally upon verbal and rhythmic cues.

3. Benchmark 2-P-3

a. 2-P-3.1 Distinguish between a jog and a run, a hop and a jump, and a gallop and a slide.

b. 2-P-3.2 Recognize levels and pathways when demonstrated.

c. 2-P-3.3 Identify major characteristics of the basic manipulative skills of throw (using underhand, sidearm, or overhand), catch, kick, and strike (using underhand, sidearm, or overhand).

d. 2-P-3.4 Apply movement concepts of walk, jog, and run to a variety of basic skills (e.g., throw, catch, strike).

4. Benchmark 2-P-4

a. 2-P-4.1 Demonstrate the ability to follow directions given the following movement vocabulary: high/low, close/far, alone/partner, curved, zigzag, right/left, clockwise/counter/clockwise.

5. Benchmark 2-P-5

a. 2-P-5.1 Demonstrate the ability to combine any locomotor skills with concepts of space and direction.

C. Standard 3

1. Benchmark 3-P-1

a. 3-P-1.1 Participate regularly in a variety of physical activities outside of physical education class (e.g., playing, bicycling, sport teams, gymnastics, and/or dance). Record using teacher/parent log.

2. Benchmark 3-P-2

a. 3-P-2.1 Identify the location of the heart and lungs and explain what happens during physical exercise.

b. 3-P-2.2 Distinguish between active and inactive lifestyles.

3. Benchmark 3-P-3

a. 3-P-3.1 Willingly attempt new physical activities when presented with a variety of options.

b. 3-P-3.2 Exhibit both verbal and non-verbal indicators of enjoyment of, or satisfaction with, physical activity.

D. Standard 4

1. Benchmark 4-P-1

a. 4-P-1.1 Participate in sustained moderate to vigorous physical activities that cause increased heart rate and respiration for a period of 15 minutes.

b. 4-P-1.2 Identify changes in the body that occur during vigorous activity.

2. Benchmark 4-P-2

a. 4-P-2.1 Describe and participate in a variety of physical activities that promote positive gains in health-related fitness.

b. 4-P-2.2 Identify that moderate levels of physical activity increase heart rate, respirations and perspiration, etc. (e.g., running, galloping, and hopping).

3. Benchmark 4-P-3

a. 4-P-3.1 Demonstrate the ability to correctly perform a variety of teacher-led exercises for muscular strength and endurance (crunches, squats, lunges, push-up choices, dyna bands, musical activities).

b. 4-P-3.2 Demonstrate sufficient muscular strength to bear body weight for climbing, hanging, and momentary body support of the hands.

4. Benchmark 4-P-4

a. 4-P-4.1 Demonstrate and identify flexibility activities for shoulders, legs, and trunk.

E. Standard 5

1. Benchmark 5-P-1

a. 5-P-1.1 Follow rules, directions, and procedures from the instructor with little reinforcement.

2. Benchmark 5-P-2

a. 5-P-2.1 Engage in activity in a diverse group setting without interfering with others.

3. Benchmark 5-P-3
a. 5-P-3.1 Demonstrate cooperation and consideration of others in group activities (sharing and taking turns).

4. Benchmark 5-P-4
a. 5-P-4.1 Exhibit behavior which exemplifies responsibility to avoid conflict, best effort, cooperation, and compassion/empathy in a controlled setting.

b. 5-P-4.2 Demonstrate socially acceptable conflict resolution during class activity.

F. Standard 6

1. Benchmark 6-P-1

a. 6-P-1.1 Positively interact with others regardless of physical abilities.

2. Benchmark 6-P-2

a. 6-P-2.1 Show appropriate sportsmanship and sensitivity to diversity and gender issues.

3. Benchmark 6-P-3

a. 6-P-3.1 Encourage fellow students who experience difficulty with a task by giving verbal cues, visual cues, or demonstrations.

G. Standard 7

1. Benchmark 7-P-1

a. 7-P-1.1 Identify and demonstrate acceptable responses to challenges, successes, and failures during physical activity.

2. Benchmark 7-P-2

a. 7-P-2.1 Willingly participate in physical activity.

b. 7-P-2.2 Identify a limited number of emotions related to how the student feels while participating in physical activity.

3. Benchmark 7-P-3

a. 7-P-3.1 Show signs of excitement and willing participation when exposed to new activities, skills, and movements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.; R.S. 17:17.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1185 (June 2002), amended LR 35:2728 (December 2009).

§1505. Grade 2 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-P-1

a. 1-P-1.1 Demonstrate mature form for locomotor skills (walk, run, jog, leap, jump, hop, slide, gallop, and skip).

b. 1-P-1.2 Demonstrate locomotor skills combining two or more while using different levels, tempo, directions, and pathways.

c. 1-P-1.3 Demonstrate skills of chasing, fleeing, and dodging to avoid or catch others, individually and with a partner.

2. Benchmark 1-P-2

a. 1-P-2.1 Balance on one, two, three, and four body parts on the ground and on objects.

b. 1-P-2.2 Demonstrate balance in symmetrical and non-symmetrical shapes from different basis of support.

c. 1-P-2.3 Jump from a variety of elevations and land using mature form (balanced knees and ankles flexed, absorbing force).

d. 1-P-2.4 Demonstrate control in traveling, weight bearing, weight transfer, and balancing activities.

e. 1-P-2.5 Demonstrate simple stunts that exhibit personal agility such as jumping, one and two foot takeoffs, and landing with good control.

3. Benchmark 1-P-3

a. 1-P-3.1 Roll a ball to a target using proper form.

b. 1-P-3.2 Throw a ball overhand for distance using proper form.

c. 1-P-3.3 Catch an object above and below the waist using proper form.

d. 1-P-3.4 Kick a rolling ball using a smooth, continuous running approach.

e. 1-P-3.5 Strike an object upward continuously using a short handed paddle or racket.

f. 1-P-3.6 Strike an object using a long-handled implement (e.g., underhand, sidearm, or overhand).

g. 1-P-3.7 Dribble a ball continuously while moving using dominant and non-dominant hand.

h. 1-P-3.8 Dribble a ball continuously while moving both feet.

4. Benchmark 1-P-4

a. 1-P-4.1 Demonstrate a smooth transition between even-beat and uneven-beat locomotor skills in response to music or an external beat.

b. 1-P-4.2 Combine locomotor patterns in time to music while changing directions.

c. 1-P-4.3 Perform rhythmic sequences related to simple folk dance or ribbon routines.

d. 1-P-4.4 With a partner, demonstrate rhythmic sequences related to simple folk dance or ribbon routines.

B. Standard 2

1. Benchmark 2-P-1

a. 2-P-1.1 Combine movement patterns and body planes (front, back, side).

b. 2-P-1.2 Demonstrate the ability to incorporate language arts, math, social studies, and science concepts through movement activities (word analysis, math concepts such as addition and subtraction facts, science of spin, and geography).

2. Benchmark 2-P-2

a. 2-P-2.1 Manipulate an object using hands or feet through a series of cones or other objects.

b. 2-P-2.2 Identify and demonstrate selected relationship movement concepts of objects and/or people while maneuvering through a student- or teacher-made obstacle course.

3. Benchmark 2-P-3

a. 2-P-3.1 Distinguish between a leap, gallop, and skip and explain key differences and similarities of movement.

b. 2-P-3.2 Recognize combined locomotor skills, levels, and pathways.

c. 2-P-3.3 Identify major characteristics of the basic manipulative skills of bouncing and dribbling and explain the key difference and similarities of those movements.

4. Benchmark 2-P-4
a. 2-P-4.1 Demonstrate the ability to follow directions given the following movement vocabulary: light/heavy, balance, twist, kick, strike.

5. Benchmark 2-P-5

a. 2-P-5.1 Demonstrate the ability to combine locomotor and non-locomotor skills into complex movement sequence (e.g., dribble while running, rope jumping).

C. Standard 3

1. Benchmark 3-P-1

a. 3-P-1.1 Keep a log of participation in a variety of unstructured or structured and/or organized physical activities outside of physical education class.

2. Benchmark 3-P-2

a. 3-P-2.1 Recognize and identify the health related physical fitness components.

b. 3-P-2.2 Identify at least one activity associated with each component of health-related physical activity.

3. Benchmark 3-P-3

a. 3-P-3.1 Identify positive feelings that result from participation in physical activity.

D. Standard 4

1. Benchmark 4-P-1

a. 4-P-1.1 Identify and participates in sustained moderate to vigorous physical activities that promote cardiovascular, muscular, and flexibility benefits for a minimum of 50% of class time.

b. 4-P-1.2 Identify changes in the body that occur during vigorous activity.

2. Benchmark 4-P-2

a. 4-P-2.1 Compare and contrast changes in heart rate and perspiration before, during, and after physical activity by counting heart rate for six seconds and adding a zero.

3. Benchmark 4-P-3

a. 4-P-3.1 Perform numerous repetitions of activities involving strength and muscular endurance (crunches, push-ups, pull-ups).

b. 4-P-3.2 Lift and support his/her weight in selected activities (e.g., hanging, hopping, and jumping) that develop muscular strength and endurance of the arms, shoulders, abdomen, back, and legs.

4. Benchmark 4-P-4

a. 4-P-4.1 Demonstrate and explain flexibility and its importance for injury prevention during physical activity.

b. 4-P-4.2 Perform appropriate exercises for flexibility in shoulders, legs, and trunk.

E. Standard 5

1. Benchmark 5-P-1

a. 5-P-1.1 Follow rules, directions, and procedures from the instructor while participating in physical education.

2. Benchmark 5-P-2

a. 5-P-2.1 Demonstrate an ability to handle equipment safely and properly.

b. 5-P-2.2 Select and use appropriate protective equipment in preventing injuries such as helmets, elbow/knee pads, wrist guards, proper shoes, and clothing.

3. Benchmark 5-P-3

a. 5-P-3.1 Demonstrate cooperative interaction in small and large group activities without teacher interaction.

4. Benchmark 5-P-4

a. 5-P-4.1 Demonstrate socially acceptable behavior to resolve conflicts through successful communication with peers and teachers.

F. Standard 6

1. Benchmark 6-P-1

a. 6-P-1.1 Willingly participate with students with varying skill and fitness levels in controlled settings.

2. Benchmark 6-P-2

a. 6-P-2.1 Demonstrate respect for all students regardless of individual differences in skill or ability.

3. Benchmark 6-P-3

a. 6-P-3.1 Acknowledge one's opponent or partner before, during, and after an activity and gives positive feedback on their performance.

G. Standard 7

1. Benchmark 7-P-1

a. 7-P-1.1 Accept personal responsibility for one's challenges, successes, and failures during physical activity.

2. Benchmark 7-P-2

a. 7-P-2.1 Demonstrate respect for self, others, and equipment during physical activity.

b. 7-P-2.2 Identify emotions before, during, and after participating in physical activity.

3. Benchmark 7-P-3

a. 7-P-3.1 Identifies a new activity and participates in it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.; R.S. 17:17.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1185 (June 2002), amended LR 35:2730 (December 2009).

§1507. Grade 3 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-E-1

a. 1-E-1.1 Demonstrate and understand the spatial awareness movement concepts (e.g., personal space, general space and boundaries) in individual, partner, and group activities.

b. 1-E-1.2 Demonstrate directional awareness movement concepts and pathways (e.g., up/down, forward/backward, right/left, and clockwise/counterclockwise, diagonal, zigzag, curved, and straight) in individual/partner, and group settings.

c. 1-E-1.3 Demonstrate the ability to combine directional awareness, movement, and pathways (e.g., up/down, forward/backward, right/left, and clockwise/counterclockwise, diagonal, zigzag, curved, and straight) in individual, partner and group activities.

2. Benchmark 1-E-2

a. 1-E-2.1 Demonstrate a combination of two movement concepts while performing various skills (e.g., sliding while dribbling a ball in a curved pathway in general space; trap and pass; catch, pivot, and dribble a ball; volley ball with racquet/paddle while moving).

b. 1-E-2.2 Demonstrate chasing, dodging, and fleeing skills from an individual during low organizational games.

3. Benchmark 1-E-3

a. 1-E-3.1 Identify and demonstrate the critical elements for manipulative skills (e.g., catch, kick, dribble, strike, volley, and, throw).

b. 1-E-3.2 Manipulate a variety of objects with different sizes, shapes and weights. (e.g., dribbling/throwing a tennis ball or dribbling/throwing a basketball; volleying with a beach ball or a volleyball; catching a football or a yarn ball) with control (correct force, opposition).

c. 1-E-3.3 Individually develop combinations of movements into sequences while manipulating a variety of objects.

d. 1-E-3.4 Balance on a variety of objects (e.g., balance boards, skates, scooters, beams, exercise balls, hoppity-hop).

e. 1-E-3.5 When using catching and throwing skills, demonstrate the ability to change directions and maintain balance, while the body is in motion with an object.

4. Benchmark 1-E-4

a. 1-E-4.1 Demonstrate a simple repeating rhythmic sequence by combining a variety of locomotor skills.

b. 1-E-4.2 Perform simple rhythmic patterns using body movements and manipulative skills (balls, ribbons, Lummi sticks).

B. Standard 2

1. Benchmark 2-E-1

a. 2-E-1.1 Demonstrate fundamental motor skills and movement concepts through grade appropriate language arts (e.g., action stories, movement vocabulary, body spelling).

b. 2-E-1.2 Demonstrate fundamental motor skills movement concepts through grade appropriate math (e.g., skip counting, time, clock skills, addition, subtraction, multiplication, division).

2. Benchmark 2-E-2

a. 2-E-2.1 Identify critical elements/mechanics for manipulative skills of throwing and catching (e.g., step forward opposite foot, arm position, step and follow through).

b. 2-E-2.2 Recognize proper techniques for a variety of fundamental skills while practicing with a partner.

3. Benchmark 2-E-3

a. 2-E-3.1 Assess one's own performance, while throwing and catching, using a checklist/rubric.

b. 2-E-3.2 Assess peer's performance, when performing movement patterns (e.g., throw underhand, throw overhand, chest pass, catching high) using a checklist/rubric.

c. 2-E-3.3 Illustrate correct movement patterns for complex movement activities. (e.g., draw a picture, find pictures in magazines, and use technology to locate diagrams).

4. Benchmark 2-E-4

a. 2-E-4.1 Identify two key components for improving skills.

b. 2-E-4.2 Identify inefficient movement for running, throwing, and catching (e.g., arm/leg movement pattern).

c. 2-E-4.3 Practice skills for which improvement is needed in isolated settings.

C. Standard 3

1. Benchmark 3-E-1

a. 3-E-1.1 Name the components of health-related fitness (cardiorespiratory endurance, muscular strength and endurance, flexibility, and body composition).

b. 3-E-1.2 Identify the impact of short-term physical activity on one's physical health.

2. Benchmark 3-E-2

a. 3-E-2.1 Students will name types of moderate and vigorous activity (e.g., journal, discussion, illustrations of contrasting pictures).

b. 3-E-2.2 Identify opportunities for physical activity within the school and community.

3. Benchmark 3-E-3

a. 3-E-3.1 Participate in physical activities that are moderate in intensity level outside of physical education for 30 minutes per day most days of the week and document (i.e., activity log, journal).

D. Standard 4

1. Benchmark 4-E-1

a. 4-E-1.1 Describe and identify aerobic and anaerobic activities (e.g., 50 yard dash vs. 1 mile race, push-ups vs. swimming laps, bowling vs. bicycling)

b. 4-E-1.2 Describe and identify flexibility activities (e.g., yoga, Dance, gymnastics, martial arts).

c. 4-E-1.3 Describe and identify muscular strength and endurance activities (e.g., push-ups, pull-ups, crunches, changing a tire, walking up a hill, rock climbing).

2. Benchmark 4-E-2

a. 4-E-2.1 Participate in health-related fitness assessments.

3. Benchmark 4-E-3

a. 4-E-3.1 Select, participate in, and log extra-curricular activity that improved health-related fitness either at school or in the community.

b. 4-E-3.2 Identify health-related fitness components to enhance throughout the school year.

c. 4-E-3.3 Perform and log activities or exercises that relate to one or more of the fitness components.

d. 4-E-3.4 Students participate in and log games and activities that work towards improvement of age-appropriate levels of health-related fitness.

E. Standard 5

1. Benchmark 5-E-1

a. 5-E-1.1 Identify and model examples of good sportsmanship and fair play.

b. 5-E-1.2 Demonstrate respect for all students regardless of individual differences in skills and abilities during individual and group activities (e.g., taking turns, sharing equipment, encouraging others, making positive comments).

2. Benchmark 5-E-2

a. 5-E-2.1 State safety rules and practice for participation in selected grade level activities.

b. 5-E-2.2 Comply with rules and procedures during grade appropriate group and individual activities.

c. 5-E-2.3 Remain on assigned task until directed by teacher.

d. 5-E-2.4 Demonstrate understanding and concern for safety of self and others during games/activities.

3. Benchmark 5-E-3

a. 5-E-3.1 Follow directions and rules during school hours (e.g., line behavior, entering and exiting gym and play area).

b. 5-E-3.2 Identify key behaviors which exemplify each of the personal/social character traits of

responsibility, best effort, cooperation, and compassion in isolated settings

c. 5-E-3.3 Demonstrate self-control in physical activity settings (e.g., good sportsmanship, teamwork, cooperation, diversity).

4. Benchmark 5-E-4

a. 5-E-4.1 Cooperate with classmates by staying on task, taking turns, and sharing equipment.

b. 5-E-4.2 Demonstrate responsible behavior in game/activity settings.

c. 5-E-4.3 Utilize positive statements to encourage others in games and activities.

5. Benchmark 5-E-5

a. 5-E-5.1 Apply critical elements from feedback to improve motor skills.

b. 5-E-5.2 Provide appropriate feedback from the teacher, partner, or self in a positive manner.

F. Standard 6

1. Benchmark 6-E-1

a. 6-E-1.1 Recognize and understand disabilities that may affect one's participation in physical activity.

b. 6-E-1.2 Demonstrate respect for the ideas of others, attempting to compromise and communicate appropriately through physical activity.

2. Benchmark 6-E-2

a. 6-E-2.1 Cooperate with any child, with or without disabilities, in the class as a partner or in group settings.

b. 6-E-2.2 Demonstrate cooperation by supporting and encouraging others of different abilities/skill levels and ethnicity.

3. Benchmark 6-E-3

a. 6-E-3.1 Participate in age appropriate activities/games and sports played by children in the United States.

b. 6-E-3.2 Participate in popular activities/games and sports played by children in other countries.

G. Standard 7

1. Benchmark 7-E-1

a. 7-E-1.1 Identify activities that are enjoyable and that provide success with students of similar skill levels.

b. 7-E-1.2 Identify positive feelings experienced during physical activity.

2. Benchmark 7-E-2

a. 7-E-2.1 State personally challenging physical activity(ies).

b. 7-E-2.2 Choose and participate in a new or different physical activity.

3. Benchmark 7-E-3

a. 7-E-3.1 During physical education class, willingly participate in games and activities with peers.

4. Benchmark 7-E-4

a. 7-E-4.1 Satisfactorily complete assignments for activities requiring game design, gymnastics and /or dance performance (teacher will provide rubric for assignment).

5. Benchmark 7-E-5

a. 7-E-5.1 Describe how cooperation, understanding strengths and weaknesses in self and others can be used in problem-solving strategies in order to achieve success.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.; R.S. 17:17.4.

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§1509. Grade 4 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-E-1

a. 1-E-1.1 Demonstrate spatial awareness movement concepts for location (e.g., personal space, general space and boundaries) individual/partner, and group activities.

b. 1-E-1.2 Apply space awareness movement concepts of direction and pathways (e.g., up/down, forward/backward, right/left, clockwise/counterclockwise, diagonal, zigzag, curved, and straight) in individual/partner and group activities.

c. 1-E-1.3 Apply combinations of directional awareness movement concepts and pathways (e.g., up/down, forward/backward, right/left, clockwise/counterclockwise, diagonal, zigzag, curved, and straight) in individual/partner, and group activities.

d. 1-E-1.4 Apply all spatial awareness movement concepts for levels (e.g., low, medium, and high) with mature forms of selected fundamental motor skills.

e. 1-E-1.5 Apply relationship awareness concepts (e.g., large/small, far/near, over/under, above/below, behind, in front, in/out, between/through, front/back) in individual and small group settings using people and objects.

2. Benchmark 1-E-2

a. 1-E-2.1 Demonstrate a combination of movement concepts while performing various skills (e.g., sliding while dribbling a ball in a curved pathway in general space, trap and pass, catch and pivot, volley ball with racquet/paddle while moving).

b. 1-E-2.2 Demonstrate chasing, dodging and fleeing skills from individuals and objects during games/activities.

3. Benchmark 1-E-3

a. 1-E-3.1 Apply knowledge of selected critical elements while performing movement concepts and selected manipulative skills: catch, kick, foot dribble, strike with a short-handled implement and with the hand, chest pass, bounce pass, hand dribble, throw and volley in individual and group settings.

b. 1-E-3.2 Manipulate a variety of objects with different sizes, shape and weights while in partners or small group settings.

c. 1-E-3.3 Develop combinations of movements into sequences with a partner or small group.

d. 1-E-3.4 Balance with control on a variety of objects (e.g., balance boards, skates, scooters, beams, exercise balls, hoppity-hop).

4. Benchmark 1-E-4

a. 1-E-4.1 Demonstrate simple repeating rhythmic sequence, with a partner or small group, by combining a variety of mature movement skills.

b. 1-E-4.2 Perform simple rhythmic patterns using body movements and manipulative skills with a partner or small group (e.g., balls, ribbons, Lummi sticks, parachute, panel chute).

c. 1-E-4.3 Apply a variety of rhythmic beats while using different body parts (e.g., hand clapping, foot

stomping, finger snapping, hands and legs) with a partner or small group.

B. Standard 2

1. Benchmark 2-E-1

a. 2-E-1.1 Participate in low organized games/activities that include movement concepts and integrate with grade-appropriate language arts (e.g., action stories, movement vocabulary, body spelling).

b. 2-E-1.2 Participate in low organized games/activities that include movement and integrate with appropriate math skills (e.g., skip counting, time, clock skills, addition, subtraction, multiplication, division).

c. 2-E-1.3 Participate in low organized games/activities that include movement concepts and integrate with grade appropriate science concepts (e.g., force, friction, heart rate, body parts, body systems, center of gravity, leverage, nutrition).

d. 2-E-1.4 Participate in low organizational games/activities that include movement concepts and integrate with grade-appropriate social studies skills (e.g., states, capitals, landforms, longitude, latitude).

2. Benchmark 2-E-2

a. 2-E-2.1 Understand and demonstrate mature form for manipulative skills: throwing, catching, kicking, and dribbling with hands and feet (e.g., step forward opposite foot, arm position, step and follow through).

b. 2-E-2.2 Understand and demonstrate proper techniques for a variety of fundamental skills while practicing with a partner (e.g., realize there was too much force when a ball was overthrown).

c. 2-E-2.3 Demonstrate transferring weight (e.g., hands to feet, feet to hands, foot to foot, hand to hand) while maintaining balance at fast and slow speeds.

3. Benchmark 2-E-3

a. 2-E-3.1 Critique one's own strengths and weaknesses when performing complex movement patterns (e.g., kicking a stationary ball, kicking a moving ball, dribbling a ball with dominant and non-dominant hand, punting a football, kicking a soccer ball with the inside of the foot), using a checklist/rubric.

b. 2-E-3.2 Critique a peer's strengths and weaknesses when performing movement patterns listed above, using a checklist/rubric.

c. 2-E-3.3 Illustrate correct movement patterns for punting a football, kicking a stationary ball, dribbling a basketball while moving (e.g., draw a picture, find pictures in magazines, and use technology to locate graphics).

d. 2-E-3.4 Record in journal about the student's observation of personal and classmate activity.

4. Benchmark 2-E-4

a. 2-E-4.1 Identify three key components (e.g., self-discipline, determination,) for improving skills

b. 2-E-4.2 Recognize and explain inefficient movement for specific kicking, throwing, catching, and dribbling skills (e.g., arm/leg movement pattern).

c. 2-E-4.3 Identify and practice skills for which improvement is needed in lead-up game settings.

C. Standard 3

1. Benchmark 3-E-1

a. 3-E-1.1 Discuss the components of health-related fitness (cardio respiratory endurance, muscular strength and endurance, flexibility, and body composition).

b. 3-E-1.2 Identify the long-term impact of physical activity to one's physical health.

c. 3-E-1.3 Identify the long-term impact of physical activity to one's emotional and psychological health (e.g., stress and mental health, depression, hurt feelings, anxiety, ability to concentrate).

2. Benchmark 3-E-2

a. 3-E-2.1 Students will participate in moderate and vigorous activity (e.g., journal, discussion, illustrations of contrasting pictures).

b. 3-E-2.2 Document positive and negative feelings that result from different levels of participation in physical activities.

c. 3-E-2.3 Document opportunities for individual and group/team physical activity within the school and community.

3. Benchmark 3-E-3

a. 3-E-3.1 Participate in physical activities that are moderate in intensity level outside of physical education for 30 minutes every day of the week and document (e.g., activity log, journal).

b. 3-E-3.2 Participate in and log games, sports, dance, and outdoor pursuits, both in and outside of school, based on individual interests and capabilities.

D. Standard 4

1. Benchmark 4-E-1

a. 4-E-1.1 Distinguish between aerobic and anaerobic activities when given a list of selected activities (e.g., 50 yard dash vs. 1 mile run, diving in pool vs. swimming laps).

b. 4-E-1.2 Identify flexibility activities when given a list of activities (e.g., yoga, dance, gymnastics, martial arts).

c. 4-E-1.3 Distinguish between muscular strength and endurance activities when given a list of activities (e.g., push-ups, pull-ups, crunches, changing a tire, walking up a hill, rock climbing).

d. 4-E-1.4 Identify factors that affect body composition when given a list (e.g., nutritional choices, physical activity, hereditary traits, culture).

2. Benchmark 4-E-2

a. 4-E-2.1 Participate in health-related fitness assessments and interpret personal results (e.g., Fitness gram/Activitygram or comparable assessment tool).

3. Benchmark 4-E-3

a. 4-E-3.1 Regularly participate in teacher designed physical education program.

b. 4-E-3.2 Participate in and log extra-curricular activity either at school or in the community.

4. Benchmark 4-E-4

a. 4-E-4.1 Identify health-related fitness components to enhance throughout the school year.

b. 4-E-4.2 Perform and log activities or exercises that relate to one or more of the fitness components.

E. Standard 5

1. Benchmark 5-E-1

a. 5-E-1.1 Identify and model examples of good sportsmanship and fair play.

b. 5-E-1.2 Demonstrate respect for all students regardless of individual differences in skills and abilities during individual and group activities. (e.g., taking turns,

sharing equipment, encouraging others, making positive comments).

2. Benchmark 5-E-2

a. 5-E-2.1 Remain on task and model responsible behavior in individual and group settings.

b. 5-E-2.2 Use equipment properly and safely.

c. 5-E-2.3 Play within the rules of the game or activity.

d. 5-E-2.4 Model self-control by accepting controversial decisions.

e. 5-E-2.5 Exhibit good sportsmanship and fair play during games/activities.

3. Benchmark 5-E-3

a. 5-E-3.1 Follow directions and rules during school hours (e.g., line behavior, entering and exiting play area).

b. 5-E-3.2 Describe key behaviors which exemplify each of the personal/social character traits of responsibility, best effort, cooperation, and compassion in isolated settings.

c. 5-E-3.3 Demonstrate self-control in physical activity settings (e.g., sportsmanship, cooperation, diversity).

4. Benchmark 5-E-4

a. 5-E-4.1 Demonstrate a willingness to achieve success when participating in physical education class (e.g., gives best effort, displays enjoyment, improves skill development).

b. 5-E-4.2 Demonstrate cooperation with a partner in order to achieve successful participation in a game or activity.

c. 5-E-4.3 Apply problem-solving strategies to work with a group in order to achieve a pre-determined outcome.

5. Benchmark 5-E-5

a. 5-E-5.1 Identify critical elements of a skill.

b. 5-E-5.2 Provide appropriate feedback of skill demonstration (e.g., throwing, catching, kicking dribbling) to teacher or partner in a positive manner.

c. 5-E-5.3 Apply feedback given by teacher or peer to a skill by practicing to improve skill.

F. Standard 6

1. Benchmark 6-E-1

a. 6-E-1.1 Demonstrate respect of classmates, with or without disabilities, that may affect one's participation in physical activity.

b. 6-E-1.2 Demonstrate respect for the ideas of others, attempting to compromise and communicate appropriately.

c. 6-E-1.3 Demonstrate responsibility for practicing fair play by using socially appropriate behavior and accepting decisions of the person in charge.

2. Benchmark 6-E-2

a. 6-E-2.1 Cooperate with any child in the class as a partner or in group settings.

b. 6-E-2.2 Demonstrate cooperation by supporting and encouraging others of different abilities/skill levels and ethnicity.

c. 6-E-2.3 Continue to work willingly with a partner when initially unsuccessful.

3. Benchmark 6-E-3

a. 6-E-3.1 Report on the history and origin of games and activities played by children in the United States and other countries and cooperatively share findings.

b. 6-E-3.2 Research and report the history and origin of popular games played by children in other countries and report findings to a group.

c. 6-E-3.3 Compare/contrast how games and activities are played by children in the United States and other countries (Use graphic organizer or thinking map).

G. Standard 7

1. Benchmark 7-E-1

a. 7-E-1.1 Identify activities that are enjoyable and provide success with students of similar skill levels.

b. 7-E-1.2 Identify two positive feelings experienced during physical activity (e.g., satisfaction, enjoyment, happiness, energetic, etc.).

2. Benchmark 7-E-2

a. 7-E-2.1 Log or journal new and personal challenging physical activity.

3. Benchmark 7-E-3

a. 7-E-3.1 During physical education class, actively participates in individual and group games and activities.

4. Benchmark 7-E-4

a. 7-E-4.1 Satisfactorily complete assignments for activities requiring game design, gymnastics performance (tumbling combination, series of 3 balances, partner balances), and dance (aerobic routine, student selected form of dance, line dance, etc.).

5. Benchmark 7-E-5

a. 7-E-5.1 Identify two things learned about oneself and two things learned about others during participation in games, sports, and dance.

b. 7-E-5.2 Describe how cooperation, understanding strengths and weaknesses in self and others, can be used in problem-solving strategies in order to achieve success.

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§1511. Grade 5 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-E-1

a. 1-E-1.1 Apply spatial awareness movement concepts for location (e.g., personal space, general space and boundaries) while demonstrating basic game play strategies in individual and group activities.

b. 1-E-1.2 Apply directional awareness movement concepts and pathways using strategies in individual and group activities.

c. 1-E-1.3 Consistently apply mature form and function of all space awareness movement concepts and pathways using strategies in individual and group activities.

d. 1-E-1.4 Apply mature form and function to all space awareness movement concepts for levels, such as low, medium, and high with mature forms of selected fundamental motor skills in controlled settings.

e. 1-E-1.5 Apply relationship awareness concepts using strategies in individual and group settings using people and objects.

d. 1-E-1.6 Exhibit smooth transitions, while combining locomotor sequences and manipulative skills individually or group settings.

e. 1-E-1.7 Exhibit smooth transitions from locomotor to non-locomotor while combining fundamental skills and movement concepts.

2. Benchmark 1-E-2

a. 1-E-2.1 Demonstrate a combination of movement concepts while performing various skills.

b. 1-E-2.2 Demonstrate dodging and fleeing skills from individuals, multiple individuals, using a variety of locomotor and non-locomotor skills and strategies.

3. Benchmark 1-E-3

a. 1-E-3.1 Apply knowledge of selected critical elements of movement concepts while performing selected manipulative skills using strategies.

b. 1-E-3.2 Manipulate a variety of objects using different sizes, shapes and weights using simple strategies while in game situations.

c. 1-E-3.3 Working with a group, demonstrate combinations of movements into sequences while using simple strategies.

d. 1-E-3.4 Demonstrate the ability to change directions while in motion and manipulating an object.

4. Benchmark 1-E-4

a. 1-E-4.1 Create and demonstrate a simple repeating rhythmic sequence by combining a variety of mature movement skills (e.g., marching, dancing).

b. 1-E-4.2 Perform rhythmic patterns using body movements and manipulative skills in a large group setting.

c. 1-E-4.3 Create and demonstrate a variety of rhythmic beats while using different body parts (e.g., hand clapping, foot stomping, finger snapping, hands and legs).

d. 1-E-4.4 Demonstrate complex rhythmic patterns traveling along a specified pathway (e.g., circle, zigzag, straight line) using a variety of movement concepts, locomotor and non-locomotor skills.

B. Standard 2

1. Benchmark 2-E-1

a. 2-E-1.1 Identify with a partner or group through cooperative learning, subjects integrated in a specific activity and explain how it is integrated (e.g., walking using pedometers, calculating steps/mile, time, measuring heart rate with monitor).

b. 2-E-1.2 Create and present to the class or group a game/activity that integrates learning with math, language arts, science, art, and/or social studies.

2. Benchmark 2-E-2

a. 2-E-2.1 Apply mature form for manipulative skills that include striking, volleying, dribbling, kicking, throwing, and catching (use critical elements).

b. 2-E-2.2 Identify proper techniques for a variety of fundamental skills while practicing with a partner.

c. 2-E-2.3 Demonstrate weight transfer (e.g., hands to feet, feet to hands, foot to foot, hand to hand) and follow-through while performing fundamental skills at fast and slow speeds.

3. Benchmark 2-E-3

a. 2-E-3.1 Analyze one's own performance when performing specified striking, volleying, dribbling, kicking, throwing, and catching skills, using a checklist/rubric.

b. 2-E-3.2 Analyze a peer's performance, when demonstrating specified movement skills, using a checklist/rubric.

4. Benchmark 2-E-4

a. 2-E-4.1 Identify four key components (e.g., goal-setting, define objectives of practice) for improving skills.

b. 2-E-4.2 Recognize and record inefficient movement when performing movement skills involving striking, volleying, dribbling, kicking, jumping rope, throwing, and catching (e.g., arm/leg movement pattern). Choose to practice skills for which improvement is needed in controlled game settings.

c. 2-E-4.3 Demonstrate how internal (prior knowledge) and external feedback can be used to improve motor skills and movement patterns, fitness, and physical activities in isolated settings.

C. Standard 3

1. Benchmark 3-E-1

a. 3-E-1.1 Identify and provide examples of the components of health-related fitness (cardio respiratory endurance, muscular strength and endurance, flexibility, and body composition).

b. 3-E-1.2 Identify examples of the impact from daily choices of physical activity on one's physical health.

c. 3-E-1.3 Identify the impact of daily choices of physical activity to one's emotional and psychological health (e.g., stress and mental health, depression, hurt feelings, anxiety, ability to concentrate).

2. Benchmark 3-E-2

a. 3-E-2.1 When given a list of activities, identify moderate and/or vigorous activities that provide pleasure and engage in activities provided in the community.

3. Benchmark 3-E-3

a. 3-E-3.1 Participate in physical activities that are moderate in intensity level outside of physical education for 30 minutes per day most or every day and document (log, journal).

b. 3-E-3.2 Participate in and log games, sports, dance, and outdoor pursuits, both in and outside of school, based on individual interests and capabilities.

D. Standard 4

1. Benchmark 4-E-1

a. 4-E-1.1 List separately those activities identified as aerobic and anaerobic activities.

b. 4-E-1.2 List flexibility exercises and describe how they are utilized in various types of games and/or activities.

c. 4-E-1.3 Identify muscular strength and endurance activities and their relationship to improved performance in games and activities.

d. 4-E-1.4 Identify factors that affect body composition.

e. 4-E-1.5 Identify and measure the physiological indicators associated with moderate physical activity and adjust participation/effort in isolated settings.

2. Benchmark 4-E-2
 - a. 4-E-2.1 Participate in health-related fitness assessments and interpret personal results (i.e.; Fitnessgram/Activitygram or comparable assessment tool).
3. Benchmark 4-E-3
 - a. 4-E-3.1 Regularly participate in physical education program.
 - b. 4-E-3.2 Participate in and log extra-curricular activity either at school or in the community.
4. Benchmark 4-E-4
 - a. 4-E-4.1 Identify health-related fitness components to enhance throughout the school year.
 - b. 4-E-4.2 Perform and log activities or exercises that relate to one or more of the fitness components.
5. Benchmark 4-E-5
 - a. 4-E-5.1 Participate in and log games and activities that work towards improvement of age-appropriate levels of health-related fitness.

E. Standard 5

1. Benchmark 5-E-1
 - a. 5-E-1.1 Identify and model examples of good sportsmanship and fair play.
 - b. 5-E-1.2 Demonstrate respect for all students regardless of individual differences in skills and abilities during individual and group activities.
2. Benchmark 5-E-2
 - a. 5-E-2.1 State safety rules and practices for participation in selected grade-level activities.
 - b. 5-E-2.2 Comply with rules and procedures during age-appropriate group and individual activities.
 - c. 5-E-2.3 Use equipment properly and appropriately.
 - d. 5-E-2.4 Remind others to play safely.
3. Benchmark 5-E-3
 - a. 5-E-3.1 Follow directions and rules during school hours (e.g., line behavior, entering and exiting play area).
 - b. 5-E-3.2 Demonstrate self-control in physical activity settings (e.g., sportsmanship, cooperation, diversity).
 - c. 5-E-3.3 Distinguish between key behaviors which exemplify each of the personal/social character traits of responsibility, best effort, cooperation, and compassion in isolated settings.
4. Benchmark 5-E-4
 - a. 5-E-4.1 Identify and list a variety of ways one can achieve success in various games/activities.
 - b. 5-E-4.2 Demonstrate cooperation with a partner or others in a group in order to achieve successful participation.
 - c. 5-E-4.3 Apply problem-solving strategies to work with a partner or group in order to achieve successful participation or resolve conflict.
5. Benchmark 5-E-5
 - a. 5-E-5.1 Self-evaluate performance of critical elements of a skill.
 - b. 5-E-5.2 Provide appropriate feedback on skill performance to a partner in a positive manner and apply to enhance performance.
 - c. 5-E-5.3 Apply feedback given by teacher or peer to improve a skill.

F. Standard 6

1. Benchmark 6-E-1

- a. 6-E-1.1 Demonstrate respect for the ideas of others, attempting to compromise and communicate appropriately.
- b. 6-E-1.2 Demonstrate responsibility for practicing fair play by using socially appropriate behavior and accepting decisions of the person in charge.
- c. 6-E-1.3 Demonstrate the ability to give and receive encouragement.

2. Benchmark 6-E-2

- a. 6-E-2.1 Encourages others to participate, despite knowledge of physical disabilities, in the class as a partner or in group settings.
- b. 6-E-2.2 Demonstrate cooperation by supporting and encouraging others of different abilities/skill levels and ethnicity in individual or group settings.
- c. 6-E-2.3 Display a positive response to a partner or team when initially unsuccessful.

3. Benchmark 6-E-3

- a. 6-E-3.1 Participate in games/activities played by children in other countries.
- b. 6-E-3.2 Compare differences in how games and activities are played by children in the United States and other countries.

G. Standard 7

1. Benchmark 7-E-1

- a. 7-E-1.1 Identify activities that are enjoyable and that provide success with students of similar skill levels.
- b. 7-E-1.2 Identify positive feelings experienced during physical activity (e.g., satisfaction, enjoyment, happiness, energetic, etc.).

2. Benchmark 7-E-2

- a. 7-E-2.1 Choose and participate in a new or different physical activity.

3. Benchmark 7-E-3

- a. 7-E-3.1 During physical education class, willingly participate in games and activities with peers.

4. Benchmark 7-E-4

- a. 7-E-4.1 Satisfactorily complete assignments for activities requiring game design, gymnastics performance and dance.

5. Benchmark 7-E-5

- a. 7-E-5.1 Identify things learned about oneself and things learned about others during participation in games, sports, and dance.
- b. 7-E-5.2 Describe how cooperation, understanding strengths and weaknesses in self and others can be used in problem-solving strategies in order to achieve success.

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§1513. Grade 6 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-M-1

- a. 1-M-1.1 Perform locomotor and non-locomotor skills in dynamic fitness (e.g., group exercise, aerobics, and obstacle course).
- b. 1-M-1.2 Perform locomotor and non-locomotor skills in sport (e.g., running, faking, and manipulative).

c. 1-M-1.3 Perform locomotor and non-locomotor in rhythmic activities (e.g., moving to the beat).

d. 1-M-1.4 Consistently strike an object using a body part, so that the object travels in the intended direction at the desired height (e.g., soccer, volleyball).

e. 1-M-1.5 Consistently strike an object, using an implement (e.g., racquet, hockey stick, golf club...) so it travels in an intended direction and height.

f. 1-M-1.6 Keep an object continuously in the air while moving (e.g., ball, foot bag).

g. 1-M-1.7 Demonstrate the mature form for the manipulative skills of catching, passing, hand dribbling, shooting, volleying, and punting in isolated settings.

h. 1-M-1.8 Demonstrate a combination of specific sport skills focusing on moving, throwing, and catching.

2. Benchmark 1-M-2

a. 1-M-2.1 Throw and catch a ball consistently while being guarded by an opponent in small-sided games.

b. 1-M-2.2 Maximize involvement for the benefit of a group or team (e.g., everyone touching equipment during possessions/activities, everyone moving during possessions/activities).

c. 1-M-2.3 Identify and use offensive strategies (e.g., evasive maneuvers, game plan, maintaining possession of the ball, advancement to make a play or score) while playing a modified version of a game or sport in small groups activities.

d. 1-M-2.4 Identify and use defensive strategies (e.g., slow the advance of an opponent, regain possession of the ball) while playing a modified version of a game or sport in small group activities.

3. Benchmark 1-M-3

a. 1-M-3.1 Hand and foot dribble while preventing an opponent from stealing the ball.

b. 1-M-3.2 Volley an object in the air, such as a volleyball, without catching it in a small group.

c. 1-M-3.3 Throw and catch a ball consistently while guarded by an opponent.

d. 1-M-3.4 Hit a moving object such as a ball or shuttlecock.

4. Benchmark 1-M-4

a. 1-M-4.1 Perform dance steps and movements of various dance forms (e.g., folk, square, and line).

b. 1-M-4.2 Perform movement sequence with at least four different movements (e.g., simple rhythmic, aerobic, or tumbling activities) in a controlled setting.

c. 1-M-4.3 Design and perform a short dance routine.

5. Benchmark 1-M-5

a. 1-M-5.1 Place or maneuver the ball away from an opponent in net or invasion games.

b. 1-M-5.2 Place or maneuver the ball using offensive strategies in net or invasion games.

B. Standard 2

1. Benchmark 2-M-1

a. 2-M-1.1 Identify body parts and their actions when describing a movement (e.g., forearm lag in the overhand throw).

b. 2-M-1.2 Practice and apply throwing and catching at different levels using a variety of force.

c. 2-M-1.3 Identify the mechanical principles (e.g., equilibrium, force, leverage, motion) of throwing and catching skills.

d. 2-M-1.4 Identify the movement concepts (e.g., spatial awareness, effort qualities and relationships) skills used when striking objects with the body.

e. 2-M-1.5 Identify the movement concepts (e.g., spatial awareness, effort qualities, relationships) and skills used when throwing and catching.

2. Benchmark 2-M-2

a. 2-M-2.1 Describe how appropriate practice in static and dynamic settings, attention, and effort are required when learning movement skills.

b. 2-M-2.2 Participate in and log motor learning practices that are appropriate for and selected for learning skills. (Shorter practice distributed over time is better than one long session, or practicing is best in game-like conditions).

c. 2-M-2.3 Modify performance, based on feedback, to improve skills.

3. Benchmark 2-M-3

a. 2-M-3.1 Demonstrate selected use of tactical problems including scoring, defending object or person, preventing scoring, defending space as a team, and communicating during modified striking, invasion, and fielding games.

b. 2-M-3.2 Observe and analyze the performance of other students to provide feedback (Peer review).

c. 2-M-3.3 Modify performance of movement utilizing feedback to improve execution.

4. Benchmark 2-M-4

a. 2-M-4.1 Identify rules and safe practices for lead up games and activities.

b. 2-M-4.2 Understand and demonstrate guidelines and behaviors for safe participation during physical activity.

c. 2-M-4.3 Distinguish the difference between compliance and noncompliance with game rules.

C. Standard 3

1. Benchmark 3-M-1

a. 3-M-1.1 Identify opportunities to participate in the five components of health-related fitness (cardio-respiratory endurance, muscular strength and endurance, body composition, and flexibility) during school and in the community.

b. 3-M-1.2 Record in a log weekly participation in physical activities outside school.

2. Benchmark 3-M-2

a. 3-M-2.1 Identify and record forms of new physical activity that provide personal enjoyment and benefit.

b. 3-M-2.2 Participate in and log enjoyable physical activities both during and outside of school.

c. 3-M-2.3 Willingly try new activities.

3. Benchmark 3-M-3

a. 3-M-3.1 Establish short and long-term individual health-related fitness goals.

b. 3-M-3.2 Develop a plan of action for reaching personal fitness goals.

c. 3-M-3.3 Monitor and record progress toward appropriate personal fitness goals in each of the components of health-related fitness.

4. Benchmark 3-M-4
 - a. 3-M-4.1 Identify the five components of health related fitness (cardiovascular fitness, muscular strength and endurance, flexibility, and body composition).
 - b. 3-M-4.2 Identify the skill-related components of fitness (agility, speed, power, balance, reaction time, coordination).
 - c. 3-M-4.3 Describe the difference between the health-related and skill-related components of fitness.
 - d. 3-M-4.4 Identify and correctly operate technological tools that measure and/or monitor fitness parameters such as computer programs, heart rate monitors, and pedometers.

D. Standard 4

1. Benchmark 4-M-1
 - a. 4-M-1.1 Demonstrate how to find pulse to determine heart rate.
 - b. 4-M-1.2 Differentiate between resting heart rate and active heart rate.
 - c. 4-M-1.3 Participate in and log activities designed to improve or maintain the health-related fitness components.
 - d. 4-M-1.4 Accumulate a recommended number of minutes of moderate to vigorous physical activity outside of physical education class on three or more days during the week.
2. Benchmark 4-M-2
 - a. 4-M-2.1 Identify elements of a training program which will improve/maintain health-related fitness levels.
 - b. 4-M-2.2 Set realistic, measurable, and attainable goals for activities that target all five components of health-related fitness.
3. Benchmark 4-M-3
 - a. 4-M-3.1 Participate in a health-related fitness assessment such as Fitnessgram or a comparable assessment tool.
 - b. 4-M-3.2 Interpret individual fitness assessment results.
 - c. 4-M-3.3 Identify individual level of fitness.
 - d. 4-M-3.4 Keep a journal or log documenting physical activity both at school and at home.
 - e. 4-M-3.5 Meet the acceptable, age-appropriate standard for at least three of the five components of health-related fitness.
4. Benchmark 4-M-4
 - a. 4-M-4.1 Identify ways to achieve activity goals in an individual wellness plan.
 - b. 4-M-4.2 Recognize and apply the principles of training (frequency, intensity, time, type, overload, specificity).
 - c. 4-M-4.3 Include warm-up and cool-down procedures regularly during exercise; monitor potentially dangerous environmental conditions such as heat and cold.

E. Standard 5

1. Benchmark 5-M-1
 - a. 5-M-1.1 Actively cooperate in group activities by sharing and taking turns.
 - b. 5-M-1.2 Comply with group directions and decisions through democratic processes.
 - c. 5-M-1.3 Differentiate between effective and ineffective leadership practices.

- d. 5-M-1.4 Exhibit behaviors that exemplify each of the personal/social character traits of constructive competition, initiative, and leadership in a controlled setting.

2. Benchmark 5-M-2

- a. 5-M-2.1 Stay on task during PE activities.
 - b. 5-M-2.2 Actively participate and demonstrate mastery of assigned tasks.
 - c. 5-M-2.3 Make responsible decisions about time management and follow through with the decisions made.
3. Benchmark 5-M-3
- a. 5-M-3.1 Follow teacher or leader directions.
 - b. 5-M-3.2 Follow class rules, even when peers are not.
 - c. 5-M-3.3 Play within the rules of the game or activity.
 - d. 5-M-3.4 Model self-control by accepting controversial decisions.
 - e. 5-M-3.5 Demonstrate concern for safety of self and others during games and activities.

F. Standard 6

1. Benchmark 6-M-1
 - a. 6-M-1.1 Research and report on popular games and dances for a variety of countries.
 - b. 6-M-1.2 Identify similarities and differences in the way that games are played in different cultures.
 - c. 6-M-1.3 Identify similarities and differences in the way that dances are developed and performed in various countries.
 - d. 6-M-1.4 Research how sports and games have changed over the years.
2. Benchmark 6-M-2
 - a. 6-M-2.1 Identify and record supportive and inclusive behaviors for dealing with diverse genders, cultures, ethnicities, and ability levels.
 - b. 6-M-2.2 Participate willingly with others of different genders, cultures, ethnicities, abilities, and skill levels in physical activity settings.
3. Benchmark 6-M-3
 - a. 6-M-3.1 Complete a project investigating and illustrating the role of events such as the Olympics in bringing diverse countries together in a peaceful manner.
 - b. 6-M-3.2 Provide and exhibit examples of how sports, games, and dances have brought diverse genders, cultures, and ethnicities together.

G. Standard 7

1. Benchmark 7-M-1
 - a. 7-M-1.1 Explore, participate in, log, diverse nontraditional physical activities that are current with today's society (e.g., mountain biking, in-line skating, skate boarding, rock climbing, extreme sports).
2. Benchmark 7-M-2
 - a. 7-M-2.1 Explain the role of games, sports, and dance in getting to know and understand self and others.
 - b. 7-M-2.2 Explain how physical activity is a positive opportunity for social and group interaction.
3. Benchmark 7-M-3
 - a. 7-M-3.1 Demonstrate an increased level of competence and satisfaction in a variety of outdoor pursuits and/or recreational activities by engaging in physical activity outside of school hours.

b. 7-M-3.2 Choose to participate in activities that are personally challenging when provided with alternative opportunities.

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§1515. Grade 7 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-M-1

a. 1-M-1.1 Perform locomotor and non-locomotor skills in dynamic fitness activities (e.g., group exercise with manipulatives, aerobics, circuits).

b. 1-M-1.2 Perform locomotor and non-locomotor skills in sport (e.g., moving and changing directions based on opponents movement).

c. 1-M-1.3 Demonstrate selected elements of the mature form of the manipulative skills of catching, passing, hand dribbling, shooting, volleying, and punting in isolated settings.

d. 1-M-1.4 Demonstrate selected elements of sport specific skills focusing on moving, dribbling, passing, and shooting.

2. Benchmark 1-M-2

a. 1-M-2.1 Demonstrate offensive and defensive strategies used while playing a basic version of a team or individual sport (e.g., creating space, moving an opponent).

3. Benchmark 1-M-3

a. 1-M-3.1 Demonstrate use of strategies/tactics within a variety of physical activities (e.g., changing directions and faking to create space and maintain possession).

b. 1-M-3.2 Combine skills competently to participate in modified versions of team and individual sports.

4. Benchmark 1-M-4

a. 1-M-4.1 Perform selected folk, country, square, line, creative, and/or aerobic dances.

b. 1-M-4.2 Design rhythmic movement patterns or an aerobic routine with a partner/group using appropriate music.

5. Benchmark 1-M-5

a. 1-M-5.1 Demonstrate use of selected tactical problems for both on-the-ball and object (e.g., seeing both the opponent with the object and the opponent you are guarding at the same time).

b. 1-M-5.2 Place or maneuver ball or object to and away from multiple partners in a sport activity.

B. Standard 2

1. Benchmark 2-M-1

a. 2-M-1.1 Demonstrate the ability to maintain static and dynamic balance while performing a task.

b. 2-M-1.2 Analyze and correct movement errors in skills necessary to participate in manipulative activities.

c. 2-M-1.3 Demonstrate competency in the mature form in all locomotor skills.

d. 2-M-1.4 Identify and apply major concepts used in acquiring motor skills (feedback, relevant cues).

2. Benchmark 2-M-2

a. 2-M-2.1 Modify performance, utilizing feedback, to improve execution.

3. Benchmark 2-M-3

a. 2-M-3.1 Identify and explain at least three tactics involved in playing an invasion sport.

b. 2-M-3.2 Demonstrate selected use of tactical problems including scoring, defending object or person, preventing scoring, defending space as a team, and communicating during modified striking, invasion, and fielding games.

4. Benchmark 2-M-4

a. 2-M-4.1 Apply safety rules in all activities.

b. 2-M-4.2 Follow safety procedures related to physical activity, equipment, facilities, environmental factors and takes responsibility for their own safety.

c. 2-M-4.3 Describe and demonstrate proper warm-up and cool-down procedures.

C. Standard 3

1. Benchmark 3-M-1

a. 3-M-1.1 Develop a resource list related to the five components of health-related fitness within the community.

b. 3-M-1.2 Identify opportunities close to home for participation in different kinds of activities using a participation log.

2. Benchmark 3-M-2

a. 3-M-2.1 Identify personal interests, capabilities, and resources in regard to one's exercise behavior and attempt one new activity during the school year.

b. 3-M-2.2 Participate in and log new physical activities both during and outside of school for the purpose of improving skill and health.

3. Benchmark 3-M-3

a. 3-M-3.1 Identify personal factors inhibiting or promoting physical activity.

b. 3-M-3.2 Establish short and long-term individual health-related fitness goals.

c. 3-M-3.3 Participate in an individualized physical activity program designed with the help of the teacher.

d. 3-M-3.4 Establish and monitor progress toward appropriate personal fitness goals in each of the components of health-related fitness.

4. Benchmark 3-M-4

a. 3-M-4.1 Identify and describe the five components of health-related fitness (e.g., cardiovascular fitness, muscular strength and endurance, flexibility, and body composition).

b. 3-M-4.2 Identify and describe the skill-related components of fitness (e.g., agility, speed, power, balance, reaction time, coordination).

c. 3-M-4.3 Identify the relationships among physical activity frequency, intensity and time.

d. 3-M-4.4 Select and use appropriate technology tools to evaluate, monitor, and improve physical development.

D. Standard 4

1. Benchmark 4-M-1

a. 4-M-1.1 Utilize the target heart rate formula to calculate the target heart rate.

b. 4-M-1.2 Participate in physical activity a minimum of 20 minutes, three or more times per week while staying in the target heart rate.

c. 4-M-1.3 Correctly demonstrate activities designed to improve and maintain muscular strength and endurance, flexibility, and cardio respiratory functioning.

2. Benchmark 4-M-2

a. 4-M-2.1 Identify ways to achieve activity goals in an individual wellness plan.

b. 4-M-2.2 Assess physiological indicators of exercise during and after physical activity using appropriate assessment tools.

c. 4-M-2.3 Set realistic, measurable, and attainable goals for activities that will improve health-related fitness components.

3. Benchmark 4-M-3

a. 4-M-3.1 Use a journal to document the benefits of participation in physical activity.

b. 4-M-3.2 Participate in a health-related fitness assessment such as Fitnessgram or comparable assessment.

c. 4-M-3.3 Identify level of health-related components of fitness by using criterion-referenced health and fitness standards.

4. Benchmark 4-M-4

a. 4-M-4.1 Demonstrate understanding of the principles of training (overload, progression, and specificity).

b. 4-M-4.2 Identify ways to achieve activity goals in an individual wellness plan.

c. 4-M-4.3 Include warm-up, cool-down, and training principles regularly during exercise; monitor potentially dangerous environmental conditions such as heat and cold.

E. Standard 5

1. Benchmark 5-M-1

a. 5-M-1.1 Demonstrate the ability to work without supervision

b. 5-M-1.2 Work cohesively in a group by participating in team-building activities.

c. 5-M-1.3 Work cooperatively with peers in group or team activities.

2. Benchmark 5-M-2

a. 5-M-2.1 Use initiative and solve problems in physical activity settings.

b. 5-M-2.2 Remain on task without close teacher monitoring.

3. Benchmark 5-M-3

a. 5-M-3.1 Respect the rights of others in the class.

b. 5-M-3.2 Demonstrate a positive attitude toward the teacher, class, and peers.

c. 5-M-3.3 Distinguish between compliance and non-compliance with rules and regulations.

F. Standard 6

1. Benchmark 6-M-1

a. 6-M-1.1 Develop respect for other cultures by participating in role-playing activities that involve how different cultures view and participate in physical activity.

b. 6-M-1.2 Recognize and describe the role of dance, sports, and physical activities in modern culture.

2. Benchmark 6-M-2

a. 6-M-2.1 Compare and contrast similarities and differences in dance, games, and physical activities across different genders, cultures, ethnicities, abilities, and skill levels.

3. Benchmark 6-M-3

a. 6-M-3.1 Describe how different sports, games, and dances have unique and distinct characteristics relevant to diverse cultures.

b. 6-M-3.2 Participate in a sport, game, and/or dance as a means to interact with individuals of diverse backgrounds.

G. Standard 7

1. Benchmark 7-M-1

a. 7-M-1.1 Seek, participate in, log physical activity in informal settings that utilize skills and knowledge gained in physical education classes.

2. Benchmark 7-M-2

a. 7-M-2.1 Identify ways that regular participation in physical activities contributes to a healthy lifestyle.

b. 7-M-2.2 Analyze selected physical experiences for social, emotional, and health benefits.

3. Benchmark 7-M-3

a. 7-M-3.1 Display satisfaction when engaging in physical activity by participating outside of class time.

b. 7-M-3.2 Record (in journal or log) likes and dislikes when participating in new activities.

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§1517. Grade 8 Grade-Level Expectations

A. Standard 1

1. Benchmark 1-M-1

a. 1-M-1.1 Use basic offensive and defensive strategies in a modified version of a team sport and an individual sport.

2. Benchmark 1-M-2

a. 1-M-2.1 Design and teach a dance sequence to music.

b. 1-M-2.2 Demonstrate a basic understanding of square dance steps, positions, and patterns as to create and perform a dance to music.

3. Benchmark 1-M-3

a. 1-M-3.1 Perform hand and foot dribbles while preventing an opponent from stealing the ball.

b. 1-M-3.2 Demonstrate appropriate relationships of the body to an opponent in dynamic game situations such as staying between opponent and goal and moving between opponent and the ball.

B. Standard 2

1. Benchmark 2-M-1

a. 2-M-1.1 Design and perform sequences of dance steps/movements into practiced sequences with intentional changes in speed, direction, and flow.

b. 2-M-1.2 Combine skills competently to participate in modified versions of team and individual sports.

2. Benchmark 2-M-2

a. 2-M-2.1 Exhibit an improved level of manipulative skills while stationary and moving with objects of different shapes, sizes, textures and weights.

b. 2-M-2.2 Demonstrate mastery in striking skills while stationary and moving with objects of different shape, size, texture and weight.

- c. 2-M-2.3 Demonstrate mastery in skills to strike both stationary and moving objects with different body parts.
- d. 2-M-2.4 Demonstrate mastery in the following patterns of movement related to striking objects with body parts (e.g., kicking, punting, dribbling, volleying, serving).

3. Benchmark 2-M-3

- a. 2-M-3.1 Describe and demonstrate the ability to use offensive and defensive strategies in court, goal and field games related to striking with the body.
 - b. 2-M-3.2 Understand and apply strategies of attacking and defending space in manipulative activities.
4. Benchmark 2-M-4
- a. 2-M-4.1 Make activity choices based on safety for self and others.
 - b. 2-M-4.2 Use equipment safely and properly.
 - c. 2-M-4.3 Select and use proper attire that promotes participation and prevents injury.

C. Standard 3

1. Benchmark 3-M-1

- a. 3-M-1.1 Identify, and log, participation in physical activities both during and outside of school for the purpose of improving skills and health.

2. Benchmark 3-M-2

- a. 3-M-2.1 Identify, and log, participation in games, sports, dance, and/or outdoor pursuits, in and outside of school, based on individual interests and/or capabilities.

3. Benchmark 3-M-3

- a. 3-M-3.1 Participate in an individualized physical activity program designed with the help of the teacher.
- b. 3-M-3.2 Establish and evaluate short and long-term individual health-related fitness goals and make appropriate changes for improvement.

4. Benchmark 3-M-4

- a. 3-M-4.1 Identify and describe the five components of health-related fitness (cardiovascular fitness, muscular strength and endurance, flexibility, and body composition).
- b. 3-M-4.2 Identify and describe the skill-related components of fitness (agility, speed, power, balance, reaction time, coordination).
- c. 3-M-4.3 Identify and describe the relationships among physical activity frequency, intensity and time.
- d. 3-M-4.4 Select and use appropriate technology tools to evaluate, monitor, and improve physical development.

D. Standard 4

1. Benchmark 4-M-1

- a. 4-M-1.1 Explore and participate in a variety of health-related fitness activities in both school and non-school settings.
- b. 4-M-1.2 Demonstrate how to sustain an aerobic activity maintaining target heart rate to achieve cardiovascular benefits.
- c. 4-M-1.3 Participate in moderate to vigorous physical activity within target heart range for a sustained period of time (20-30 minutes), three or more days per week. Log participation.

2. Benchmark 4-M-2

- a. 4-M-2.1 Use activity log to set realistic goals for lifetime wellness.

- b. 4-M-2.2 Set realistic goals for improving his/her health-related fitness.

- c. 4-M-2.3 Develop personal fitness goals independently.

- d. 4-M-2.4 Achieve and maintain appropriate individual levels of the health-related components of fitness and uses assessment results as a guide to make changes in individual fitness program.

3. Benchmark 4-M-3

- a. 4-M-3.1 Meet four of six of the health-related fitness standards as defined by Fitnessgram or an equivalent assessment program.

4. Benchmark 4-M-4

- a. 4-M-4.1 Apply the following principles of training: specificity (use of a specific exercise to develop skill in a particular activity; progression (increasing the level of intensity); and overload (increasing the weights used in an exercise in order to build muscle more quickly, rather than increasing the speed of the exercise).

- b. 4-M-4.2 Apply basic principles of training to improving physical fitness.

- c. 4-M-4.3 Participate in and/or plan an individualized fitness program.

E. Standard 5

1. Benchmark 5-M-1

- a. 5-M-1.1 Positively contribute to team building activities.
- b. 5-M-1.2 Communicate effectively with group members or teammates.
- c. 5-M-1.3 Effectively direct others when appropriate.

2. Benchmark 5-M-2

- a. 5-M-2.1 Sustain effort during the entire class period.
- b. 5-M-2.2 Manage time and complete tasks asked of her/him.
- c. 5-M-2.3 Participate in tasks from initiation to completion.

3. Benchmark 5-M-3

- a. 5-M-3.1 Assume responsibility for her/his actions.
- b. 5-M-3.2 Let others complete tasks in class without interrupting.
- c. 5-M-3.3 Solve problems in physical activities by analyzing causes and providing potential solutions.

F. Standard 6

1. Benchmark 6-M-1

- a. 6-M-1.1 Analyze and perform in at least one sport, dance, and physical activity popular in a non-North American country.

2. Benchmark 6-M-2

- a. 6-M-2.1 Demonstrate awareness and identify exclusionary practices across different genders, cultures, ethnicities, abilities, and skill levels.
- b. 6-M-2.2 Create an informative project that highlights the historical changes of the involvement of diverse genders, cultures, ethnicities, abilities, and skill levels in dance, sport, and/or physical activities.

3. Benchmark 6-M-3

- a. 6-M-3.1 Through verbal and nonverbal behavior, demonstrate cooperation with peers of different gender, race, and ability in a physical activity setting.

G. Standard 7

1. Benchmark 7-M-1
 - a. 7-M-1.1 Participate in and log activities that are personally challenging outside of physical education class.
2. Benchmark 7-M-2
 - a. 7-M-2.1 Brainstorm and record how physical activity can provide enjoyment, opportunities for self-expression and communication.
 - b. 7-M-2.2 Use peer interaction to positively enhance personal physical activity and safety such as encouraging friends and joining teams.
3. Benchmark 7-M-3
 - a. 7-M-3.1 Recognize and describe the affective, aesthetic and creative aspects of performance.
 - b. 7-M-3.2 Demonstrate enjoyment while participating in a self-selected activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.; R.S. 17:17.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1185 (June 2002), amended LR 35:2741 (December 2009).

§1519. High School Grade-Level Expectations

- A. Grades 9-12: I
 1. Standard 1: Benchmark 1-H-1
 - a. 1-H-1.1 Develop skills in an invasion/wall, target, and/or field game.
 - b. 1-H-1.2 Develop skills in a dance form (e.g., social, square, jazz).
 - c. 1-H-1.3 Develop skills in a fitness-related activity (e.g., rock climbing, track and field).
 2. Standard 1: Benchmark 1-H-2
 - a. 1-H-2.1 Demonstrate consistency in the execution of the basic skills of outdoor/adventure activities such as archery, canoeing/boating, hiking, camping, orienteering, fishing, tennis, golf, soccer or biking.
 - b. 1-H-2.2 Demonstrate mastery in the execution of the basic skills of two leisure activities such as bowling, badminton, aerobics, handball, racquetball, Pilates, yoga or martial arts.
 3. Standard 2: Benchmark 2-H-1
 - a. 2-H-1.1 Complete peer review of motor skills used for a specific task for individual/team sports/ activities such as striking, dribbling, catching, kicking and tossing.
 - b. 2-H-1.2 Describe appropriate practice procedures to improve skill and strategy in a sport.
 - c. 2-H-1.3 Design and present a new game or activity using previously learned skills (group work).
 4. Standard 2: Benchmark 2-H-2
 - a. 2-H-2.1 Identify the anatomical functions of the body as they relate to physical activity such as muscle strength, joint motion, flexibility and endurance.
 - b. 2-H-2.2 Identify biomechanical movements as they relate to physical activity and sports.
 5. Standard 3: Benchmark 3-H-1
 - a. 3-H-1.1 Compile a list of available community resources to promote an active lifestyle: bowling, badminton, aerobics, handball, racquetball, Pilates, yoga and martial arts, archery, canoeing/boating, hiking, camping, orienteering, fishing, tennis, golf, soccer and biking.
 - b. 3-H-1.2 Journal activities related to community participation.

6. Standard 3: Benchmark 3-H-2
 - a. 3-H-2.1 Identify recreational activities that are enjoyable.
 - b. 3-H-2.2 Plan and organize an age-appropriate outdoor activity that promotes the maintenance of wellness.
7. Standard 3: Benchmark 3-H-3
 - a. 3-H-3.1 Participate in a variety of activities, such as aerobic exercise, that develop cardiovascular endurance, flexibility, muscular endurance, and muscular strength.
 - b. 3-H-3.2 Chart participation in a recreational program in the evening and/or weekends
8. Standard 4: Benchmark 4-H-1
 - a. 4-H-1.1 Demonstrate high level of participation or engagement in physical education class.
 - b. 4-H-1.2 Establish and record a daily physical fitness routine.
9. Standard 4: Benchmark 4-H-2
 - a. 4-H-2.1 Participate in a health-related fitness assessment (e.g., Fitnessgram or comparable assessment tool) and interpret results and develop realistic short-term and long-term personal fitness goals using these results.
 - b. 4-H-2.2 Monitor body responses before, during, and after exercise by checking pulse rate, recovery rate and target heart rate.
 - c. 4-H-2.3 Assess and log progress toward fitness goals twice per semester.
 - d. 4-H-2.4 Adjust and log activity levels to meet personal fitness needs.
10. Standard 4: Benchmark 4-H-3
 - a. 4-H-3.1 Plan and organize a personal fitness program that will enable one to achieve the specified goals previously set.
 - b. 4-H-3.2 Maintain evidence of fitness assessment and use the results to guide changes in personal fitness plan.
 - c. 4-H-3.3 Meet and log progress toward achievement of personal fitness goals after a period of training.
11. Standard 5: Benchmark 5-H-1
 - a. 5-H-1.1 Identify safety considerations of selected physical activities.
 - b. 5-H-1.2 Follow safety practices that prevent injuries and/or unsafe conditions when using activity equipment.
 - c. 5-H-1.3 Adhere to established rules to avoid injury.
12. Standard 5: Benchmark 5-H-2
 - a. 5-H-2.1 Research and report on safety techniques to use during potentially dangerous weather conditions while physically active.
13. Standard 5: Benchmark 5-H-3
 - a. 5-H-3.1 Demonstrate conflict resolutions by walking away from verbal confrontation and listening to all sides before taking action in situations.
 - b. 5-H-3.2 Respond to confrontational situations with mature personal control.
 - c. 5-H-3.3 Willingly choose activities for enjoyment as opposed to those chosen by peers.
 - d. 5-H-3.4 Demonstrate good sportsmanship by acknowledging good play from an opponent during competition.

- e. 5-H-3.5 Follow safety etiquette in all activities.
- f. 5-H-3.6 Avoid causing injury to an opponent in all activities.

14. Standard 6: Benchmark 6-H-1

- a. 6-H-1.1 List historical roles of sports and games as they relate to different cultures.
- b. 6-H-1.2 Research and compile report of games and sports for different countries.
- c. 6-H-1.3 Identify several popular games from various cultures.
- d. 6-H-1.4 Participate in games that originated outside the United States.

15. Standard 6: Benchmark 6-H-2

- a. 6-H-2.1 Adapt games to the diverse population found in current school setting.
- b. 6-H-2.2 Invite less skilled students to participate in physical activity.

16. Standard 7: Benchmark 7-H-1

- a. 7-H-1.1 Identify and describe life-time physical activities such as tennis, dancing, golf, yoga, badminton, fitness training, rowing, swimming, walking, soccer, bowling, rock climbing, etc.
- b. 7-H-1.2 Participate in various physical activities which include the cooperation of teamwork.
- c. 7-H-1.3 Demonstrate a positive and energetic attitude in all activities.

17. Standard 7: Benchmark 7-H-2

- a. 7-H-2.1 Describe the physical and social benefits of participating in a variety of physical activities.
- b. 7-H-2.2 Log participation in physical activities that encourage social interaction.
- c. 7-H-2.3 Provide opportunities (through journaling) for students to express their feelings toward issues such as the importance physical activity, body image, goals, etc. without fear of judgment.

18. Standard 7: Benchmark 7-H-3

- a. 7-H-3.1 Identify physical activities that can be used to relieve stress.
- b. 7-H-3.2 Describe how physical activity can provide a positive social environment for activities with others.
- c. 7-H-3.3 Log participation in physical activities targeted toward relaxation and/or stress relief.
- d. 7-H-3.4 Record positive effects experienced during various physical activities in physical education class.
- e. 7-H-3.5 Develop a portfolio using artifacts that show student enjoyment of and benefit from participating in physical activity.

B. Grades 9-12: II

1. Standard 1: Benchmark 1-H-1

- a. 1-H-1.1 Demonstrate mastery in an invasion/wall, target, and/or field game.
- b. 1-H-1.2 Demonstrate mastery in a dance form (e.g., social, square, jazz).
- c. 1-H-1.3 Demonstrate mastery in a fitness-related activity (e.g., rock climbing, track and field).

2. Standard 1: Benchmark 1-H-2

- a. 1-H-2.1 Maintain a log/journal of outdoor activities describing frequency of physical activity.
- b. 1-H-2.2 Maintain a log/journal of leisure activities describing frequency of physical activity.

3. Standard 2: Benchmark 2-H-1

- a. 2-H-1.1 Correctly identify the critical elements for successful performance of a sport skill.
- b. 2-H-1.2 Record a self-appraisal of motor skills used for a specific task for individual/team sports/ activities such as striking, dribbling, catching, kicking and tossing
- c. 2-H-1.3 List safety issues of health and fitness activities.
- d. 2-H-1.4 Design and present an obstacle skills course, using skills from various forms of physical activity (group work).

4. Standard 2: Benchmark 2-H-2

- a. 2-H-2.1 Apply knowledge of biomechanical movements as they relate to physical activity and sports.

5. Standard 3: Benchmark 3-H-1

- a. 3-H-1.1 Participate in a variety of physical activities appropriate for maintaining or enhancing a healthy and active lifestyle.
- b. 3-H-1.2 Record physical activity participation in a log or journal.
- c. 3-H-1.3 Record inventory of personal behavior that supports a healthy lifestyle.

6. Standard 3: Benchmark 3-H-2

- a. 3-H-2.1 Record the benefits of participation in recreational activities.
- b. 3-H-2.2 Log/journal of personal lifetime/recreational health activities and include the benefits of participation (e.g., heart health, eating habits, nutrition).

7. Standard 3: Benchmark 3-H-3

- a. 3-H-3.1 Teach class members a physical activity that contributes to improved physical fitness.
- b. 3-H-3.2 Demonstrate a physical activity skill that contributes to improved physical fitness.

8. Standard 4: Benchmark 4-H-1

- a. 4-H-1.1 Plan a personal fitness and conditioning program.
- b. 4-H-1.2 Implement and log a personal fitness and conditioning program.
- c. 4-H-1.3 Participate in class-selected physical activity designed to improve physical fitness.

9. Standard 4: Benchmark 4-H-2

- a. 4-H-2.1 Participate in a health-related fitness assessment (Fitnessgram or comparable assessment tool) and interpret results.
- b. 4-H-2.2 Monitor body responses before, during, and after exercise by checking pulse rate, recovery rate and target heart rate.

- c. 4-H-2.3 Develop realistic short-term and long-term personal fitness goals.

- d. 4-H-2.4 Assess and log progress toward fitness goals twice per semester.

- e. 4-H-2.5 Adjust and log activity levels to meet personal fitness needs.

10. Standard 4: Benchmark 4-H-3

- a. 4-H-3.1 Implement a personal fitness program that will enable one to achieve the specified goals previously set.

- b. 4-H-3.2 Demonstrate evidence of fitness assessment and use the results to guide changes in personal fitness plan.

- c. 4-H-3.3 Interpret progress toward achievement of personal fitness goals after a period of training.

11. Standard 5: Benchmark 5-H-1
a. 5-H-1.1 Follow safe practices that prevent injuries and/or unsafe conditions when using activity equipment.

b. 5-H-1.2 Adhere to established rules to avoid neglect and/or liabilities.

c. 5-H-1.3 Provide a class demonstration of a selected safety practice.

12. Standard 5: Benchmark 5-H-2

a. 5-H-2.1 Recognize and describe how environmental changes may affect physical performance (e.g., weather conditions, locations and facilities).

b. 5-H-2.2 Identify and record potentially dangerous repercussions from physical activities concerning hydration, apparel, ventilation and appropriate prevention strategies.

13. Standard 5: Benchmark 5-H-3

a. 5-H-3.1 Identify and apply rules and procedures that are designed for safe participation.

b. 5-H-3.2 Explain how and why rules provide for safe practices in physical activity participation.

c. 5-H-3.3 Respond to challenges, successes, and failures in physical activities in socially appropriate ways.

d. 5-H-3.4 Accept successes and performance limitations of self and others, exhibit appropriate behavior/responses, and recognize that improvement is possible with appropriate practice.

e. 5-H-3.5 Anticipate and identify potentially dangerous consequences of participating in selected activities.

14. Standard 6: Benchmark 6-H-1

a. 6-H-1.1 Identify and record activities which target current student population (demographics).

b. 6-H-1.2 Select and demonstrate a physical activity which encourages participation (group work).

15. Standard 6: Benchmark 6-H-2

a. 6-H-2.1 Develop a game to include all students, including persons of diverse backgrounds and abilities in physical activity.

b. 6-H-2.2 Participate successfully in a cooperative learning group in a variety of physical activity settings.

16. Standard 7: Benchmark 7-H-1

a. 7-H-1.1 Identify, participate in, log physical activities that are personally enjoyable.

b. 7-H-1.2 Log participation in a variety of physical activities which include the cooperation of teamwork.

c. 7-H-1.3 Pursue new activities that provide opportunities for individual activities and group activities.

d. 7-H-1.4 Demonstrate a positive and energetic attitude in all activities.

17. Standard 7: Benchmark 7-H-2

a. 7-H-2.1 Identify and log recreational and physical activities that provide personal feelings of success.

b. 7-H-2.2 Participate in and log physical activities that encourage social interaction.

c. 7-H-2.3 Express feelings toward issues such as the importance of physical activity, body image, goals, etc. through journaling.

d. 7-H-2.4 Describe self-satisfaction of participating in a game, sport, or physical activity.

18. Standard 7: Benchmark 7-H-3

a. 7-H-3.1 Keep a log of participation in physical activities that are enjoyable and relaxing.

b. 7-H-3.2 Identify and record negative feelings that accompany physical activities.

c. 7-H-3.3 Participate in and log physical activities targeted toward relaxation and/or stress relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.; R.S. 17:17.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1185 (June 2002), amended LR 35:2743 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#018

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Differentiated Accountability Pilot (LAC 28:LXXXIII.Chapter 20)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: Chapter 20, Differentiated Accountability Pilot. Changes in Bulletin 111, Chapter 20, provide detail of the No Child Left Behind Differentiated Accountability Plan Pilot that proposes different, more targeted/effective interventions for schools and school districts in need of improvement so that students can reach proficiency in Reading/Language Arts and Math by 2014. Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System Chapter 20. Differentiated Accountability Pilot §2001. Pilot Program, Timeframe, and Transition

A. In January 2009, the United States Department of Education approved Louisiana's proposal to participate in its Differentiated Accountability Pilot Program.

1. The flexibility applies to all schools required to implement interventions in academic year 2009-10 as a result of the 2008/09 accountability release (preliminary and/or full).

2. The pilot program is scheduled to end with academic year 2012-13.

3. Districts with schools that entered SI 1 and began implementing interventions in academic year 2008-09 shall not enter the pilot program but shall follow existing policy for an additional year if the school does not move to SI 2 as a result of the 2009 summer preliminary release.

4. Districts with schools entering SI 1 or AUS 1 in fall 2009 shall have the option of participating in the pilot program immediately or following existing policy for an additional year. A written justification must be submitted to the LDE and receive LDE approval for schools that follow existing policy.

5. All schools shall participate in the pilot in years 2010-11 to 2012-13.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2745 (December 2009).

§2003. Academically Unacceptable Schools

A. Existing policy related to the remedies required of a school with an SPS below 60.0 are generally in alignment with the flexibility offered by the differentiated accountability pilot except that during the pilot:

1. Title 1 schools must offer supplemental educational services when entering AUS 1;

2. non-Title 1 schools must select and implement 1 intervention from the corrective action list when entering AUS 1;

3. all schools entering AUS 2 shall offer school choice.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2746 (December 2009).

§2005. Subgroup Component Failure Category Determinations

A. Schools that enter SI 1 and are required to implement the associated interventions shall be categorized into one of three groups.

1. If the subgroup/subgroups that caused the schools to enter SI 1 comprise a total of 15 percent or less of the schools' total enrollments, the schools shall be labeled "symptomatic."

2. If the subgroup/subgroups that caused the schools to enter SI 1 comprise a total of 15.1 percent to 30.0 percent of the schools' total enrollments, the schools shall be labeled "acute."

3. If the subgroup/subgroups that caused the schools to enter SI 1 comprise a total of 30.1 percent or greater of the schools' total enrollments, the schools shall be labeled "chronic."

4. Each time a school moves to an additional level of subgroup component failure (SI 2, CA 1, etc.) and an additional subgroup contributes to the label, the school shall be reassessed on the percentage of students in the failing subgroup/subgroups and if the results so indicate, receive a different label and the associated requirements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2746 (December 2009).

§2007. Requirements for Schools in Subgroup Component Failure

A. Districts with a school failing the subgroup component but that does not enter SI 1 must assign a district assistance team to work with the school to provide training

and assistance with diagnostic/data analysis tools included in the school improvement planning process.

B. The LDE shall maintain an extensive list of effective school improvement strategies and distribute the interventions list to districts following their identification.

C. All interventions are additive in nature: schools continue interventions from prior years and add those required by continued subgroup component failure.

D. Districts with schools entering SI 1 shall:

1. offer supplemental educational services to students in Title 1 schools;

2. select and implement an intervention from the interventions list for non-Title 1 schools;

3. include at least one additional strategy from the interventions list in the SIPs for schools labeled "chronic;"

4. assign district assistance teams to assist, oversee, and monitor implementation of school improvement plans in SI 1 schools;

5. submit quarterly implementation reports to the LDE;

6. submit the SI 1 revised school improvement plans (SIPs) to the LDE for approval.

B. Districts with schools entering SI 2 shall:

1. offer school choice for students in Title 1 schools;

2. select and implement an intervention from the Interventions List for non-Title 1 schools;

3. include at least one additional strategy from the interventions list in the SIPs for schools labeled "acute" or "chronic."

C. Districts with schools entering CA 1 shall include at least one additional strategy from the interventions list in the SIPs for all schools.

D. Districts with schools entering CA 2 shall:

1. submit to the LDE a corrective action plan to address any failure to successfully implement the SIPs;

2. include at least one additional strategy from the interventions list in the SIPs for schools labeled "acute" or "chronic."

E. Districts with schools entering Restructuring Level 1 shall:

1. write and submit for approval to the LDE:

a. a focused plan for schools based on each identified subgroup;

b. a comprehensive restructuring plan for schools labeled "chronic." Comprehensive plans are based on the entire school.

F. Districts with schools entering Restructuring Level 2 shall:

1. implement the restructuring plans.

G. Schools that fail to receive approval of their restructuring plans or that fail to implement restructuring plans are eligible for state takeover.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2746 (December 2009).

Jeanette Vosburg
Executive Director

0912#017

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Agricultural Education, Technology Education, Trade and Industrial Education (LAC 28: CXV. 2373, 2385, and 2387)

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*: §2373.Agricultural Education, §2385.Technology Education, and §2387.Trade and Industrial Education. These changes will update course titles to reflect utilization of industry-based certification curriculum and training in NCCER Carpentry I and II, Electrical I and II, Instrumentation Control Mechanic I and II, Pipe Fitter I and II, and Welding Technology I and II. This action will update Career and Technical course offerings. In updating these course offerings our Career and Technical program of studies will provide students with the opportunity to participate in industry-based certification training in multiple building trade areas.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2373. Agricultural Education**

A. The agricultural education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	10-12	1/2-1
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience Elective I, II	9-12	1/2-3
Agriscience-Construction Technology	11-12	1/2-1
Agriscience-Leadership	9-12	1/2-1
Agriscience Power Equipment	11-12	1/2-1
Animal Science	11-12	1/2
Biotechnology in Agriscience	11-12	1
Canine Care and Training	9-12	1/2
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Environmental Studies in Agriscience	11-12	1
Equine Science	11-12	1/2-1
Floristry	11-12	1
Forestry	11-12	1/2-1
Horticulture	11-12	1/2-1
Landscape Design, Construction and Maintenance	10-12	1
Precision Instrumentation in Agriscience	10 12	1/2
Small Animal Care and Management	10-12	1/2-1
Veterinary Assistant	10-12	1
Industry-Based Certifications		
NCCER Welding Technology I Agriscience	11-12	1-3

Course Title(s)	Recommended Grade Level	Units
NCCER Carpentry in Agriscience	11-12	1-3
NCCER Electrical I Agriscience	11-12	1-3
NCCER Pipefitting in Agriscience	11-12	1-3

B. - C. ...

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 33:277 (February 2007), LR 33:2050 (October 2007), LR 34:2386 (November 2008), LR 35:2747 (December 2009).

§2385. Technology Education

A. Technology education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Communication/Middle School	6-8	-
Construction/Middle School	6-8	-
Manufacturing Technology/Middle School	6-8	-
Modular Technology/Middle School	6-8	-
Transportation Technology/Middle School	6-8	-
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Technical Drafting	10-12	1
Advanced Wood Technology	10-12	1
Architectural Drafting	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Technical Drafting	9-12	1
Basic Wood Technology	9-12	1
Communication Technology	9-12	1
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Energy, Power, and Transportation Technology	9-12	1
General Technology Education	9-12	1
Manufacturing Technology	9-12	1
Materials and Processes	10-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Welding Technology	10-12	1
Industry-Based Certifications		
Process Technician I, II	11-12	1
NCCER Carpentry I, II TE	11-12	1-3
NCCER Electrical I, II TE	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Pipe Fitter I, II TE	11-12	1-3
NCCER Welding Technology I, II TE	11-12	1-3
Introduction to Engineering Design	8-12	1
Principles of Engineering	9-10	1
Digital Electronics	9-10	1
Aerospace Engineering	11-12	1
Civil Engineering and Architecture	11-12	1
Computer Integrated Manufacturing	11-12	1
Engineering Design and Development	11-12	1
Engineering Design I, II	11-12	1
Marine Engineering	11-12	0.5

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 35:2747 (December 2009).

§2387. Trade and Industrial Education

A. Trade and industrial education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	1-3
General Automotive Maintenance	11-12	1-3
G.M. Technician I, II	11-12	1-3
NCCER Carpentry I, II	11-12	1-3
NCCER Electrical I, II	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Pipe Fitter I, II	11-12	1-3
NCCER Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3

Course Title(s)	Recommended Grade Level	Units
Switching Basics and Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3
Hull Shipbuilding	11-12	0.5
Barber I-IV	9-12	2

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007), LR 34:2558 (December 2008), LR 35:2748 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#015

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education (LAC 28: CXV.2377)

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*: §2377. General Career and Technical Education. These changes will add a new course offering, Journey to Careers, as a 1/2 or 1 credit course. This action will update Career and Technical course offerings. In updating these course offerings, our Career and Technical program of studies will provide students with the opportunity to participate in a comprehensive career exploration course.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Health Occupations (LAC 28: CXV.2381)

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*: §2381. Health Occupations. These changes will increase the course credit for Emergency Medical Technician (EMT) course. This action will update Career and Technical course offerings. The EMT-B course content and training requirements have increased over time, and districts need the option to offer EMT-B for an additional credit hour. Students will benefit from the additional class time to cover the material mandated by the Bureau of Emergency Medical Services (BEMS).

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	12	2-3
First Responder	10-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Patient Care Technician	12	3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

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

Course Title(s)	Recommended Grade Level	Units
Education for Careers	9-12	1/2 -1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Business Economics	11-12	1/2
Financial Services	11-12	1/2
Financial Planning	11-12	1/2
Ethics in Business	11-12	1/2
Insurance	11-12	1/2
Business in a Global Economy	11-12	1/2
Principles of Finance	11-12	1/2 – 1
Principles of Accounting	11-12	1/2
Managerial Accounting	11-12	1/2
Advanced Finance	11-12	1/2
Hospitality and Tourism Academy		
Principles of Hospitality and Tourism	11-12	1/2
Customer Service	11-12	1/2
Sports Entertainment and Event Management	11-12	1/2
Geography and World Cultures	11-12	1/2
Sustainable Tourism	11-12	1/2
Hospitality Marketing	11-12	1/2
Information Technology Academy		
Principles of Information Technology	11-12	1/2
Computer Networking	11-12	1/2
Web Design	11-12	1/2
Databases Design	11-12	1/2
Computer Systems	11-12	1/2
Introduction to Programming	11-12	1/2
Digital Video	11-12	1/2
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Journey to Careers	9	1/2-1

B. ...

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 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008), LR 35:1229 (July 2009), LR 35:2748 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#014

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 33:2051 (October 2007), LR 35:2749 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#013

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements (LAC 28:CXV.2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2319. High School Graduation Requirements. This policy revision replaces the Graduation Exit Examination (GEE) with the End-of-Course tests as a graduation requirement for incoming freshmen in 2010-2011. This policy revision is intended to help prevent dropouts and assist in helping students graduate on time.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Requirements

§2319. High School Graduation Requirements

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

B. In addition to completing the required Carnegie units, students must pass the required assessments to earn a standard high school diploma.

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP Alternate Assessment, Level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2. For students with disabilities who have passed two of the three required components of the GEE or LAA 2 and have exhausted all opportunities available through the end of the 12th grade to pass the remaining required GEE or LAA 2 component, that GEE or LAA 2 component 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 GEE or LAA 2 component.

a. Only students with disabilities eligible under IDEA who meet the LAA 2 participation criteria may take the LAA 2.

b. The English language arts and mathematics components of GEE or LAA 2 shall first be administered to students in the 10th grade.

c. The science and social studies components of the GEE or LAA 2 shall first be administered to students in the 11th grade.

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.

b. 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.

3. Remediation and retake opportunities will be provided for students that do not pass the GEE, 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. 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. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP provided the student:

- i. successfully completed specially designed elective(s) for LEAP remediation;
- ii. Scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP for which the student previously scored at the *Unsatisfactory* achievement level.

C. 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.

1. 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.

D. The Certificate of Achievement is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met certain conditions. Refer to *Bulletin 1706—Regulations for the Implementation of the Children with Exceptionalities Act*.

E. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 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 35:2750 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#016

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Trade and Industrial Education (LAC 28:CXV.2387)

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: §2387*. Trade and Industrial Education. This amendment will:

- a. add four new 2 credit courses to the Trade and Industrial program area: Barber I, II, III, and IV; and
- b. change the number of credit hours for Automotive Technician III, IV, V, and VI.

This action will update Trade and Industrial Career and Technical course offerings. In updating these courses new offerings will be available in Barber I, II, III, and IV.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2387. Trade and Industrial Education**

A. Trade and Industrial Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/Refrigeration I, II	11-12	1-3
Air Conditioning/Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	1-3
General Automotive Maintenance	11-12	1-3
G.M. Technician I, II	11-12	1-3
NCCER Carpentry I, II	11-12	1-3
NCCER Electrical I, II	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Pipe Fitter I, II	11-12	1-3
NCCER Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3

Course Title(s)	Recommended Grade Level	Units
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3
Switching Basics and Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3
Hull Shipbuilding	11-12	0.5
Barber I-IV	9-12	2

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007), LR 34:2558 (December 2008), LR 35:2324 (November 2009), LR 35:2751 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#012

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Career and Technical Education (LAC 28:CXXXI.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education revised *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §501*. Introduction, §503. Career and Technical Certificate Types Issued Prior to

July 1, 2006, §504. Career and Technical Certificate Types Issued after July 1, 2006, §505. CTTIE-1 and CTTIE-2 Certificates, §507. VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines, §509. CTTIE-2 Certificates Renewal Guidelines, and §511. Process for Reinstating Lapsed CTTIE or VTIE Certificates. This policy revision will clarify Career and Technical Trade and Industrial Education (CTTIE) licensure requirements and expand career and technical certification areas to ensure alignment with high demand occupations as identified by the Louisiana Workforce Investment Council. The revisions are the result of collaborative efforts between the Divisions of Certification and Preparation and Career and Technical Education to ensure alignment with high demand occupations.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel

§501. Introduction

A. Career and Technical Trade and Industrial Education (CTTIE) certificates authorize full time or part time employment for instructors of CTTIE classes. The applicant being certified under requirements found in this bulletin may teach CTTIE courses as listed on the Teacher Louisiana website (<http://www.teachlouisiana.net>).

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 32:1812 (October 2006), amended LR 35:2752 (December 2009).

§503. Career and Technical Certificate Types Issued Prior to July 1, 2006

A. Vocational Technical Industrial Education (VTIE) Certificates—Issued prior to July 1, 2004.

1. Vocational Temporary (VT)—Valid for one year; renewable annually while holder completes required coursework.

2. Vocational Permanent (VP)—Lifetime certificate for continuous service.

B. Career and Technical Trade and Industrial Education (CTTIE) Certificates—Issued between July 1, 2004, and June 30, 2006.

1. CTTIE Temporary Certificate (CT)—Valid for one year; renewable annually while holder completes required coursework.

2. CTTIE Permanent Certificate (CP)—Lifetime certificate for continuous-service.

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 32:1812 (October 2006), amended LR 35:2752 (December 2009).

§504. Career and Technical Certificate Types Issued after July 1, 2006

1. CTTIE-1 Certificate—Valid for one year; renewable for a maximum of five years while holder completes required coursework.

2. CTTIE-2 Certificate—Valid for five years and renewable. To qualify for this certificate, an individual must meet requirements for a CTTIE-1 certificate and have earned the appropriate CTTIE coursework.

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 35:2752 (December 2009).

§505. CTTIE-1 and CTTIE-2 Certificates

A. CTTIE-1 and CTTIE-2 certificates are issued to instructors who teach CTTIE courses listed on the "Teach Louisiana" website. CTTIE certification classes (listed in §507.B) are not required prior to issuance of an initial CTTIE-1 certificate.

B. Eligibility Requirements

1. Applicant must hold a high school diploma, or have passed an equivalency test approved by the State Department of Education.

2. Applicant must have a minimum of four years of full time work experience or 7,680 hours of experience in the selected career and technical field:

a. at least one year of full time work experience or 1,920 hours of the required work experience must have been acquired within the five calendar years immediately prior to certification;

b. graduates of community and technical colleges will be given credit for two years or 3,840 hours of occupational experience if the training is in the field for which the applicant is applying; and

c. graduates with a bachelor's degree from a regionally accredited college or university will be given credit for two years or 3,840 hours of experience;

d. graduates with an advanced degree from a regionally accredited college or university will be given credit for three years or 5,760 hours of occupational experience;

e. graduates with a technical degree in the selected field and a bachelor's degree from a regionally accredited college or university will be given credit for three years or 5,760 hours of occupational experience;

f. graduates with a bachelor's degree from a regionally accredited college or university and an Industry Based Certification (IBC) in the selected field, or who pass the appropriate NOCTI exam if industry-based certification is not available, will be given credit for three years or 5,760 hours of occupational experience;

g. applicants holding current approved industry-based certification, or who pass the approved NOCTI exam if industry-based certification is not available, will be given credit for two years or 3,840 hours of work experience. An industry-based certification may not be combined with

educational attainment to qualify for a waiver from all required work experience.

3. Applicants with an earned baccalaureate degree and who hold an industry-based certification (IBC) in the selected field may also apply years of teaching experience in that field toward the required work experience.

4. Applicants with prior teaching experience at a postsecondary institution in the selected field may apply those years of teaching at a postsecondary institution toward the required work experience.

5. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

C. Certified Nursing Assistant (CNA) Eligibility Requirements

1. Applicant must be a professional nursing program graduate with current Louisiana licensure as a registered nurse (RN) or practical nurse (PN).

2. Applicant must have a minimum of two of the past four years of experience in staff nursing or PN or RN nursing education. One year of this experience must be in caring for the elderly or chronically ill. Applicant must submit letter from employer for verification of work duty.

3. Licensed practical nurses (LPN) may serve as a certified nursing assistant instructor under the direct supervision of a registered nurse. LPNs, under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision if they have two years of experience in caring for the elderly and/or chronically ill. Applicant must submit a letter from the district CTE supervisor with the name of the RN supervisor.

4. All instructors must have a "Train the Trainer Certificate" and meet Certified Nursing Assistant Regulations, as mandated by the Louisiana Department of Health and Hospitals (DHH).

5. Applicant with the approval letter from DHH will not have to send the above verifications. Approval letter must be dated within the last year of CTTIE application.

D. Certified Nursing Assistant, Program Coordinator—Eligibility Requirements. The program coordinator must be a registered nurse (RN) and must have the following experience and qualifications:

1. current Louisiana licensure as a registered nurse (RN);

2. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill;

3. completion of VTIE, CTTIE, "train-the-trainer" type program or a master's degree or higher;

4. all instructors must meet requirements mandated by the Louisiana Department of Health and Hospitals (DHH).

E. Emergency Medical Technician

1. An Emergency Medical Technician (EMT) instructor must be approved by the Louisiana Department of Career and Technical Education (CTE) office and the Bureau of EMS.

F. Other Health Professions/Related Fields Instructor (e.g., Dental Assistant, Sports Medicine)—Eligibility Requirements

1. Applicant must be a graduate of an approved program in the area to be taught, with current state license or

national certification where required. Nutrition instructors in nursing programs may meet certification requirements with a degree in Family and Consumer Sciences and a minimum of 12 semester hours in Foods and Nutrition.

2. Applicant must have a minimum of two years of occupational experience in the area in which he/she is to teach. One year of this experience must have been served within the last five years.

3. Sports medicine instructors shall have at least a Bachelor of Science degree and have received and maintained a current state and/or national certification as an athletic trainer and meet all CTTIE requirements.

G. Jobs for America's Graduates (JAG) Louisiana Job Specialist eligibility requirements (one of the following):

1. a bachelor's degree from a state-approved and regionally accredited college or university, plus two years of full-time work experience, or 3,840 hours of work experience within four years of date of application; or

2. a high school diploma or general equivalency diploma (GED) plus five years of full-time work experience or 9,600 hours of work experience with seven years of date of application (Exceptions to the number of required years/hours of experience may be approved by the Board of Elementary and Secondary Education.); or

3. a valid standard Louisiana teaching or school counselor certification for which the professional coursework identified in §507 shall not be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009).

§507. VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines

A. Holder must earn at least three semester hours in professional coursework each year until a minimum number of required semester hours have been completed, as follows:

1. with no degree—fifteen semester hours;
2. with an associate degree—twelve semester hours;
3. with a baccalaureate degree—nine semester hours;
4. with a graduate degree—six semester hours;
5. with a valid Louisiana teaching certificate (Type A, B, C, Level 1, 2, 3 or OS)—three semester hours; (New Instructor Workshop is not required);

6. with three years of post-secondary teaching experience—three semester hours (must include the New Instructor Workshop);

7. with a valid Louisiana teaching certificate (Type A, B, C, Level 1, 2, 3 or OS) and three years of teaching experience—immediate CTTIE 2 certification.

B. The coursework must be completed from the following approved list:

1. New Instructor Workshop (mandatory for all instructors who do not hold a valid Louisiana teaching certificate and do not have three years of successful teaching experience);

2. Foundations of Vocational Technical Education;

3. Preparation of Vocational Technical Education Instructional Materials;

4. Management of the Vocational Technical Education Classroom(s)/Laboratory(ies);

5. Occupational Safety and Health;

6. Testing and Evaluation in Vocational Technical Education;

7. Teaching Special Needs Students in Vocational Technical Education;

8. Methods of Teaching Vocational Technical Education;

9. Occupational Analysis and Course Development;

10. Ethics and Diversity in the Workplace/Classroom;

11. Computer Technology in the Classroom;

12. Curriculum Planning;

13. Vocational Guidance;

14. Management of Change;

15. Basic Theory in Vocational Education;

16. Advanced Theory in Vocational Education;

17. Development of Vocational Teacher Competency;

18. Adolescent Psychology;

19. Other education pedagogy courses, including online courses, from accredited institutions. Must have prior approval from the Office of Career and Technical Education.

C. If a state or national license is required in the workplace, a current license must be held. A state or national license will be recognized as an industry-based certification.

D. Upon successful completion of the required hours, and upon written request, a VTIE or a CTTIE temporary certificate was converted to a permanent CTTIE certificate until June 30, 2006. After June 30, 2006, certificates for all holders of VTIE, CTTIE, and CTTIE-1 certificates who are completing the required hours will be converted to five year CTTIE-2 certificates upon written request.

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 32:1814 (October 2006), amended LR 33:2356 (November 2007), LR 35:2753 (December 2009).

§509. CTTIE-2 Certificates Renewal Guidelines

A. Certificate holder must complete 150 continuing learning units (CLUs) of district-approved and district-verified professional development over the five year time period during which the certificate is held.

B. The Louisiana employing authority must request renewal of the certificate directly from the State Department of Education.

C. If holder of an expired certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the Louisiana employing authority (at the level that was attained prior to expiration) for a period of one year, during which time holder must complete the required 150 CLUs and present evidence of successful completion to the Division of Certification and Preparation. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

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 32:1814 (October 2006), amended LR 35:2754 (December 2009).

§511. Process for Reinstating Lapsed CTTIE or VTIE Certificates

A. If holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

B. To reinstate a CTTIE or VTIE certificate if a license is required in the workplace, holder must present evidence that he/she has a current state or national license. Holder must also present evidence that he/she earned six semester hours of credit in state-approved courses (see §507.B) during the five year period immediately preceding request for reinstatement.

C. If a license is not required in the workplace, to reinstate a CTTIE or VTIE certificate the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see §507.B) during the five year period immediately preceding request for reinstatement.

D. If holder did not earn the required six semester hours, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

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 32:1814 (October 2006), amended LR 35:2754 (December 2009).

Jeanette B. Vosburg
Executive Director

0912#011

RULE

Office of the Governor Board of Architectural Examiners

Licensure Renewal Procedures (LAC 46:I.1301)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("LSBAE") amended LAC 46:I.1301. The Rule provides that for the years 2009 and going forward, individual architects are required to renew their licenses online.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 13. Administration

§1301. Renewal Procedure

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations, architectural-

engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to timely renew their licenses.

C. Prior to December 31 of each year, architects shall renew their licenses online in accordance with the instructions set forth on the board website, www.lastbdarchs.com. The license renewal fee for an individual architect domiciled in Louisiana shall be \$75; the license renewal fee for an individual architect domiciled outside Louisiana shall be \$150. Upon renewal, the architect may download from the board website a copy of his or her renewal license.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who renews his or her license subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$75. An individual architect domiciled outside Louisiana who renews his or her license subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$150. The delinquent fee shall be in addition to the renewal fee set forth in the §1301.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in §1301.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003); amended LR 35:2754 (December 2009).

Mary "Teeny" Simmons
Executive Director

0912#026

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4701)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby promulgates rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings.

* * *

Peace Officer—any full-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody, and control of inmates, full time military police officers within the Military Department, State of Louisiana, and full-time security personnel employed by the Supreme Court of Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 25:662 (April 1999), amended LR 31:2007 (August, 2005), LR 35:2755 (December 2009).

Judy Dupuy
Executive Director

0912#031

RULE

Office of the Governor Division of Administration Racing Commission

Claiming Rule (LAC 35:XI.9913)

The Louisiana State Racing Commission hereby amends LAC 35:XI.9913 "Claiming Rule" as follows.

**Title 35
HORSE RACING**

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9913. Vesting of Title; Tests

A. ...

B. The successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infectious anemia via a Coggins test and/or erythropoietin and/or darbepoietin.

1. ...

2. Should the test for recombinant erythropoietin and/or darbepoietin prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana until such time as the horse tests negative.

C. Additionally, if such erythropoietin and/or darbepoietin positive result is found, the claimant, claimant's trainer or claimant's authorized agent shall have 48 hours in which to request the claim be declared invalid, such request to be made in writing to the stewards.

D. - E.1. ...

2. Blood samples drawn to detect by immunoassay recombinant erythropoietin and/or darbepoietin shall be sent to the Louisiana State Racing Commission's state chemist.

F. Notwithstanding any inconsistent provision of the Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, and the trainer of the horse shall not be subject to application of trainer's responsibility based upon the finding by the laboratory that erythropoietin and/or darbepoietin was present in the sample taken from that horse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:1476 (July 2004), LR 31:3160 (December 2005), LR 35:2756 (December 2009).

Charles A. Gardiner III
Executive Director

0912#023

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Jockey Fee Schedule (LAC 46:XLI.725)

The Louisiana State Racing Commission hereby adopts "Jockey Fee Schedule" (LAC 46:XLI.725) as follows.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§725. Jockey Fee Schedule

A. Prior to the start of each race conducted by an association licensed by the commission, sufficient money

shall be on deposit with the horsemen's bookkeeper in an amount equal to pay the losing mount fee of a jockey for that race. In the absence of a special agreement, the fee of a jockey shall be as follows.

Purse	Win	Second	Third	Unplaced
\$400 and under	\$27	\$19	\$17	\$16
500	30	20	17	16
600	36	22	17	16
700-900	10%	25	22	20
1,000-1,400	10%	30	25	22
1,500-1,900	10%	35	30	28
2,000-3,400	10%	45	35	33
3,500-4,900	10%	70	60	50
5,000-9,900	10%	80	65	60
10,000-14,900	10%	5%	70	65
15,000-24,900	10%	5%	5%	70
25,000-49,900	10%	5%	5%	75
50,000-99,900	10%	5%	5%	90
100,000 and up	10%	5%	5%	115

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:28 (January 1977), LR 4:276 (August 1978), LR 5:23 (February 1979), LR 12:12 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 16:112 (February 1990), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 35:2756 (December 2009).

Charles A. Gardiner III
Executive Director

0912#024

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Super Hi-Five (LAC 35:XIII.11801)

The Louisiana State Racing Commission hereby adopts Super Hi-Five (LAC 35:XIII.11801) as follows.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 118. Super Hi-Five

§11801. Super Hi-Five

A. The Super Hi-Five is a form of pari-mutuel wagering which consists of combining five horses in a single race that will subsequently finish first, second, third, fourth and fifth in that race. It is not a parlay and has no connection with or relationship to any other pari-mutuel pool, except as otherwise set forth below.

B. The net pool and payout shall be determined in the following manner.

1. The net pool is awarded to ticket holders who selected first-, second-, third-, fourth-, and fifth-place finishers in order.

2. If there are no such wagers, then the net pool shall be carried over and paid out in the following manner:

a. the entire pool shall be carried over and made available on the next qualifying Super Hi-Five race determined by the racetrack hosting the race, and is combined with and added to the net pool for such qualifying race, and made available for payout; or, and, unless

b. the racetrack hosting race can, at its option, announce a consolation pool, 25 percent of the net pool, will be offered. The offering of a consolation pool shall be announced at least 72 hours in advance of the first day upon which a consolation pool will be offered, and shall be publicized. Notice of the consolation pool may be announced, by way of example, via press release, internet, simulcast signal, and on-track announcements.

C. If there are no ticket holders who selected first-, second-, third-, fourth-, and fifth-place finishers in order and a consolation pool is offered, then a consolation pool shall be established. The consolation pool shall be equal to 25 percent of the net Pool as determined by the racetrack hosting the race and distributed as a single price pool among those ticket holders and paid out as follows:

1. to those who selected first-, second-, third-, and fourth-place finishers in order. If there are no such wagers, then;

2. to those who selected first-, second-, and third-place finishers in order. If there are no such wagers, then;

3. to those who selected first-, second-place finishers in order. If there are no such wagers, then;

4. to those who selected the first-place finishers;

5. if there are no such wagers, then the consolation pool shall carryover and be added to the net pool for the next qualifying Super Hi-Five race as determined by the racetrack hosting the race to be paid out in accordance with this rule.

D. The minimum number of wagering interests required to offer Super Hi-Five wagering shall be seven actual starters.

E. The racetrack hosting the race on which the Super Hi-Five wager is offered may cancel the Super-Hi Five wagering for any reason, including by way of example only any circumstance necessitating scratches or other events reducing the field of competition. Super Hi-Five wagers on races in which wager has been cancelled or the race declared no contest shall be refunded. Any carryover pool added to the net pool of a Super Hi-Five race which is cancelled shall carry forward to be added to the next qualifying Super Hi-Five wagering pool.

F. If less than five horses finish and the race is declared official by the stewards or judges, then pay off shall be made to ticket holders selecting the finishing horses in order of finish as provided above.

G. In the event of a dead heat in any finishing position, the wagers be paid as follows.

1. All wagers selecting either of the dead-heat positions with the correct non-dead-heat position shall be winners and share in the pool.

2. Payouts will be calculated by splitting the pool equally between each winning combination, then dividing split pools by the number of winning tickets. A dead heat will produce separate and distinct payouts respective to each winning combination.

H. If there is any accumulated carryover pool on the final day of a meet by the racetrack hosting races on which Super Hi-Five wagering was offered, the accumulated carryover pool shall be combined with the final net pool of the final Super-Hi-Five race of the meet to be paid out in accordance with this rule. If no ticket is sold that would require a distribution under this rule, then the pool shall be held separately and carried over to be offered on the first Super Hi-Five race scheduled by the racetrack hosting the race, and thereafter, to be distributed in accordance with this rule.

I. If a horse is scratched or declared a nonstarter, no further tickets may be issued designating such horse and all Super Hi-five tickets previously issued designating such horse shall be refunded and the money deducted from the gross Super Hi-Five pool.

J. For purposes of statutory deductions and commissions, the net amount does not include any amounts carried over from any previous Super Hi-Five pool.

K. The racetrack hosting the races may participate with other racetracks in a Super Hi-Five national carryover pool. In such instances, the carryover pool, if any, may be carried out to, or in from, another racetrack's Super Hi-Five pool.

L. Races in which Super Hi-Five pools are conducted shall be approved by the commission and shall be clearly designated in the program.

M. This rule shall be prominently displayed throughout the betting area of each track and distributed to patrons upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 35:2756 (December 2009).

Charles A. Gardiner III
Executive Director

0912#022

RULE

Department of Health and Hospitals Board of Practical Nurse Examiners

Adjudication (LAC 46:XLVII.306)

The Board of Practical Nurse Examiners hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979. The amendment to §306 codifies current board policy related to summary suspension of a license.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners §306. Adjudication Proceedings

A. - U. ...

V. If the board finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the executive director pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 2:275 (September 1976), amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 20:663 (June 1994), LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 30:1478 (July 2004), LR 34:1912 (September 2008), LR 35:1247 (July 2009), LR 35:2757 (December 2009).

Claire Doody Glaviano
Executive Director

0912#032

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Laboratory and Radiology
Radiology Utilization Management
(LAC 50:XIX.4501)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XIX.4501 under the Medical Assistance Program as authorized by 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 XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 45. Radiology Utilization Management

§4501. General Provisions

A. Radiology utilization management establishes provisions requiring prior authorization for certain outpatient high-tech imaging.

B. Prior authorization (PA) is based on best evidence medical practices as developed and evaluated by board-certified physician reviewers, including board-certified radiologists and additional physical specialists who will assist in the claim evaluation process.

1. Services requiring PA will be noted on the Medicaid fee schedule and shall include, but are not limited to, the following radiology service groups:

- a. magnetic resonance (MR);
- b. positron emission tomography (PET);
- c. computerized tomography (CT); and
- d. nuclear cardiology.

C. Reimbursement for these services is contingent upon prior authorization.

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 35:2758 (December 2009).

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.

Alan Levine
Secretary

0912#075

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program—Parent/Family
Intervention (Intensive) Services (LAC 50:XV.335)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.335 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Subchapter C. Optional Services

Chapter 3. Covered Services and Staffing Requirements

§335. Parent/Family Intervention (Intensive)

A. - B.2. ...

3. Beginning with the seventh month after certification as a Parent/Family Intervention (Intensive) services provider or upon admission of at least 12 recipients, whichever comes first, staff assigned to a Parent/Family Intervention (Intensive) team must be exclusive to this team and must not provide any other services outside of the team.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 32:2067 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2758 (December 2009).

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.

Alan Levine
Secretary

0912#076

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Multi-Systemic Therapy—Provider Responsibilities and Sanctions (LAC 50:XV.25505, 25901, and 25903)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XV.25505, 25901, and 25903 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 17. Multi-Systemic Therapy

Chapter 255. Provider Participation

§25505. Provider Responsibilities

A. A complete personnel records creation and retention policy shall be developed, implemented and maintained by all MST providers. Each personnel record shall include, but is not limited to, the following documentation.

1. Employment Verification. Verification of previous employment shall be obtained and maintained in accordance with the criteria specified in the current MST Provider Manual.

2. Educational Verification. Education documents, including diplomas, degrees and certified transcripts shall be maintained in the records. Resumes and documentation of qualifications for all staff, including verification of current licensure and malpractice insurance coverage must also be maintained in the personnel records.

3. Criminal Background Checks. There shall be documentation verifying that a criminal background check was conducted on the employee by the Louisiana Department of Public Safety (State Police) prior to employment with the MST provider as required by R.S. 15:587.1 and R.S. 15:587.3. MST providers shall not hire an individual with a record as a sex offender or permit these individuals to work for them.

4. Drug Testing

a. All prospective employees who apply to work for an MST provider shall be subject to a drug test for illegal drug use. Documentation of the drug test shall be maintained in the personnel record. The drug test shall be administered after the date of the employment interview and before an offer of employment is made. If a prospective employee tests positive for illegal drug use, the MST provider shall not hire the individual.

b. MST providers shall have a drug testing policy that provides for random drug testing of employees and a written plan to handle employees who test positive for illegal drug use, whether the usage occurs at work or during off duty hours.

c. Documentation of the provider's drug testing policy shall be readily available and provided to the department or its designee upon request.

5. Tuberculosis Testing. All persons, prior to or at the time of employment, shall be free of tuberculosis in a communicable state.

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 35:2759 (December 2009).

Chapter 259. Sanctions

§25901. Grounds for Sanctions

A. The following are grounds for sanctioning of a multi-systemic therapy provider:

1. failure to comply with any and all certification, administrative, accreditation, training or operational requirements at any time;

2. failure to provide services specified in the recipient's service agreement;

3. failure to uphold recipients' rights when violations may or could result in harm or injury;

4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;

5. failure to maintain adequate qualified staff to provide necessary services;

6. failure to adequately document that services billed were actually performed;

7. failure of an MST provider's subcontractors to meet all required standards;

8. failure to fully cooperate with a Department of Health and Hospitals (DHH) survey or investigation including, but not limited to, failure to allow DHH staff entry to the MST provider's or subcontractor's offices or denial of access to any requested records during any survey or investigation;

9. failure to comply with all reporting requirements in a timely manner;

10. failure to provide documentation that verifies compliance with any requirement as set forth in this Subpart 17;

11. failure to comply with any or all federal or state regulations or laws applicable to either the Multi-Systemic Therapy Program or the Medical Assistance Program;

12. failure to protect recipients from harmful actions of an MST provider's employees or subcontractors including, but not limited to:

a. health and safety;

b. coercion;

c. threat;

d. intimidation;

e. solicitation; or

f. harassment;

13. failure to remain fully operational at all times for any reason other than a natural disaster;

14. a substantiated pattern of consistent complaints filed against an MST provider, within a one-year period;

15. a false statement of a material fact knowingly (or with reason to know) made by an owner or staff person of the MST provider in the following areas:

a. an application for enrollment;

- b. data forms;
 - c. a recipient's record;
 - d. any matter under investigation by the department;
- or
- e. certification/recertification;
16. use of false, fraudulent or misleading advertising;
 17. failure to disclose a conviction for a criminal offense by a person with ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MST provider; or
 18. failure to provide optimum care in accordance with current standards of practice.

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 35:2759 (December 2009).

§25903. Applicable Sanctions

A. The following sanctions may be applied to any MST provider, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Review Systems (SURS) Rule, LAC 50:I.Chapter 41 (*Louisiana Register*, Volume 29, Number 4).

1. The MST provider may be terminated as an MST provider. Terminated agencies, including all of their owners, officers or directors, will not be allowed to reapply for enrollment as a Medicaid MST provider for a period of up to five years.

2. Payments for services rendered may be suspended or withheld until program compliance is verified.

3. The MST provider's current recipients shall be transferred to another MST provider if the bureau determines that recipient health and safety are compromised. Recipients have freedom of choice regarding the selection of service providers.

4. The MST provider and/or the staff may be required to complete education and training in all aspects of MST policy and billing procedures, including training relevant to providing quality MST services.

5. Individuals employed by the provider may be suspended or excluded from providing MST services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2760 (December 2009).

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.

Alan Levine
Secretary

0912#077

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Pediatric Day Health Care Facilities Minimum Licensing Standards (LAC 48:I.Chapter 52)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 52 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:40:2193-2193.4. 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 52. Pediatric Day Health Care Facilities Licensing Standards

Subchapter A. General Provisions

§5201. Introduction

A. A pediatric day health care (PDHC) facility serves medically fragile individuals under the age of 21, including technology dependent children who require close supervision. These facilities offer an alternative health care choice to receiving in-home nursing care. A PDHC facility may operate seven days per week and may provide up to 12 hours of services per day per individual served.

B. The care and services to be provided by the PDHC facility shall include, but is not limited to:

1. nursing care, including but not limited to tracheotomy and suctioning care, medication management, IV therapy, and gastrostomy care;

2. respiratory care;

3. physical, speech, and occupational therapies;

4. assistance with activities of daily living;

5. transportation services;

6. socialization; and

7. education and training.

C. In addition to the provision of care and services, the PDHC facility shall also function as an emergency shelter as provided in these licensing regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5203. Definitions

Administrator—the person who is in charge of the daily operation of the PDHC facility.

Department or DHH—the Louisiana Department of Health and Hospitals.

Child—a medically fragile individual under the age of 21 who receives services from a PDHC facility, including a technology dependent child who requires close supervision.

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 PDHC facility.

Medically Fragile—an individual who has a medically complex condition characterized by multiple, significant medical problems that require extended care.

Parent—parent(s) or guardian with legal custody of the child.

Pediatric Day Health Care (PDHC) Facility—a facility that serves medically fragile individuals under the age of 21, including technology dependent children who require close supervision.

Pediatric Nursing Experience—being responsible for the care of acutely ill or chronically ill children.

Plan of Care—the comprehensive plan developed by the PDHC facility for each child receiving services for implementation of medical, nursing, psychosocial, developmental, and educational therapies.

Prescribing Physician—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the child to the PDHC facility;
2. maintains overall responsibility for the child's medical management; and
3. is available for consultation and collaboration with the pediatric day health care staff.

Secretary—the secretary of the Louisiana Department of Health and Hospitals, or his designee.

Technology Dependent Child—a child who has a chronic disability that requires specific nursing interventions to compensate for the deficit of a life sustaining body function. The child requires daily, ongoing, intermittent care or monitoring by health care professionals or other trained personnel as prescribed by a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter B. Licensing Procedures

§5205. General Provisions

A. All pediatric day health care facilities must be licensed by the department. A PDHC facility shall not be established, opened, operated, managed, maintained, or conducted in this state without a current valid license issued by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for PDHC Facilities in the state of Louisiana. It shall be unlawful to operate a PDHC facility without possessing a current, valid license by DHH. Each PDHC facility shall be separately licensed.

B. A parent or legal guardian or legally responsible person providing care to a medically fragile child in his/her home or any other extended care or long term care facility is not considered to be a PDHC facility and shall not be licensed as a PDHC facility.

C. A PDHC 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, modified, or terminated 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 PDHC 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.

D. In order for the PDHC facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The PDHC facility shall always have at least two employees, one of whom is an RN, on duty at the facility location during operational hours.

2. There shall be staff employed and available to be assigned to provide care and services to each child during all operational hours. Services rendered shall be consistent with the medical needs of each child.

3. The PDHC facility shall have provided services to at least two children in the preceding 12 month period in order to be eligible to renew its license.

E. The licensed PDHC facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

F. A separately licensed PDHC facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless such PDHC facility is under common ownership with other PDHC facilities.

G. No branches, satellite locations or offsite campuses shall be authorized for a PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5207. Initial Licensing Application Process

A. An initial application for licensing as a PDHC facility shall be obtained from the department. A completed initial license application packet for a PDHC facility must be submitted to and approved by the department prior to an applicant providing PDHC facility services. An applicant must submit a completed initial licensing packet to the department, which shall include:

1. a completed PDHC 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 DHH Department of Engineering and Architectural Services and the Office of the State Fire Marshal (OSFM);

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 (OPH);

5. a copy of statewide criminal background checks on all individual owners with a 5 percent or more ownership interest in the PDHC facility entity, and on all members of the PDHC facility's board of directors, if applicable, and administrators;

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 completed disclosure of ownership and control information form;

9. a floor sketch or drawing of the premises to be licensed;

10. the days and hours of operation; and

11. 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 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 a PDHC 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 the approval shall be forwarded to the applicant. Within 90 days of receipt of the approval notification, the applicant must notify the department that the PDHC 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 has been closed, an applicant who is still interested in becoming a PDHC facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5209. 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 PDHC 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, suspended, or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the facility when the initial licensing survey finds that the PDHC 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 children or participants. The provisional license shall be valid for a period not to exceed six months.

a. At the discretion of the department, the provisional initial license may be extended for an additional period not to exceed 90 days in order for the PDHC facility to correct the noncompliance or deficiencies.

b. The facility must submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

c. A follow-up survey shall be conducted prior to the expiration of the provisional initial license.

i. 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.

ii. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional initial 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.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed PDHC 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, suspended, or terminated.

4. Provisional Renewal License. The department, in its sole discretion, may issue a provisional license to an existing licensed PDHC facility for a period not to exceed six months.

a. At the discretion of the department, the provisional renewal license may be extended for an additional period not to exceed 90 days in order for the PDHC facility to correct the noncompliance or deficiencies.

b. A provisional renewal license may be issued for the following reasons:

i. the existing PDHC facility has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing licensed PDHC facility has more than three validated complaints in a one year period;

iii. the existing PDHC facility has been issued a deficiency that involved placing a child or participant at risk for serious harm or death;

iv. the existing PDHC 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; or

v. the existing pediatric day health care provider 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 renewal license to an existing licensed pediatric day health care provider, the department shall conduct an on-site follow-up survey at the pediatric day health care facility prior to the expiration of the provisional license.

i. If the on-site follow-up survey determines that the PDHC 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 PDHC facility license.

ii. If the on-site follow-up survey determines that the PDHC facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional renewal 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.

B. If an existing licensed PDHC facility has been issued a notice of license revocation, suspension, or termination, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive and the facility shall be allowed to continue to operate and provide services until such time as the department's Bureau of Appeals issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the PDHC facility pose an imminent or immediate threat to the health, welfare, or safety of a child, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. The PDHC facility shall be notified of this determination in writing.

3. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

C. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

D. The license for a PDHC facility shall be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that time.

E. The initial pediatric day health care license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5211. Licensing Surveys

A. Prior to the initial license being issued to the PDHC 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 to any child 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. 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.

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional renewal license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

2. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction may be required for any survey where deficiencies have been cited.

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. civil monetary penalties;
2. directed plans of correction; and
3. 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 survey or other survey; and

2. allowed to interview any provider staff, child or participant as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5213. Changes in Licensee Information or Personnel

A. A PDHC 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 PDHC 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 PDHC facility name or "doing business as" name requires a change to the facility license and shall require 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:

- a. administrator;
- b. medical director; and
- c. director of nursing.

2. The facility's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the PDHC facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of a PDHC facility is not transferable or assignable. The license of a PDHC 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. A PDHC facility that is under license suspension, revocation, or termination may not undergo a CHOW.

E. Any request for a duplicate license must be accompanied by a \$25 fee.

F. A PDHC 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 must be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. Relocation of the facility's physical address results in a new anniversary date and the full licensing fee must be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5215. Cessation of Business

A. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days advance written notice to:
 - a. the department;
 - b. the prescribing physician; and
 - c. the parent(s) or legal guardian or legal representative;
2. notify the department of the location where the records will be stored and the contact person for the records; and
3. provide for an orderly discharge and transition of all children admitted to the facility.

B. If a PDHC facility fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a PDHC facility for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5217. Renewal of License

A. License Renewal Application. A PDHC facility must 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. the days and hours of operation;
3. a copy of the current on-site inspection report with approval for occupancy from the:
 - a. Office of the State Fire Marshal; and
 - b. 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 shall result in the voluntary non-renewal of the pediatric day health care license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5219. 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 PDHC facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations and such noncompliance presents a potential threat to the health, safety, or welfare of the children 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 providing services, unless the provider is actively treating children, in which case the provider shall:

a. immediately provide written notice to the department of the number of children receiving treatment at this PDHC facility;

b. immediately provide written notice to the prescribing physician and to the child, parent, legal guardian, or legal representative of the following:

- i. voluntary non-renewal of license;
- ii. date of closure; and
- iii. plans for orderly transition of the child;

c. discharge and transition of each child 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 a PDHC facility fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a PDHC facility for a period of two years.

D. Revocation of License or Denial of License Renewal. A PDHC 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 PDHC 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 child rights whereby deficient practices result in harm, injury, or death of a child;

4. negligence or failure to protect a child from a harmful act of an employee or other child including, but not limited to:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a child'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 child's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

6. knowingly making a false statement, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. records, including:

i. clinical;

ii. child; or

iii. facility;

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 a PDHC 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 child 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.

a. For purposes of these provisions, conviction of a felony means a felony relating to any of the following;

i. violence, abuse, or negligence of another person;

ii. misappropriation of property belonging to another person;

iii. cruelty, exploitation, or sexual battery of a person with disabilities;

iv. a drug offense;

v. crimes of a sexual nature;

vi. a firearm or deadly weapon; or

vii. 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 children;

13. failure to allow or refusal to allow access to facility or child records by authorized departmental personnel;

14. bribery, harassment, or intimidation of any child or family member designed to cause that child or family member to use or retain the services of any particular PDHC facility; or

15. cessation of business or non-operational status.

E. If a PDHC 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 PDHC facility may be prohibited from opening, managing, directing, operating, or owning another PDHC 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. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5221. 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. The PDHC 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 PDHC facility must 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 must be in writing and shall be forwarded to the DHH Health Standards Section.

2. The request for informal reconsideration must 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 shall 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 shall be notified in writing of the results of the informal reconsideration.

C. The PDHC 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 PDHC facility must 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 must be in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal must include any documentation that demonstrates that the determination was made in error and must 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 child, 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 an existing PDHC facility has been issued a notice of license revocation and the facility'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.

E. 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 fees 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 children 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 the child's records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new PDHC facility. The issuance of a provisional license to an existing PDHC facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

G. A facility 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 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.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The facility shall submit a written request for informal reconsideration within five calendar days of receipt of the department's notice of the results of the follow-up survey.

a. The facility may forego its right to an informal reconsideration.

4. The facility shall submit a written request to the DHH Bureau of Appeals for an administrative appeal within five calendar days of receipt of the department's notice of the results of the informal reconsideration.

a. If the facility has opted to forego the informal reconsideration process, a written request for an administrative appeal shall be made within five calendar days of receipt of the department's notice of the results of the follow-up survey.

H. A facility with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge children unless the Bureau of Appeals issues a stay of the expiration.

1. A stay may be granted 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 children being served by the facility.

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired or by an existing provider whose provisional license 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 fees 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 children receiving services. Within 10 calendar days of the final agency decision, the facility shall provide written notification to the department's licensing section of the secure and confidential location of where the child's records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5223. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with La. 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. If the department determines other action, such as license revocation is appropriate, a plan of correction may not be required and the facility will be notified of such action.

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, child, or participant, as necessary or required to conduct the survey.

G. A PDHC 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 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 provider and the complainant shall be notified in writing of the results of the informal reconsideration.

J. Except as provided in §5223.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 consumer, the complainant or the provider may appeal the informal reconsideration findings to the Bureau of Appeals.

1. The written request for an 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 could not have been obtained with due diligence 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/she 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. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5225. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to the PDHC 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 a PDHC 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 La. 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 provider shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter C. Administration and Organization
§5231. Facility Administration and Management

A. The licensee of each PDHC facility shall have full legal authority and responsibility for the operation of the facility.

B. Each PDHC facility shall be organized in accordance with a written table of organization which describes the lines of authority and communication from the administrative level to the child care level. The organizational structure shall be designed to ensure an integrated continuum of services to the children.

C. The licensee of each facility shall designate one person as administrator who is responsible and accountable for the overall management and supervision of the PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5233. Policy and Procedures

A. The PDHC facility through collaboration by the medical director, administrator, and director of nursing shall develop, implement and maintain written policies and procedures governing all child care and related medical or other services provided to participants. The child care policies and procedures shall ensure compliance with these licensing standards.

B. All child care policies and procedures shall be reviewed at least annually and revised as needed.

C. Child care policies and procedures shall address the prevention, reporting, and investigation of abuse and neglect. All facility staff shall immediately report any suspected abuse and/or neglect of a child in accordance with state law.

D. The facility's written policy on prevention, reporting, and investigation of abuse and neglect, as well as the local child protection agency's telephone number, shall be posted in the facility in a conspicuous location.

E. The PDHC facility shall develop and implement a grievance policy and procedures. The grievance policy shall be used to process complaints by the child or parent.

1. The child or parent shall be entitled to initiate a grievance at any time.

2. The child and/or parent shall be informed of and provided a written copy of the grievance policy of the PDHC facility upon acceptance to the facility.

3. The administrator of the facility or his designee shall investigate all grievances and shall make reasonable attempts to address the grievance(s).

4. The administrator or his designee shall issue a written report or decision to the child and/or parent within five business days of receipt of the grievance. The written report shall contain:

- a. the findings of the investigation;
- b. resolution of the investigation; and
- c. the address and contact number of the licensing section of the department to which a complaint may be filed.

5. The facility shall prominently post the grievance procedure in an area accessible to the child and family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter D. Participation Requirements
§5237. Acceptance Criteria

A. Each PDHC facility shall have written policies and procedures governing the acceptance and participation of children in their pediatric day health care program.

B. Infants or children shall be considered for acceptance to the facility if they have been diagnosed with a medically complex condition(s) which is characterized by multiple significant medical problems that require extended care (i.e., medically fragile).

1. For purposes of these provisions, medically fragile conditions include, but are not limited to:

- a. severe lung disease requiring oxygen;
- b. severe lung disease requiring ventilator or tracheotomy care;
- c. complicated spina bifida;
- d. heart disease;
- e. malignancy;
- f. asthmatic exacerbations;
- g. cystic fibrosis exacerbations;
- h. neuromuscular disease;
- i. encephalopathy; and
- j. seizure disorders.

C. The child shall be stable for outpatient medical services and require ongoing nursing care and other interventions. Children with risk of infectious disease or acute infection shall be accepted only as authorized by the prescribing physician in collaboration with the PDHC facility medical director.

D. The prescribing physician, in consultation with the parent(s), shall recommend participation in a pediatric day health care program, taking into consideration the medical, emotional, psychosocial and environmental factors.

1. No child shall be accepted to participate in PDHC facility services without a prescription from the child's prescribing physician.

2. The medical director of the PDHC facility may provide the referral to the facility if he/she is the child's prescribing physician.

E. A consent form, outlining the purpose of the facility, parent's responsibilities, authorized treatment and emergency disposition plans shall be signed by the parent(s) and witnessed prior to acceptance into the facility's PDHC program. The parent(s) shall be provided a copy of the consent form and the facility shall retain a copy in their records.

F. Before care is initiated, the PDHC facility shall inform the parent orally and in writing of:

- a. those charges for services that will not be covered by the child's payor source; and
- b. the charges that the parent may be responsible for paying.

G. Conference Prior to Attendance. If the child meets the criteria for acceptance into a PDHC facility program, the prescribing physician or his/her designee shall contact the medical or nursing director of the PDHC facility to schedule a conference prior to the child attending the facility.

1. If the child is hospitalized at the time of referral, planning for PDHC participation shall include the parent(s), relevant hospital medical, nursing, social services and developmental staff to begin development of the plan of care that will be implemented following acceptance to the PDHC facility.

2. If the child is not hospitalized at the time of referral, planning for PDHC participation shall be conducted with the prescribing physician, parent(s), PDHC facility representative(s), and representative(s) of other relevant agencies to begin development of the plan of care that will be implemented following acceptance to the PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5239. Plan of Care

A. Each child that has been accepted to a facility and participates in a PDHC program shall have a plan of care developed to assure that the child receives appropriate services. Development of the plan of care shall begin within 72 hours of receipt of the referral to allow sufficient time for implementation of the plan upon placement in the facility.

B. The plan of care shall be developed under the direction of the facility's nursing director and shall:

1. be individualized to address the child's problems, goals, and required services including, but not limited to medical, nursing, psychosocial, therapy, dietary, and educational services;

2. ensure that the child's developmental needs are addressed;

a. the PDHC facility shall consider developmentally appropriate learning and play experiences as well as social interaction with other children;

3. identify specific goals for care;

a. plans for achieving the goals shall be determined and a schedule for evaluation of progress shall be established; and

4. contain specific criteria for transitioning from or discontinuing participation in pediatric day health care with the facility.

C. The plan of care shall be signed by the prescribing physician, the authorized representative of the facility, and the parent(s). Copies of the plan of care shall be given to the prescribing physician and other agencies as appropriate. The facility shall retain a copy in their records and a copy shall be given to the parent(s) if requested.

D. The plan of care for continuation of services shall be:

1. reviewed and updated at least quarterly or as indicated by the needs of the child;

2. completed by a registered nurse;

3. reviewed and ordered by the prescribing physician; and

4. incorporated into the patient's clinical record within seven calendar days of receipt of the prescribing physician's order.

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician, every 60 days or more frequently as the child's condition dictates. Prescribed services and therapies included in the plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child's condition.

F. Facility staff shall administer services and treatments in accordance with the plan of care as ordered by the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5241. Participant Rights

A. The parent(s) of a child who participates in PDHC services shall, prior to or upon acceptance, receive a written statement of the services provided by the facility.

B. Before care is initiated, the child and or the parent have the right to be advised in writing of his/her liability for payment for services rendered by the PDHC facility.

C. Each child that participates in PDHC facility services shall:

1. be treated with consideration, respect, and full recognition of his or her dignity and individuality;

2. receive care, treatment, and services in accordance with their plan of care;

3. have the right to privacy regarding medical treatment and medical records; and

a. personal and medical records shall be treated confidentially in compliance with federal and state laws, rules and regulations;

4. be free from mental and physical abuse.

D. The PDHC facility shall refrain from using chemical and physical restraints unless authorized by a physician according to clear and indicated medical requirements.

E. Each child or parent shall have the right, personally or through others, to present grievances without reprisal, interference, coercion, or discrimination against the child as a result of such grievance.

F. The facility shall prominently post the child's rights and the abuse and neglect procedures in an area accessible to the child and family.

G. Each parent shall be notified of any accidents or incidents involving their child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter E. Pediatric Day Health Care Services

§5245. General Provisions

A. During the delivery of services, child care goals and interventions shall be coordinated in conjunction with providers and caregivers to ensure appropriate continuity of care from acceptance to the PDHC facility until the child's participation ends.

B. The facility shall maintain a system of communication and integration of services, whether provided directly or under arrangement, that ensures:

1. identification of the child's needs and barriers to care;
2. ongoing coordination of all disciplines providing care; and
3. contact with the physician regarding any relevant medical issues.

C. The child's prescribing physician shall maintain responsibility for the overall medical therapeutic plan and shall be available for consultation and collaboration with the facility's medical and nursing personnel as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5247. Developmental and Educational Services

A. If the PDHC facility provides services for which a school district is responsible, the PDHC facility may enter into a Memorandum of Understanding (MOU) with the school district.

B. For any child enrolled in the early intervention program (EarlySteps) or the local school district's program under the Individuals with Disabilities Act, the PDHC facility shall adhere to the following.

1. In the development of the plan of care, the PDHC facility shall consider the components of the individualized family services plan for children under 3 years old or the individualized education program for children from 3 years old through 21 years old.

2. The PDHC facility shall not duplicate services already provided through the early intervention program or the local school district.

3. Upon request by the early intervention program or the local school district, the PDHC facility shall make available any records necessary to develop, review or revise an individualized family service plan or individualized education plan.

C. If a child has not been previously enrolled in a Local Education Agency (LEA), the PDHC facility shall make a referral to the LEA in the area where the PDHC facility is located. If a child has not been previously enrolled in the early intervention system, the PDHC facility shall refer the child to the regional single point of entry (SPOE).

D. The PDHC facility shall secure a signed release from the child's parent or guardian in order to receive copies of records for a:

1. school aged child from any school system that the child may have been enrolled in; or
2. child, from birth to three years old, for early intervention services from the regional SPOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5249. Medication Administration

A. All medications administered to children in the PDHC facility shall be ordered in writing by the child's prescribing physician or by a specialty physician after consultation and coordination with the PDHC facility. This includes, but is not limited to:

1. over the counter medications;
2. oral electrolyte solutions (Pedialyte, Pedia Vance or similar products); and
3. oxygen.

B. The PDHC facility shall coordinate with the child/parent(s) to ensure that the child's medications are brought to the facility each day the child receives services at the facility.

C. The facility shall adhere to the following medication handling and administration standards.

1. Medications shall be kept in their original packaging and contain the original labeling from the pharmacy.

2. Each child's medications shall be individually stored in a secured location.

3. The PDHC facility shall demonstrate coordination between family and staff regarding medication administration (i.e. last dose given by family or staff).

4. Schedule II substances shall be kept in a separately locked, securely fixed box or drawer(s) in a locked medication cabinet, hence under two separate locks.

- a. The facility shall have established policies and procedures for the handling and administration of controlled substances.

5. Medications requiring refrigeration shall be kept in a refrigerator separate from foods.

D. The PDHC facility shall maintain a record of medication administration. The record shall contain:

1. each medication ordered;
2. each medication administered;
3. the date, time and dosage of each medication administered; and
4. the initials of the person administering the medication.

D. The PDHC facility shall have policies and procedures that address notification of the appropriate authorities of any theft or unexplained loss of any controlled substances, syringes, needles or prescription pads within 48 hours of discovery of such loss or theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5251. Nutritional Services

A. The facility shall ensure that if dietary services are ordered in the child's plan of care, the services shall be provided by a Louisiana licensed registered dietician. The registered dietician shall be available regarding the nutritional needs, the special diets of individual children, and to assist in the development of policies and procedures for the handling, serving, and storage of food.

B. Meals shall be provided on an as needed or prescribed basis. The facility shall incorporate appropriate nutritional services into the child's plan of care as prescribed by the physician and in collaboration with the child and parents to ensure appropriate formula, foods, utensils, equipment, and supplies are readily available. Therapeutic diet orders shall be maintained in the child's file.

C. A minimum of one meal and appropriate snacks and beverages shall be provided as prescribed in the plan of care. The meals and snacks shall be age appropriate.

1. If the plan of care requires more frequent meals or nutrition, the PDHC facility shall provide these services while the child is at the PDHC facility. The PDHC facility shall coordinate with the child and family to ensure that nutritional supplies and formula used by the child are available at the PDHC facility without duplication.

D. All food in the facility shall be safe for human consumption.

1. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served.

E. All food preparation areas shall be maintained in accordance with state and local sanitation and safe food handling standards. Pets are not allowed in food preparation and serving areas.

F. If food is prepared in a central kitchen and delivered to separate facilities, provisions shall be made and approved by the Department of Health and Hospitals, Office of Public Health for proper maintenance of food temperatures and a sanitary mode of transportation.

G. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators. A daily temperature log of the refrigerator shall be maintained by the PDHC facility. Food stored in the refrigerator shall be dated, labeled and appropriately packaged.

H. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

1. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

I. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

J. Staff shall be available in the dining area to serve the food and to give individual attention as needed.

K. Specific times for serving meals shall be established and posted.

L. Written reports of inspections by the Office of Public Health shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5253. Social Services

A. The facility shall provide directly or through contract or arrangement the social services as ordered by the prescribing physician or medical director. Social services shall be provided in accordance with the Louisiana State Board of Social Work Examiners requirements.

B. The facility shall ensure that if social services are ordered in the child's plan of care, the care or services shall be rendered by a social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5255. Therapy Services

A. The facility shall provide directly or through contract or arrangement the therapies as ordered by the prescribing physician or medical director. Therapies and services shall be provided in accordance with applicable State Boards' requirements and the child's plan of care if so ordered.

B. Occupational Therapy. The facility shall ensure that occupational therapy services are provided by:

1. an individual authorized by the Louisiana State Board of Medical Examiners (LSBME); or

2. a certified occupational therapy assistant in accordance with the LSBME's requirements.

C. Physical Therapy. The facility shall ensure that physical therapy services are provided by:

1. an individual licensed by the Louisiana State Board of Physical Therapy Examiners (LSBPTE); or

2. a physical therapy assistant in accordance with the LSBPTE requirements.

D. Respiratory Care. The facility shall ensure that respiratory care shall be provided by:

1. an individual licensed as a respiratory therapist by the LSBME;

2. a registered nurse with documented experience in providing respiratory care in accordance with the Louisiana State Board of Nursing; or

3. a licensed practical nurse with documented experience in providing respiratory care in accordance with the Louisiana State Board of Practical Nurse Examiners.

E. Speech-Language Pathology. The facility shall ensure that speech-language pathology services are provided by an individual authorized by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5257. Transportation

A. The PDHC facility shall provide or arrange transportation of children to and from the facility and is responsible for the safety of the children during transport. The family may choose to provide their own transportation. Whether transportation is provided by the facility on a daily basis or as needed, these general regulations shall apply.

1. If the PDHC facility arranges transportation for participants through a transportation agency, the facility shall maintain a written contract which is signed by a facility representative and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

a. This written contract shall be dated and time limited and shall conform to these licensing regulations.

b. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for children in the event of accident or injury. Documentation of the insurance shall consist of the insurance policy or current binder that includes the name of the transportation agency, the name of the insurance agency, policy number, and period of coverage and explanation of the coverage.

B. Transportation arrangements shall conform to state laws, including laws governing the use of seat belts and child restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the children served by the PDHC facility.

C. The driver or attendant shall not leave the child unattended in the vehicle at any time.

D. Vehicle and Driver Requirements.

1. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

2. The use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

3. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

4. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport children on behalf of the PDHC facility.

5. The facility shall maintain in force at all times current commercial liability insurance for the operation of center vehicles, including medical coverage for children in the event of accident or injury.

a. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment.

b. Documentation shall consist of the insurance policy or current binder that includes the name of the PDHC facility, the name of the insurance company, policy number, and period of coverage and explanation of the coverage.

6. The vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle. This shall include oxygen, pulse oximeter and suction equipment.

8. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom the child may be released.

a. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include the driver's name, the date, names of all passengers (children and adults) in the vehicle, and the name of the person to whom the child was released and the time of release.

a. Documentation shall be maintained on file at the facility whether transportation is provided by the facility or contracted.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number and address of the facility for emergency situations.

E. Child Safety Provisions

1. The driver plus one appropriately trained staff member shall be required at all times in each vehicle when transporting any child. Staff shall be appropriately trained on the needs of each child.

2. Each child shall be safely and properly:

- a. assisted into the vehicle;
- b. restrained in the vehicle; and
- c. assisted out of the vehicle.

3. Only one child shall be restrained in a single safety belt or secured in an American Academy of Pediatrics recommended, age appropriate safety seat.

4. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle.

a. Documentation shall include the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

5. During field trips, the driver or staff member shall check the vehicle and account for each child upon arrival at and departure from each destination to ensure that no child is left on the vehicle or at any destination.

a. Documentation shall include the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of children during the field trip.

6. Appropriate staff person(s) shall be present when each child is delivered to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter G. Facility Responsibilities

§5263. General Provisions

A. A PDHC facility shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the facility's responsibilities are carried out and that the following functions are adequately performed:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. housekeeping, maintenance and food service functions;
5. direct service functions;
6. supervisory functions;
7. record-keeping and reporting functions;
8. social services functions; and
9. ancillary service functions.

B. The facility shall ensure that all staff members are properly certified and/or licensed as legally required.

C. The facility shall establish procedures to assure adequate communication among staff in order to provide continuity of services to the participant. This system of communication shall include:

1. a regular review of individual and aggregate problems of participants, including actions taken to resolve these problems;
2. sharing daily information, noting unusual circumstances and other information requiring continued action by staff; and
3. the maintenance of all accidents, personal injuries and pertinent incidents records related to implementation of the child's plan of care.

D. The facility shall not provide service to more participants than the number specified on its license on any given day or at any given time.

E. The facility shall make available to the department any information, which the facility is required to have under these licensing provisions and is reasonably related to the assessment of compliance with these provisions. The participant's rights shall not be considered abridged by this requirement.

F. The PDHC facility shall request a criminal history check on non-licensed persons prior to employment, upon rehire at the PDHC facility, and at least once every three years.

1. A PDHC facility may make an offer of temporary employment to a non-licensed person pending receipt of the results of the criminal history check provided that the check has been requested of the appropriate agency. Any non-

licensed individual offered temporary employment prior to the receipt of the results of the criminal history check shall be under the direct supervision of a permanent employee or shall be in the presence of an adult member of the immediate family of the patient.

G. The PDHC facility shall not hire any non-licensed individual who has been convicted of a crime listed in R.S. 40:1300.53(A)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5265. Staffing Requirements

A. Administrator. The facility administrator shall be a full time employee of the PDHC facility and shall designate in writing a person to be responsible for the facility when he/she is absent from the facility for more than 24 hours. This person is known as the administrator's designee.

1. Qualifications. The administrator and administrator's designee shall have three years of experience in the delivery of health care services and meet one of the following criteria:

- a. be a physician currently licensed in Louisiana;
- b. be a registered nurse currently licensed in Louisiana;
- c. be a college graduate with a bachelors degree; or
- d. have an associate's degree, with one additional year of documented management experience.

2. Any licensed person functioning in the role of administrator or administrator's designee shall have an unrestricted, current license issued by the appropriate Louisiana licensing board.

3. The administrator and the administrator's designee shall be at least 21 years of age.

4. The administrator or the administrator's designee shall have the following responsibilities:

- a. ensuring that the PDHC facility complies with federal, state and local laws, rules and regulations;
- b. maintaining the following written records and any other records required by local, state or federal laws and these licensing provisions:

- i. daily census record, which shall indicate the name of each child currently receiving services in the facility; and

- ii. a record of all accidents, unusual incidents, and incidents involving alleged abuse or neglect involving any child or staff member that caused, or had the potential to cause, injury or harm to any person or property within the facility;

- (a). Such records shall contain a clear description of each accident or incident, the names of the persons involved, a description of all medical or other services provided to these , specifying who provided such services, and the steps taken to prevent recurrence of such accident or incidents in the future.

- c. ensuring that the facility immediately notifies the parent/guardian of any and all accidents or incidents involving their child;

- d. ensuring that the facility provides written notification within 24 hours to the parent/guardian of any and all accidents or incidents; and

- e. making all reports and referrals to law enforcement or other authorities as required by Federal or State law, rule or regulation.

5. The administrator shall maintain a copy of current agreements with consultants and contracted individuals utilized by the PDHC facility in the facility's records. The record shall include verification of credentials and relevant experience of each person providing service.

6. The administrator shall maintain a personnel record for each employee which shall contain:

- a. a current copy of a Louisiana certificate and/or license as applicable;

- b. the original employment application, references, employment history for the preceding five years if applicable; and

- c. a copy of all job performance evaluations.

7. The administrator shall ensure that the facility develops and maintains a current job description for each employee.

8. The administrator shall provide each employee access to written personnel policies governing conditions of employment. The PDHC facility shall develop and implement an employee grievance procedure.

9. The administrator shall ensure that the facility conducts annual written job performance evaluations or contract monitoring for each employee and contracted individual. The performance evaluation shall note strengths and weaknesses and shall include plans to correct any job performance weakness. Performance evaluations or contract monitoring shall be reviewed with each employee and each contracted individual.

10. The administrator shall ensure that the facility assigns duties to employees that are consistent with their job descriptions and with their levels of education, preparation and experience.

11. The administrator shall ensure that the facility provides necessary qualified personnel and ancillary services to ensure the health, safety, and proper care of each child.

12. The administrator shall ensure that the facility develops and implements policies and procedures which shall be included in the facility's policy manual.

13. The Administrator shall ensure that the facility has documentation of a satisfactory criminal record check of each non-licensed employee, and shall comply with the provisions of R.S. 40:1300.51-56.

B. Medical Director. The medical director of the PDHC shall be a physician currently licensed in Louisiana without restrictions.

1. The medical director shall be:

- a. a board certified pediatrician;
- b. a pediatric specialist with knowledge of medically fragile children; or
- c. another medical specialist or subspecialist with knowledge of medically fragile children.

2. Responsibilities of the medical director include, but are not limited to:

- a. periodic review of the services provided by the PDHC facility to assure acceptable levels of quality of care and services;

- b. participation in development and implementation of appropriate performance improvement and safety initiatives;

c. participation in the development of new programs and modifications of existing programs;

d. assurance that medical consultation will be available in the event of the medical director's absence;

e. serving on committees as defined and required by these rules and by the facility's policies;

f. consulting with the facility's administrator on the health status of the facility's personnel as it relates to infection control and or the child's health and safety;

g. reviewing reports of all accidents or unusual incidents occurring on the premises and identifying to the facility's administrator hazards to health and safety; and

h. development and implementation of a policy and procedure for the delivery of emergency services and the delivery of regular physician's services when the child's attending physician or designated alternative is not available.

3. The medical director shall be available for consultation or collaboration with the prescribing physician and/or facility staff.

4. The medical director shall participate in reviews of the plan of care for each child receiving services.

5. The Medical Director may serve as the administrator of the PDHC facility.

C. Director of Nursing (DON). Each PDHC shall have a full time director of nursing.

1. The director of nursing shall be a registered nurse (RN) currently licensed in the state of Louisiana without restrictions, and shall:

a. hold a current certification in Cardio Pulmonary Resuscitation (CPR);

b. hold current certification in Basic Cardiac Life Support (BCLS) and Pediatric Advanced Life Support (PALS); and

c. have a minimum of two years general pediatric nursing experience of which at least six months shall have been spent caring for medically fragile or technology dependent infants or children in one of the following settings:

i. pediatric intensive care;

ii. neonatal intensive care;

iii. pediatric emergency care;

iv. PDHC facility;

v. prescribed pediatric extended care center; or

vi. similar care setting during the previous five years.

2. The DON's responsibilities shall include, but are not limited to:

a. the supervision of all aspects of patient care to ensure compliance with the plan of care;

b. all activities of professional nursing staff and direct care staff to ensure compliance with current standards of accepted nursing and medical practice;

c. compliance with all federal and state laws, rules and regulation related to the delivery of nursing care and services;

d. daily clinical operations of the PDHC facility;

e. implementation of personnel and employment policies to assure that only qualified personnel are hired, including verification of licensure and/or certification prior to employment and annually thereafter;

f. maintaining records to support competency of all nursing and direct care staff;

g. implementation of PDHC facility policy and procedures that establish and support quality patient care;

h. development, implementation and supervision of an employee health program in accordance with state laws, rules or regulations;

i. providing for orientation and in-service training to employees to promote effective PDHC services and safety to the patient and to familiarize staff with regulatory issues, as well as agency policy and procedures;

j. performing timely annual nursing and direct care personnel performance evaluations;

k. ensuring the PDHC facility has mechanisms for disciplinary action for nursing and direct care personnel;

l. assuring participation in regularly scheduled appropriate continuing education for all nursing and direct care personnel;

m. assuring that the care provided by the nursing and direct care personnel promotes effective PDHC services and the safety of the child; and

n. being on-site during normal operating hours.

3. The agency shall designate in writing a registered nurse who will assume the responsibilities of the DON during his/her absence.

4. The DON may serve as the administrator or administrator's designee if qualified. If the DON is functioning as the administrator or administrator's designee, the DON shall not be included in the total staffing ratio for nursing or direct care services.

D. Registered Nurse (RN). Each PDHC shall have sufficient RN staffing to ensure that the care and services provided to each child is in accordance with the child's plan of care.

1. Each RN employed by the facility shall have at least the following qualifications and experience:

a. be currently licensed in the state of Louisiana without restrictions as a registered nurse;

b. hold a current certification in CPR; and

c. have either:

i. one or more years of pediatric experience as an RN, with at least six months experience caring for medically fragile or technologically dependent children; or

ii. two or more years of documented prior pediatric nursing experience as a licensed practical nurse (LPN) and with at least six months experience caring for medically fragile or technologically dependent children.

E. Licensed Practical Nurse (LPN). Each PDHC facility shall have sufficient LPN staffing to ensure that the care and services provided to each child is in accordance with the child's plan of care.

1. Each LPN employed by the facility shall have at least the following qualifications and experience:

a. be currently licensed in the state of Louisiana without restrictions as a licensed practical nurse; and

b. hold a current certification in CPR; and

c. have either:

i. one year or more years experience in pediatrics as an LPN; or

ii. two years of documented prior pediatric experience working as a direct care worker caring for medically fragile child(ren).

F. Direct Care Staff. Direct care staff shall work under the supervision of the registered nurse and shall be

responsible for providing direct care to children at the PDHC facility.

1. For the purposes of this Section, other direct care staff shall include:

- a. nursing assistants;
- b. certified nursing assistants;
- c. patient care technicians;
- d. medical assistants;
- e. emergency medical technicians (EMT);
- f. on-site therapists; and
- g. individuals with training and experience in education, social services or child care related fields.

2. Each direct care staff person employed by the facility shall have at least the following qualifications and experience:

- a. one year documented employment experience in the care of infants or children or one year experience in caring for a medically fragile child;
- b. be able to demonstrate the necessary skills and competency to meet the direct care needs of the child(ren) to which they are assigned;
- c. be currently registered with the Certified Nurse Aide (CAN) Registry or Direct Service Worker (DSW) Registry as a CNA or DSW in good standing and without restrictions;
- d. hold a current certification in Cardio Pulmonary Resuscitation (CPR); and
- e. be 18 years of age or older.

G. Nursing and Direct Care Staffing Levels

1. PDHC facilities shall have sufficient nursing and direct care staff to meet the needs of each infant and child receiving services in the PDHC in accordance with the plan of care.

2. Total staffing for nursing services and direct care shall, at a minimum, meet the following ratios according to the daily census:

Children	Total Nursing or Direct Care Staff	RN	RN or LPN	RN,LPN, or Direct Care staff
1	1	1		
2-6	2	1		1
7-9	3	1	1	1
10-12	4	1	1	2
13-15	5	2	1	2
16-18	6	2	1	3
19-21	7	2	2	3
22-24	8	2	2	4
25-27	9	3	2	4
28-30	10	3	2	5
31-33	11	3	3	5
34-36	12	3	3	6
37-39	13	4	3	6
40-42	14	4	3	7
43-45	15	4	4	7

3. If the PDHC facility has a census of more than 45 children, the staffing shall increase by one staff for every three children alternating between a direct care staff, an RN, and an LPN in such order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5267. Orientation, Staff Development and Training

A. Each PDHC facility shall develop staff and parent orientation and training programs.

B. The PDHC facility shall maintain documentation of orientation and training of each new employee. The orientation shall include, but is not limited to the PDHC facility's:

1. philosophy;
2. organization;
3. practices, policies and procedures;
4. ethics and confidentiality;
5. record keeping;
6. information related to child development; and
7. goals.

C. Orientation shall be given to parents with children who are accepted at the PDHC facility to acquaint the parent(s) with the philosophy and services that will be provided.

D. The PDHC facility shall maintain documentation of an assessment of the skills, knowledge and competencies of the staff.

E. The PDHC facility shall develop training to include:

1. quarterly staff development programs appropriate to the category of personnel;
2. documentation of all staff development programs, and required participation; and
3. Current Basic Life Support certification for all staff.

E. On-going training shall be provided to the parent(s) as necessary and based on the individual needs of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5269. Record Keeping

A. Medical Records. A medical record shall be developed at the time the child is accepted at the PDHC facility and maintained throughout the facility's care of the child.

1. The record shall be signed by authorized personnel and shall contain at least the following documents:

- a. a medical plan of treatment and a nursing plan of care;
- b. the referral and admission documents concerning the child;
- c. physician orders;
- d. medical history, including allergies and special precautions;
- e. documentation of immunizations;
- f. medication/treatment administration record;
- g. concise, accurate information and initialed case notes reflecting progress toward achievement of care goals or reasons for lack of progress;
- h. documentation of nutritional management and therapeutic diets, as appropriate;
- i. documentation of physical, occupational, speech and other special therapies;
- j. correspondence and other documents concerning the child;
- k. an order written by the prescribing physician if the child terminates services with the facility, if applicable; and

1. a summary, including the reason why the child is terminating services with the facility, if applicable.

2. The medical records shall contain the individualized nursing care plan that shall be developed within 10 working days of the child's acceptance to the PDHC facility.

a. The nursing care plan shall be reviewed and revised quarterly, or more frequently as necessary. The nursing care plan shall include any recommendations and revisions to the care plan based on consultation with other professionals involved in the child's care.

3. The plan of care, telephone and/or verbal orders shall be signed by the physician within a timely manner, not to exceed 30 days.

a. The physician's verbal orders may be accepted by a registered nurse, a qualified therapist or a licensed practical nurse as authorized by state and federal laws and regulations.

b. Verbal orders taken by an LPN shall be cosigned by an RN or appropriate therapist.

c. Electronic physician signatures may be accepted per PDHC facility policies.

d. Stamped physician signatures shall not be accepted.

4. All medical and patient records shall be maintained by the PDHC facility in accordance with federal and state law, rule, and regulation regarding confidentiality, privacy and retention.

B. Personnel Records. Personnel records shall be kept in a place, form and system in accordance with appropriate medical and business practices. All personnel records shall be available in the facility for inspection by the department during normal business hours. These records shall be maintained in accordance with federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5271. Infection Control

A. The PDHC facility, at the minimum, shall meet the following infection control requirements.

1. The PDHC facility shall have an isolation room with a glass area for observation of the child.

2. Isolation procedures shall be used to prevent cross-infections.

3. All cribs and beds shall be labeled with the child's name. Linens shall be removed from the crib for laundering purposes only.

4. Bed linens shall be changed when soiled and as necessary, but not less than twice weekly.

5. Antimicrobial soap and disposable paper towels shall be at each sink.

6. To prevent the spread of infection from one child to another, staff shall wash their hands using appropriate hand washing techniques or use antibacterial agents after direct contact with each child.

7. Children suspected of having a communicable disease, which may be transmitted through casual contact, as determined by the facility's medical director in consultation with the prescribing physician or other specialist, shall be isolated. The following actions must be taken:

a. the parents shall be notified of the condition immediately;

b. the child shall be removed from the PDHC facility as soon as possible; and

c. when the communicable disease is no longer present, as evidenced by a written physician's statement, the child may return to the PDHC facility.

B. The facility shall have policies and procedures that address staff members who are suspected of having a communicable disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5273. Quality Assurance

A. All PDHC facilities shall have a quality assurance program and shall conduct quarterly reviews of the facility's medical records for at least a fourth of the children served by the PDHC facility at the time of the quality assurance review. The quarterly review sample shall be randomly selected so each child served at the center has an equal opportunity to be included in the review.

B. Each facility shall establish a quality assurance committee comprised of the following members:

1. the medical director;
2. the administrator;
3. the director of nursing; and
4. three other committee members as determined by each PDHC facility.

C. The quality assurance review shall be conducted by at least two members of the quality assurance committee. Within 15 calendar days of its review, the quality assurance committee shall furnish copies of its report to the PDHC facility medical and nursing directors.

D. Each quarterly quality assurance review shall include:

1. a review of the goals in each child's nursing plan of care;
2. a review of the steps, process, and success in achieving the goals;
3. identification of goals not achieved as expected;
4. reasons for lack of goal achievement;
5. plans to promote goal achievement;
6. recommendations to be implemented; and
7. a review of previous recommendations or revisions to determine if such were implemented and effective.

E. The quality assurance review will also ascertain and assure the presence of the following documents in each child's medical record:

1. a properly executed consent form;
2. a medical history for the child including notations from visits to health care providers; and
3. documentation of immunizations, allergies and special precautions.

F. The PDHC facility medical and nursing directors shall review the quality assurance committee report within 10 days. The medical director in consultation with the prescribing physician shall approve and order implementation of revisions to the plan of care as appropriate.

G. The PDHC facility shall ensure the plan of care has been revised to implement the approved recommendations of the quality assurance report.

1. Evidence that the plan of care has been revised shall be forwarded to the quality assurance committee within 10 calendar days of receipt of the quality assurance committee report.

2. Implementation of revisions to the plan of care shall be documented in the child's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter H. Safety and Emergency Preparedness
§5279. Safety and Emergency Services

A. All PDHC facilities shall conform to state standards prepared by the Office of State Fire Marshal (OFSM), and shall be inspected annually by OFSM. A copy of the current annual fire inspection report shall be on file at the facility. Documentation of a satisfactory fire safety inspection shall be provided at the time of the licensee's annual licensure renewal.

B. A working telephone capable of incoming and outgoing calls shall be available at all times in the PDHC facility. Coin operated telephones or cellular telephones are not acceptable for this purpose. If the PDHC has multiple buildings, such a working telephone shall be located in each of the buildings.

C. Emergency telephone numbers shall be posted on or in the immediate vicinity of all telephones. Fire, police, medical facility and poison control shall be posted on or near each telephone.

D. The PDHC facility's address shall be posted with the emergency numbers.

E. Emergency transportation shall be provided by a licensed emergency medical services provider. If emergency transportation is necessary, the PDHC facility shall immediately notify the parents. If the parents are not able to be contacted, the PDHC facility shall send a staff member to meet the child at the hospital.

1. The PDHC facility shall provide a transfer form to the emergency transportation provider.

2. The transfer form shall include:
a. the child's name and age;
b. contact information for the family;
c. the prescribing physician's name and contact information;

d. the PDHC facility's name and contact information; and

e. the child's diagnoses, allergies, and medications.

F. Construction, remodeling or alteration of structures shall be done in such a manner to prevent hazards or unsafe conditions (fumes, dust, safety hazards).

G. Unused electrical outlets shall be protected by a safety plug cover.

H. Strings and cords such as those used on window coverings shall not be within the reach of children.

I. First aid supplies shall be kept on site and easily accessible to employees, but not within the reach of children.

J. Fire drills shall be conducted at least once per quarter. These shall be conducted at various times of the day and night (if night time care is provided) and shall be documented. Documentation shall include:

1. the date and time of the drill;
2. the number of children present;
3. the amount of time to evacuate the PDHC facility;

4. any problems noted during the drill and corrective action taken; and

5. the signatures (not initials) of staff present.

K. The entire PDHC facility shall be checked after the last child departs to ensure that no child is left unattended at the facility. Documentation of the visual check shall include the date, time and signature of the staff member(s) conducting the visual check.

L. Sharp wastes, including needles, scalpels, razors or other sharp instruments used for patient care procedures shall be segregated from other wastes and aggregated in puncture resistant containers immediately after use.

1. Needles and syringes shall not be recapped, cut, dismantled, or destroyed after use, but shall be placed intact directly into a puncture resistant container.

2. The containers of sharp wastes shall either be incinerated, on site or off site, or rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

M. The PDHC facility shall establish a written policy that is compliant with Occupational Safety and Health Administration standards for the handling and disposal of all infectious, pathological, and contaminated waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5281. Emergency Preparedness

A. A disaster or emergency is a man-made or natural event or occurrence which causes harm or damage, or has the potential to cause harm or damage. A disaster or emergency may be local, community-wide, regional or statewide. Disasters or emergencies include, but are not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. health crisis.

B. The PDHC facility shall provide education and resources to assist the parents in developing an emergency preparedness plan for their family. The PDHC facility shall ensure that each child has a plan in the event of an emergency or disaster.

C. The PDHC facility's emergency preparedness plan shall include provisions for providing shelter and services during a disaster or emergency situation to each technology dependent child admitted to or receiving services at the PDHC facility. The PDHC facility's emergency preparedness plan shall also contain provisions for assisting the state, parish, and Office of Homeland Security and Emergency Preparedness (OHSEP) with the provision of shelter and services during a disaster or emergency situation to other technology dependent children on a case-by-case basis considering the PDHC's capacity and safety to all children receiving services.

D. Continuity of Operations. The PDHC facility shall have an emergency preparedness plan to maintain continuity

of the facility's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the children. The facility shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall address at a minimum:

1. provisions for the delivery of essential care and services to children;
2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;
3. provisions for back up staff;
4. the method that the PDHC facility will utilize in notifying the child's family if the child is evacuated to another location while in the direct care of the PDHC facility. This notification shall include:
 - a. the date and approximate time that the facility is evacuating;
 - b. the place or location to which the child is evacuating, including the:
 - i. name;
 - ii. address; and
 - iii. telephone number; and
 - c. a telephone number that the family may call for information regarding the facility's evacuation;
5. provisions for ensuring that supplies, medications, and a copy of the plan of care are sent with the child if the child is evacuated; and
6. the procedure or methods that will be used to attach identification to the child. The facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain attached to the child during all phases of an evacuation and shall include the following minimum information:
 - a. current and active diagnosis;
 - b. medications, including dosage and times administered;
 - c. allergies;
 - d. special dietary needs or restrictions; and
 - e. next of kin, including contact information.

E. The PDHC facility shall have an emergency generator with sufficient generating power to continue the functions of medical equipment and the HVAC system in the event of a power failure. The emergency generator shall be tested every 30 days and satisfactory mechanical operation shall be documented on a log designed for that purpose and signed by the person conducting the test.

F. If the state, parish or local office of OHSEP orders a mandatory evacuation of the parish in which the PDHC facility is located, the PDHC facility shall ensure that any child at the PDHC facility at that time shall be evacuated in accordance with the child's emergency plan and the PDHC facility's emergency preparedness plan.

G. Emergency Plan, Review and Summary

1. The PDHC facility shall review and update each child's emergency plan in coordination with the parent(s) at least annually.
2. The PDHC facility shall review and update its emergency preparedness plan at least annually.

3. The facility's emergency plan shall be activated, either in response to an actual emergency or in a drill at least annually.

H. Facility Requirements

1. The PDHC facility shall cooperate with the department and with the state, parish and local OHSEP in the event of an emergency or disaster and shall provide information as requested.

2. The PDHC facility shall monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials.

I. All PDHC facility employees shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training, and participation in planned drills for all personnel. The purpose shall be that each employee promptly and correctly performs his/her specific role in the event of a disaster or emergency.

J. Upon request by the department, the PDHC facility shall submit a copy of its emergency preparedness plan and a written summary attesting how the plan was followed and executed. The summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of children that occurred during execution of the plan, evacuation or temporary relocation, including the date, time, causes and circumstances of the injuries and deaths.

K. Inactivation of License due to Declared Disaster or Emergency

1. A licensed PDHC facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

a. the licensed PDHC facility provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

- i. the PDHC facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster;
- ii. the licensed PDHC facility intends to resume operation as a PDHC facility in the same service area;
- iii. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;
- iv. includes an attestation that all children have been properly released or transferred to another provider; and

v. provides a list of each child's name and the location where that child has been released or transferred to;

b. the licensed PDHC facility resumes operating as a PDHC facility in the same service area within one year of the issuance of such an executive order or proclamation of emergency or disaster;

c. the licensed PDHC facility continues to pay all fees and costs due and owed to the department including, but not limited to:

- i. annual licensing fees; and
- ii. outstanding civil monetary penalties; and

d. the licensed PDHC facility continues to submit required documentation and information to the Department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a PDHC facility license, the department shall issue a notice of inactivation of license to the PDHC facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a PDHC facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the PDHC facility shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey;

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees, approval from the Office of Public Health and the Office of State Fire Marshall; and

d. the provider resumes operating as a PDHC facility in the same service area within one year.

4. Upon receiving a completed written request to reinstate a PDHC facility license, the department shall schedule a licensing survey. If the PDHC facility meets the requirements for licensure and the requirements under this Subsection, the department shall issue a notice of reinstatement of the PDHC facility license.

5. No change of ownership in the PDHC facility shall occur until such PDHC facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PDHC facility.

6. The provisions of this Subsection shall not apply to a PDHC facility which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PDHC facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter I. Physical Environment

§5285. General Requirements

A. The standards in this Subchapter I shall apply to newly constructed PDHC facilities and alterations, additions, or renovations to an existing PDHC facility and to an existing building to create a PDHC facility.

B. Plan Review

1. A PDHC facility must submit architectural plans and specifications to the department's Division of Engineering and Architectural Services and any other documents as the division so requires.

2. A PDHC facility must also submit plans and specifications to the Office of the State Fire Marshal, and any other documents as the OSFM requires.

3. Plans and specifications must be prepared by or under the direction of a licensed architect or qualified engineer and shall include scaled architectural plans stamped by an architect.

4. Approval of such plans by the DHH Division of Engineering and Architectural Services and the OSFM shall be submitted to the Health Standards Section with all new applications for a PDHC facility or with any alterations, additions, or renovations to an existing PDHC facility or to an existing building that will be used to create a new PDHC facility.

5. All PDHC facilities shall comply with the rules, sanitary code and enforcement policies as promulgated by the Office of Public Health. It shall be the primary responsibility of the OPH to determine if applicants are complying with those requirements.

6. The PDHC facility shall have approval for occupancy from the OPH and the OSFM which shall be submitted to the Health Standards Section as part of the application packet. It shall be the responsibility of the PDHC facility to contact the OPH and the OSFM to schedule an onsite visit for each of these offices to verify and grant approval of occupancy.

C. Design Criteria. The project shall be designed in accordance with:

1. the current edition of NFPA 101 Life Safety Code;
2. Part XIV (Plumbing) of the Louisiana State Sanitary Code;
3. the American's with Disabilities Act/Accessibility Guidelines for Buildings and Facilities; and
4. the department's licensing regulations for PDHC facilities.

D. Interior Spaces

1. The PDHC facility shall consist of a building(s) suitable for the purpose intended, and shall have a minimum of 50 square feet of space per child exclusive of kitchen, toilet facilities, storage areas, hallways, stairways, basements and attics.

2. If rooms are used exclusively for dining or sleeping the space shall not be included in the licensed capacity.

3. The PDHC facility shall have sufficient rooms to accommodate and segregate the different age groups being served by the facility.

4. As the child ages, the PDHC facility shall make privacy accommodations for the PDHC facility staff to attend to the personal care needs of the child.

5. The PDHC facility shall have a kitchen or food preparation area designated for the preparation of meals, snacks or prescribed nourishments which shall be maintained in accordance with state and local sanitation and safe food handling standards.

6. Toileting facilities shall be appropriately accessible to persons with disabilities and age appropriate in design and shall contain hand-washing stations.

7. The PDHC facility shall have separate toilet facilities for PDHC staff.

8. There shall be a hand-washing station in each play area, classroom and therapy room or area.

9. The PDHC facility shall have individual labeled space available for each child's personal belongings.

10. There shall be a designated secure area for the storage and preparation of medications.

11. The PDHC facility shall have secure clean storage areas for supplies and equipment.

12. The PDHC facility shall have separate storage areas for clean and soiled linen.

13. The PDHC facility shall have a secure room for the safe storage of janitorial supplies and equipment, poisonous materials, and toxic materials.

a. Poisonous and toxic materials shall be so labeled and identified and placed in cabinets which are used for no other purpose.

14. Areas determined to be unsafe for the child or family shall be secured and locked. These areas would include high voltage areas, equipment rooms, etc.

15. The PDHC facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records, and manuals.

16. Garbage, rubbish and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

E. Exterior Spaces

1. The PDHC facility shall have a covered entry. Such roof overhang or canopy shall extend as far as practicable to the face of the driveway or curb of the passenger access door of the passenger vehicle.

2. The PDHC facility shall provide for an outdoor play space with a direct exit from the center into the outdoor play yard.

3. A PDHC facility shall ensure that the structures and the grounds of the facility that are accessible to children are maintained in good repair and are free from hazards to health and safety.

4. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters, high voltage equipment or high speed roads shall be fenced off or have natural barriers to protect children.

5. Fences shall be in good repair.

6. Garbage, rubbish and trash that is stored outside shall be stored securely in covered containers. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance.

F. Housekeeping, laundry and maintenance services

1. Housekeeping. The center shall maintain a clean and safe facility. The facility shall be free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other sources.

2. Laundry. The PDHC facility shall have a supply of clean linen sufficient to meet the needs of the children. Clean laundry shall be provided by a laundry service either in-house, contracted with another health care facility or in accordance with an outside commercial laundry service. Laundry services shall be provided in compliance with OPH requirements. Linens shall be handled, stored, processed and transported in such a manner as to prevent the spread of infection.

3. Maintenance. The premises shall be well kept and in good repair.

a. The center shall insure that the grounds are well kept and the exterior of the building, including the

sidewalks, steps, porches, ramps, and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair.

G. A pest control program shall be in operation and the center's pest control services shall 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.

H. Heating, Ventilation and Air Conditioning (HVAC)/Ventilation.

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and a maximum of 80 degrees Fahrenheit in all public and private areas in all seasons of the year. During warm weather conditions the temperature within the facility shall not exceed 80 degrees Fahrenheit. The HVAC system(s) shall be maintained in good repair.

2. All gas heating units shall bear the stamp of approval of the American Gas Association Testing Laboratories, Inc. or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.

3. All gas heating units and water heaters shall be vented adequately to carry the products of combustion to the outside atmosphere. Vents shall be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association recommended procedures.

4. All heating units shall be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

5. The use of portable heaters by the PDHC facility is strictly prohibited.

6. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with the manufacturer's specifications.

I. Water Supply.

1. An adequate supply of water, under pressure, shall be provided at all times.

2. 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 these regulations and OPH.

3. A PDHC 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 to the facility.

J. Sewage

1. All sewage shall be disposed of by means of either:

a. a public system where one is accessible within 300 feet; or

b. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

K. Signage. The facility's address and name shall be displayed so as to be easily visible from the street.

L. Distinct Part Facilities

1. Physical and Programmatic Separation. A PDHC facility shall be both physically and programmatically distinct from any business to which it is attached or of which it is a part.

2. Physical Separation. If more than one business occupies the same building, premises, or physical location, the PDHC facility shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the PDHC facility.

3. All spaces licensed as the PDHC facility shall be contiguous. If a PDHC facility has more than one building, protection from the elements shall be provided.

M. Furnishings and Equipment

1. Each PDHC facility shall maintain an age appropriate and developmentally appropriate environment in each of the areas where services are provided to a child.

2. At a minimum each PDHC facility shall provide or arrange to provide the following:

a. suctioning supplies and equipment to meet the routine or emergency needs of the children;

b. oxygen supplies and equipment to meet the routine or emergency needs of the children;

c. pulse oximeter and supplies; and

d. any supplies or equipment necessary to meet the emergency needs of the children.

3. The PDHC facility shall coordinate with the child and family to ensure that equipment and supplies used by the child are available to the child at the PDHC facility without duplication.

N. Waivers. The secretary of the department may, within his sole discretion, grant waivers to building and construction guidelines.

1. The facility shall submit a waiver request in writing to the Division of Engineering and Architectural Services.

2. The facility shall demonstrate how patient safety and the quality of care offered are not compromised by the waiver.

3. The secretary shall make a written determination of the waiver request.

4. Waivers are not transferrable in an ownership change and are subject to review or revocation upon any change in circumstances to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring the safe operation of facilities that render pediatric day health care services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, October 28, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

0912#078

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 28—Variable Contract Regulation
(LAC 37:XIII.Chapter 77)**

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 has amended the Department's Regulation 28, Variable Contract Regulation, as required to bring it into compliance with the National Association of Insurance Commissioner's (NAIC) uniformity standards. The amendments herein remove the requirement of holding a life insurance producer license in order to obtain the producer license required for selling variable annuity products. The criteria used for the issuance, denial or any other regulatory action authorized under the Louisiana Insurance Code, with regard to the variable annuity license, shall remain the same as that criteria applicable to the life insurance producer license.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 77. Regulation 28—Variable Contract
Regulation**

§7700. Authority

A. This regulation is adopted and promulgated by the Department of Insurance pursuant to the authority granted by R.S. 22: 781 and the Administrative Procedure Act, R.S. 49:950 et seq. This regulation replaces and repeals the regulation of similar purpose which took effect on January 1, 1969.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:67 (January 1998), amended LR 35:2781 (December 2009).

§7701. Definition

Company—any insurer which possesses a certificate of authority to conduct life insurance business or annuity business in the state of Louisiana.

Contract on a Variable Basis or Variable Contract—any policy or contract which provides for annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in R.S. 22: 781.

Producer—any person, corporation, partnership, or other legal entity which, under the laws of this state, is licensed as an insurance producer.

Variable Contract Producer—a producer who shall sell or offer to sell any contract on a variable basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:67 (January 1998), amended LR 35:2781 (December 2009).

§7703. Qualification of Insurance Companies to Issue Variable Contracts

A. No company shall deliver or issue for delivery variable contracts within this state unless the company is appropriately licensed for life insurance for the issuance of variable life insurance products or the annuity line for issuance of variable annuity contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:68 (January 1998), amended LR 35:2782 (December 2009).

§7705. Separate Account or Separate Accounts

A. A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to R.S. 22:781.

1. - 5. ...

6. Rules under any provision of R.S. 22: 781 or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee, board, or other similar body. No officers or directors of such company nor any member of the committee, board, or separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:68 (January 1998), amended LR 35:2782 (December 2009).

§7709. Contracts Providing for Variable Benefits

A. - B. ...

C.1. Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expenses and/or mortality results shall not adversely affect such dollar amounts. If not guaranteed, the expense and mortality factors shall also be stipulated in the contract.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:69 (January 1998), amended LR 35:2782 (December 2009).

§7715. Licensing of Agents and Other Persons

A.1. No producer shall be eligible to sell or offer for sale a contract on a variable basis unless, prior to making any solicitation or sale of such a contract, that producer presents evidence of satisfactorily passing one of the following written examinations upon securities and variable contracts and is afterwards duly licensed to sell variable annuities in this state:

a. - c. ...

d. the Securities and Exchange Commission test given pursuant to 15 U.S.C. 78o(b)(7) of the Securities Exchange Act of 1934.

2. Any producer who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 need not be licensed as a variable contract producer.

3. Any producer applying for a license as a variable contract producer shall do so by filing an application. All applications for a license shall be in writing on uniform forms prescribed by the Commissioner of Insurance.

4. Any producer who participates only in the sale or offering for sale of variable annuity contracts need not be licensed as a life producer also. All other licensing requirements continue to apply.

B. Any applicant for license as a variable contract producer shall present evidence that the applicant is currently registered with the Federal Securities and Exchange Commission as a broker-dealer or is currently associated with a broker-dealer and has met qualification requirements with respect to such association.

C. Except as modified by this regulation, refer to Title 22 Chapter 5 and the Insurance Regulations of this Department governing the licensing of life insurance producers.

D. Any person licensed in this state as a variable contract producer shall immediately report to the commissioner:

1. any suspension or revocation of the producer's variable contract license or life insurance license, if so licensed, in any other state or territory of the United States;

2. - 3. ...

E. The commissioner may reject any application or suspend, revoke, or refuse to renew any producer's variable contract license upon any ground that would bar such applicant or such producer from being licensed to sell life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an producer's life insurance license shall also govern any proceeding for suspension or revocation of an producer's variable contract license.

F. A variable contract license shall be renewed biannually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:69 (January 1998), amended LR 35:2782 (December 2009).

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.

James J. Donelon
Commissioner

0912#006

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 81—Military Personnel—Automobile Liability
Insurance Premium Discount and Insurer Premium Tax
Credit Program (LAC 37:Part XIII.9519)**

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 Louisiana Department of Insurance (LDOI) has amended Regulation 81 promulgated by the LDOI, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006) and amended LR 33:1661 (August 20, 2007). Specifically, the LDOI amended the current "Louisiana Application for Military Discount" form that acts as the documentary proof required for a person to verify eligibility for the discount. The amended form requires the active military personnel (AMP) to submit their Permanent Change of Station (PCS) Orders or acknowledge their previous submittal of the PCS orders for eligibility purposes.

The purpose of the amendment is to reduce a significant error rate that has been documented by insurers during the application process. The LDOI believes that the majority of these errors can be avoided by requiring the AMP to submit a copy of his PCS orders which contain all the information currently required by law and Regulation 81.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 95. Regulation 81—Military Personnel—
Automobile Liability Insurance Premium
Discount and Insurer Premium Tax
Credit Program**

**§9519. Louisiana Application for Military
Discount—Appendix**

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

Name of Insurance Company Policy No. or Application No.

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application For Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900.

You must complete all sections on this form. If the spouse or dependent sections are not applicable, you must check the N/A box next to the associated fields.

Full Name of Active Military Personnel Date

Date of Birth Home Phone

Home Address

Name of Spouse N/A N/A

Spouse Date of Birth (if not applicable, check N/A)

Full Name and Date of Birth of Licensed Dependents N/A

(if not applicable, check N/A)

Copy of Permanent Change of Station (PCS) Orders attached

OR

Permanent Change of Station (PCS) Orders previously submitted

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" (AMP) as defined by LSA-R.S. 22:1482 and Regulation 81, and is eligible for the military discount set forth in LSA-R.S. 22:1482 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application For Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in LSA-R.S. 22:1924, and any applicable provisions of Title 14, the Louisiana Criminal Code.

Signature of Active Military
Personnel (AMP)

Print Name of Active Military
Personnel (AMP)

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:97 (January 2006), amended LR 33:1662 (August 2007), LR 35:2783 (December 2009).

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.

James J. Donelon
Commissioner

0912#095

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 82—Insure Louisiana Incentive Program
(LAC 37:XIII.Chapter 123)**

Editor's Note: This Notice of Intent is being repromulgated to correct a printing error. The original Notice of Intent may be viewed in the September 20, 2009 issue of the *Louisiana Register* on pages 1978-1984.

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 82 regarding the Insure Louisiana Incentive Program.

Regulation 82 has been amended to establish applicable, relevant and appropriate guidelines relative to risk-based capital, and the repayment of funds on a pro rata basis in accordance with the passage of Acts 2008, No. 390 of the Regular Session of the Louisiana Legislature.

Title 37
INSURANCE

Part XIII. Regulations

**Chapter 123. Regulation 82—Insure Louisiana
Incentive Program**

Editor's Note: Title 22 of the Louisiana Revised Statutes was amended and reenacted by Acts 2008, No. 415, §1, effective January 1, 2009. The citations in this Chapter have been renumbered from R.S. 22:3301 et seq. to R.S. 22:2361 et seq. When referring to Title 22 or R.S. 22:3301 et seq., please note the new statute numbers.

§12307. Definitions

A. ...

* * *

Earning Period—the timeframe, including any extension granted by the commissioner, in which the grantee can earn 20 percent or the pro-rata share of the grant award.

* * *

Reporting Period—the financial statement reporting date of March 31, June 30, September 30, and December 31 of each respective year in the Incentive Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), amended LR 35:2784 (December 2009).

§12315. Qualifications for Applying for Grant Funds

A. Minimum Solvency Requirements. Grants shall be made only to property insurers who initially satisfy and thereafter maintain the following minimum solvency requirements:

1. - 2. ...

3. risk-based capital ratio of 500 percent at the initial grant award. The risk-based capital ratio must be at least 400 percent during the property insurer's participation in the Incentive Program; and

A.4. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35: 2784 (December 2009).

§12323. Property Insurance Requirements

A. - C. ...

D. Grantees shall also comply with the following.

1. - 2. ...

3. The grantee must comply with the requirements of both §12323.D.1 and 2 by the end of the second year and must continue to comply with all requirements in each of the succeeding years of the grant unless an extension has been granted by the commissioner under R.S. 22:2370.B or §12329.C of Regulation 82.

4. - 5.

E. The requirements of the grant that must be satisfied by the grantee are illustrated by the following example assuming a grant of \$2,000,000.

1. Example

a. The applicant is awarded a \$2,000,000 grant. Within 10 days of receipt of the grant of Incentive Program Funds, the applicant must match the grant with newly allocated capital funds of at least \$2,000,000 and provide

written certification of compliance to the department. By the end of the second year after receipt of the grant, the grantee must write property insurance in Louisiana with net written premiums of at least \$8,000,000. At least \$2,000,000 of the \$8,000,000 of net written premiums must be written for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation and at least \$1,000,000 of that premium must be from policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year after receipt of the grant, the grantee must write at least \$4,000,000 of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year and for each of the succeeding years of the grant, the grantee must maintain net written premiums that comply with all of the requirements set forth above. Compliance with the requirements for the second year and for each succeeding year must be demonstrated on the grantee's annual reports.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007), amended LR 35: 2784 (December 2009).

§12325. Funding Schedule

Editor's Note: This Section was formerly §12327.

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), repromulgated LR 35: 2784 (December 2009).

§12327. Reporting Requirements

Editor's Note: This section was formerly §12329.

A. ...

B. Grantee shall report annually by March 1 of each year on a form acceptable to the commissioner the following information:

1. the amount of premium written under the Incentive Program;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:2784 (December 2009).

§12329. Compliance

(Editor's Note: This section was formerly §12331.)

A. - B. ...

C. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee insurer who has failed to satisfy all requirements of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301

pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:2784 (December 2009).

§12331. Earned Capital

Editor's Note: This section was formerly §12325.

A. An insurer who has received a grant is entitled to earn the grant at the rate of 20 percent per earning period for the last 12 months of that earning period in which the insurer is in compliance with the requirements of R.S. 22:2361 et seq., and Regulation 82, so that the insurer can earn the entire grant after five years of full compliance with the requirements.

B. ...

C. Upon verification of the net written premium requirements during the preceding 12 months, the commissioner will issue written declaration that the grantee has earned 20 percent of the grant or a pro rata share thereof awarded to the grantee. No funds may be earned by the grantee until it receives official notification from the commissioner.

D. If the grantee does not meet the grant requirements during any year but shows promise of future compliance based on good cause having been demonstrated, the commissioner may extend the period of time from five years in order for the grantee to earn the entire grant. The extension may be granted for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007), amended LR 35:2785 (December 2009).

§12333. Declaration of Default

A. The commissioner may declare an insurer in default of the requirements for a grant should he find any of the following exists.

1. The insurer fails at any time to meet the specific minimum requirements of §12315.A.1-4. The commissioner may take into consideration the effects of the Incentive Program, including efforts demonstrated by the grantee, when monitoring compliance with this criteria.

2. - 4. ...

B. If the commissioner determines that the grantee is in default, the commissioner shall notify the grantee in writing of such default. Any grantee declared in default by the commissioner shall have 30 days from the date of the declaration of default to request reconsideration by the commissioner. The written request for reconsideration shall set forth, in detail, each and every reason why the grantee is entitled to the relief requested, including any documents tendered in support thereof. The commissioner shall have 30 days from the mailing of the request for reconsideration to review it and render a decision. The commissioner's decision upon reconsideration is final. Unless modified on reconsideration, the default is effective from the date of the original declaration, and the grantee shall not be eligible to continue its participation in the Incentive Program unless the default is for failure to meet the requirements referenced in §12333.A.3.

C. The grantee in default is liable for and shall repay all grant funds that have not been earned by the grantee, plus legal interest from date of the commissioner's default declaration. In the event of default, a portion of the grant award for the current year may be earned on a pro rata basis to give credit for premiums written under the Incentive Program. Repayment on a pro rata basis shall be determined using a method prescribed by the commissioner. If a request for reconsideration is not timely made, repayment is due upon the expiration of 30 days from the declaration of default. If a request for reconsideration is timely made and denied, repayment is due within 10 days of the denial of the reconsideration request.

D.1. In determining the pro rata earnings, the commissioner shall divide the actual amount of written premiums by the amount required to be written under the Incentive Program, in each of the following categories:

a. policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation;

b. policyholders under §12333.D.1 who are located in the parishes included in the Federal Gulf Opportunity Zone Act of 2005;

c. policyholders whose insured property is located in Louisiana in a parish included in the Federal Gulf Opportunity Zone Act of 2005; and

d. the total amount of net premiums written by the grantee under the Incentive Program.

2. Each category is weighted equally at 25 percent, and credit shall be given based on the percentage of premiums written per category. The resulting factor is then multiplied by 25 percent of the amount the grantee is entitled to earn per category for each year of compliance under the Incentive Program (earned capital). The factor shall not exceed 1.00 for additional writings in any category. The sum of all categories shall equal the pro rata amount earned by the grantee.

E. The requirements for earning on a pro rata basis are illustrated by the following example assuming a grant of \$5,000,000, presuming a maximum earned capital of \$1,000,000 (20 percent per year entitlement assuming full compliance), and the grantee is declared in default.

Example: [The required amounts of premium for each of the four categories are listed in the table below under "Requirement." Each requirement equates to 25% of the earned capital for the earning period or \$250,000. The "Actual" column represents the actual amount of writings by the grantee. The "Factor" column is the actual amount of writings divided by the requirement in each category. The "Earned" column represents the factor multiplied by \$250,000. Thus, under this example, the amount of money earned by the grantee on a pro rata basis is \$687,500.]

Category	Requirement	Weight	Actual	Factor	Earned
Total Net Written Premium	\$20,000,000	25%	\$15,000,000	.75	\$187,500
Gulf Opportunity Zone	\$10,000,000	25%	\$8,000,000	.80	\$200,000
Formerly Citizens	\$5,000,000	25%	\$1,000,000	.20	\$50,000
Citizens and Gulf Opportunity Zone	\$2,500,000	25%	\$2,500,000	1.00	\$250,000
				Total:	\$687,500

F. The commissioner may institute legal action to recover all sums due by the grantee in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:2785 (December 2009).

§12339. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007), amended LR 35:2786 (December 2009).

James J. Donelon
Commissioner

0912#041

RULE

Louisiana State University System Louisiana State University Health Sciences Center Louisiana Tumor Registry

Tumor Registry (LAC 48:V.Chapter 85)

Under the authority of Louisiana R.S. 40:1299.80 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the President of the Louisiana State University System has amended a Rule to clarify reportability, reporters, and the format for reporting; to define the format for pathology laboratories to report new cases; to authorize the reporting of cancer data for special studies; to update the list of required data items; to allow the linking of the Registry database with outside databases; to clarify data release policies and interstate data exchange agreements; to adjust the cost of reimbursement when the Registry must abstract cases at noncompliant facilities and provide for related matters by supplanting Chapter 85 of Title 48 of the Louisiana Administrative Code in its entirety with the following.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 31. Louisiana Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

A. Louisiana R.S. 40:1299.80 et seq., established a "statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of cancer incidence, survival rates, possible causes of specific cancers, and other related aspects of cancer in Louisiana." In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, national and international cancer surveillance programs, health care providers and facilities, public health agencies, and research institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2786 (December 2009).

§8502. Background

A. In December 1971, President Richard Nixon signed the National Cancer Act (P.L. 92-218). As a result of this act, the Surveillance, Epidemiology and End Results (SEER) Program, a national cancer surveillance program within the National Cancer Institute, was established. Data on cancer incidence and survival were collected in selected states and regions, beginning with cases diagnosed on January 1, 1973. The importance of cancer registration was subsequently reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries within the CDC. Louisiana participates in both cancer surveillance programs.

B. Acts No. 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of medical care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters.

C. Acts No. 1138 §2 of the 1995 Session transferred the Louisiana Tumor Registry program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the Louisiana State University Health Sciences Center at New Orleans.

D. Acts No. 197 of the 2001 Regular Legislative Session replaced "Secretary of the Department of Health and Hospitals" and "Secretary" with "President of the Louisiana State University System, or his designee" or "President" and replaced "office of public health in the Department of Health and Hospitals" with "office of the President." It also mandated the reporting of follow-up information and revised the liability requirement for data releases to qualified researchers and state cancer registries.

E. Acts No. 225 of the 2003 Regular Legislative Session added benign and borderline tumors of the brain and central nervous system to the reportability list and authorized the LTR to cooperate with other designated national and international cancer surveillance programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2786 (December 2009).

§8503. Definitions

Confidential Data—shall include any information that pertains to an individual case, as ordinarily distinguished from group, aggregate, or tabular data. Statistical totals of "0" or "1" may be deemed confidential, case-specific data. Confidential, case-specific data include, but are not limited to, primary or potential personal identifiers. In addition, in research involving data contained in the National Center for Health Statistics database, statistical totals of 5 or less are also deemed confidential data and are suppressed unless prior written consent of all of the affected respondents has been obtained in accordance with 42 U.S.C. §242k(l); 5 U.S.C. §552(a); and OMB order, Vol. 62, No. 124, 6/27/97, OMB Regulations pp. 35044ff; <http://www.cdc.gov/nchs/r&d/rdc.htm>.

Director—the director of the Louisiana Tumor Registry, who is appointed by the President of the Louisiana State University System.

Health Care Provider—every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(1), in the state of Louisiana, as well as out-of-state facilities and providers that diagnose and/or treat Louisiana residents.

Follow-Up Information—information that is used to document outcome and survival for all types of cancer. The information includes, but is not limited to, patient name, treatment and recurrence, vital status, and date of last contact. If the patient is deceased, date of death and causes of death are included.

Louisiana Tumor Registry/LTR—the program in Louisiana State University System that administers a population-based statewide cancer registry.

Regional Tumor Registry—an organization that has contracted with the Louisiana Tumor Registry (LTR) to provide in its region such services as: screening all possible sources to identify reportable cases, abstracting required information on all reportable cases, obtaining current follow-up information, editing data, performing quality assurance programs, training personnel from hospitals and other reporting facilities, and furnishing electronic records of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009).

§8505. Responsibilities of Health Care Facilities and Providers

A. All hospitals, pathology laboratories, radiation centers, physicians, nursing homes, hospices, and other licensed health care facilities and providers, as defined in R.S. 40:1299.41(A)(1), shall report all reportable cases (see §8507.A) and shall provide information for all cancer-related studies conducted by the cancer registry program. Health

care facilities and providers shall report cases regardless of whether the patient is a resident of Louisiana or of where the patient was originally diagnosed and/or treated. The LTR shall have physical access to all medical records and related diagnostic material that would determine reportability or would describe a patient's demographics, disease, treatment, or medical status as needed for surveillance or special studies. Patients seen in a Louisiana hospital shall be registered through the hospital; physicians shall report patients not admitted to hospitals.

B. The LTR is mandated to conduct special studies and may request additional information and or diagnostic material in order to carry out these studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009).

§8507. Case Reporting

A. Reportable Cases. Any newly diagnosed in situ or invasive neoplasm is considered a reportable diagnosis (these bear a behavior code of '2' or '3' in the *International Classification of Diseases for Oncology*, 2d edition (1992) or 3d edition (2000), published by the World Health Organization. In addition, the following tumors shall be considered reportable: juvenile astrocytoma (*ICD-O-3* code M-9421/1); tumors with a behavior code of '0' (benign) or '1' (borderline) if diagnosed at *ICD-O-3* anatomical sites C70.0–C72.9 or C75.1–C75.3; and other histologies mandated by the LTR or its funding agencies. The LTR may require the reporting of precursor lesions for special surveillance programs.

1. If a patient subsequently develops a new primary cancer, it shall be reported separately.

B. Format for Reporting. The format for reporting, the required codes, and the standards for completeness and quality are described in the *Standards for Cancer Registries*, compiled by the North American Association of Central Cancer Registries. The LTR will also stipulate the format for transmitting data, including electronic reporting, by hospitals, pathology laboratories, and physician offices. Descriptive text is required for specified variables and shall be adequate to permit quality assurance evaluation of coding decisions. Records and diagnosis-related material shall be sent to the Louisiana Tumor Registry.

C. Data Quality. Data must meet the quality standards defined by the LTR. Data submissions of unacceptable quality will be returned for correction and must be resubmitted.

D. Variables to be Reported

1. At a minimum, the reports shall include the demographic, diagnostic, treatment, and follow-up information required by U.S. Public Law 102-151. Standard variables and codes established by the North American Association of Central Cancer Registries (NAACCR) shall

be used. Additional variables may be added to the list as they are needed to carry out the full mandate of registry operations, including studying Louisiana-specific cancer questions and meeting the requirements of the LTR funding agencies.

2. The standardized report shall include the following information as a minimum. Those followed by an asterisk must include enough text to permit quality assurance evaluation of coding decisions.

Report Source	
1.	reporting facility or physician (ACoS-assigned Facility Identification Number or CMS-assigned National Provider Identifier)
2.	date of admission or first contact
3.	medical record number
4.	hospital accession number
5.	class of case
6.	institutions referred to and from
7.	physicians and their Louisiana medical license numbers: managing, follow-up, and referring physicians, surgeon, oncologist
8.	case-finding source
Patient Information	
9.	patient's name: first, last, middle, maiden, alias, prefix, suffix
10.	date and place of birth
11.	age at diagnosis
12.	sex
13.	race
14.	address at diagnosis: building name, number and street, city, parish, state, zip code
15.	telephone number
16.	Social Security number
17.	marital status
18.	religion
19.	Spanish/Hispanic origin
20.	usual occupation *
21.	usual industry *
22.	tobacco history
23.	family and patient history of cancer
24.	type of health insurance
25.	comorbid conditions
Description of Disease	
26.	history and physical exam*
27.	date of first diagnosis
28.	primary site *
29.	dates and descriptions of diagnostic/staging procedures: physical exam, X-rays, scans, scopes, lab tests, and operative, and pathological reports
30.	pathology report number and name of laboratory
31.	type of diagnostic confirmation *
32.	ambiguous terminology at diagnosis
33.	date of conclusive diagnosis
34.	laterality
35.	histology *
36.	neoplasm behavior
37.	grade/differentiation* and grading system
38.	tumor size
39.	lymph system: nodes examined, nodes positive, and lymph-vascular invasion
40.	tumor extension, lymph node involvement, and vascular invasion
41.	metastasis at diagnosis
42.	sites of distant metastasis
43.	extent of disease (cases diagnosed before 2004)
44.	summary stage, directly coded or derived*
45.	Collaborative Staging, including mode of evaluation and site-specific factors * (cases diagnosed 2004 and later)
46.	types of evaluation procedures
47.	coding systems for site, morphology, comorbidities, and treatment
48.	sequence number
49.	tumor markers
50.	multiplicity data for multiple primaries

Treatment	
51.	dates of first course of treatment
52.	descriptions, dates, and summaries of treatments: surgery (including primary site, regional and distant lymph nodes, and other sites), chemotherapy, hormone, biological response modification, hematologic transplant, endocrine procedures, regional and boost radiation (including to central nervous system), active surveillance ("watchful waiting"), and other modalities*
53.	reason for no treatment
54.	surgery/radiation sequence
55.	systemic treatment/surgery sequence
56.	complications from surgery
Survival	
57.	name, address, phone number of parent/spouse/follow-up contact
58.	date of last contact
59.	patient's current address (building name, number and street, city, parish, state, zip code)
60.	vital status
61.	recurrence date and site/type
62.	place (state), date and cause of death
63.	death certificate file number
64.	International Classification of Diseases revision
65.	follow-up source
Administration	
66.	abstractor's initials
67.	date case put in file to transmit to LTR
68.	remarks*
*must include enough text to permit quality assurance evaluation of coding decisions	

E. Deadline for Reporting. Each completed cancer abstract shall be submitted within six months of diagnosis. Pathology reports shall be submitted within two months of diagnosis. All reports are to be transmitted electronically.

F. Failure to Report. If a facility fails to meet the deadline for reporting in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In such situations, the facility shall reimburse the Louisiana Tumor Registry or its contractor \$45 per case or the actual cost of screening, abstracting, coding and editing, whichever is greater.

G. Quality Assurance

1. Staff members from the central registry, the regional registries and national cancer surveillance programs designated by the LTR shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

a. rescreening medical records, including those in hospital pathology, outpatient, and radiology departments and in freestanding facilities, to ensure that all reportable cases have been identified;

b. reabstracting the records of patients to ensure that all data have been abstracted and coded correctly.

2. Reporting facilities shall assist LTR staff by compiling a list of cancer patients in the format required by the LTR and by obtaining the necessary medical records.

H. Follow-Up. Current follow-up is required for all cases. Health care facilities and providers will supply this information when requested.

I. External Linkages. LTR data may be linked with external databases in order to improve the accuracy and completeness of data or for research. All linkages shall be carried out in compliance with LTR confidentiality rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009).

§8509. Confidentiality

A. R.S. 40:1299.85 and 1299.87 of Acts 1995, No. 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of patients, health care providers, and reporting facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability. They also specify the confidentiality requirements of the Louisiana Tumor Registry.

B. LTR Responsibilities. The president or his or her designee shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees, consultants, and contractors of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data" each year, and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

C. Protection of Reporting Sources. Health care providers and facilities that disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall be not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

D. Protection of Case-Specific Data Obtained by Special Morbidity and Mortality Studies and Other Research Studies

1. Louisiana R.S. 40:3.1(A) through (H) and R.S. 40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for statistical, scientific and medical research purposes. This applies also to data procured by employees or agents of the Louisiana Tumor Registry or organizations, including public or private college universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2838 (December 2004), amended by LSU System,

Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009).

§8511. Release of Information

A. Reports published or presented by the Louisiana Tumor Registry shall include aggregate, not case-specific, data. Information that would potentially identify a patient or a health care provider or facility shall not be disclosed.

B. Diagnostic, Treatment and Follow-Up Information. Diagnostic, treatment and follow-up information about a patient shall be provided, if requested, to a physician or medical facility diagnosing or treating the case. Section 45CFR 164.506 of the Health Information Portability and Accountability Act (HIPAA) allows such sharing of health information.

C. Collaboration with Federal and State Public Health Agencies and National and International Cancer Surveillance Programs. The LTR is authorized to collaborate with the National Cancer Institute, the Centers for Disease Control and Prevention, and other national and international cancer surveillance programs designated by the LTR, including but not limited to the North American Association of Central Cancer Registries and the International Agency for Research on Cancer, in providing cancer data and participating in cancer studies. In addition, it shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer concerns and other cancer-related issues and in evaluating programs. Because the LTR data are an integral part of national and state cancer prevention and control programs, the use of Registry data by LOPH officials and LTR-designated national cancer surveillance programs shall be considered an in-house activity and shall be processed expeditiously. LOPH requests for case-specific data will require annual approval by the LOPH Institutional Review Board and by the Institutional Review Board of the Louisiana State University Health Sciences Center-New Orleans (LSUHSC–New Orleans). In addition, the LOPH must comply with LTR confidentiality standards, and reports written for public release using Registry data must be reviewed by the Registry in advance.

D. Requests for Case-Specific LTR Incidence Data. Case-specific data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include information collected for special studies or other research projects. The LTR reserves the right to prioritize its responses to data requests.

1. Requests from researchers for case-specific LTR incidence data, including data linkages, must be submitted in writing and shall be reviewed and approved by the LTR Research Committee following the established policies of the Louisiana Tumor Registry. A detailed description of the policies and procedures for requesting Registry data, "Louisiana Tumor Registry: Researchers' Requests for Data," can be obtained from the LTR website: <http://publichealth.lsuhscc.edu/tumorregistry>.

These established policies include, but are not limited to, the following requirements:

a. approval from the LSUHSC–New Orleans Institutional Review Board and compliance with the LSUHSC–New Orleans HIPAA research policy as well as approval from the researcher's Institutional Review Board and compliance with that institution's HIPAA research policy;

b. signature of the LTR "Agreement to Maintain Confidentiality of Data" by all investigators who will have access to the data, agreeing to adhere to the LTR confidentiality provisions and prohibiting the disclosure of LTR data in any civil, criminal, administrative, or other proceeding;

c. provision of a copy of the complete protocol for the project;

d. completion of all requirements in the document "Louisiana Tumor Registry: Researchers' Requests for Data," available at <http://publichealth.lsuhscc.edu/tumorregistry>;

e. notification of physician, if required, before contacting patients or their next-of-kin;

f. destruction or return of data once the research is completed.

2. LTR Research Committee. The research committee shall be coordinated by the director of the LTR or designee and may include, but not be limited to, the director of the LTR and a qualified representative selected from each of the following: the LSUHSC-New Orleans, the Louisiana Office of Public Health, and the Louisiana Cancer and Lung Trust Fund Board. The committee will verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific and ethical merit; and that appropriate consent will be obtained.

E. Requests for Aggregate Data

1. Data requested by the Louisiana Office of Public Health for responding to concerns about threats to the public health shall receive priority in determining the order of processing requests.

2. Subject to the provisions of the Louisiana Public Records Act, R.S. 44:4.1 et seq., other requests for aggregate data shall be processed in the order of their receipt. The Registry shall respond to public requests in a timely manner as resources permit, provided that these requests meet certain requirements in conformity with R.S.40:3.1(A) and (F) and R.S.40:1299.87(F) et seq.

3. Those requesting data may be asked to reimburse the LTR for actual costs for compiling and providing data. Details are available in the document "Louisiana Tumor Registry: Researchers' Requests for Data," which can be obtained from the LTR website: <http://publichealth.lsuhscc.edu/tumorregistry>.

4. The parish (county) is the smallest geographic area for which aggregate data may be released. In no event shall the LTR be obligated to perform original work to create data not currently in existence.

F. Annual Report. A statistical report shall be prepared for and disseminated to the Governor, the Speaker of the House of Representatives, the President of the Senate, the House and Senate Committees on Health and Welfare, the Louisiana State University Health Sciences Center, the Louisiana Cancer and Lung Trust Fund Board, and each participating hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health

Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2839 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009).

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or receive treatment in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with cancer data relating to their residents. Each signatory state shall agree in writing to follow standard procedures to safeguard patient confidentiality and ensure data security.

B. Before the release of any confidential information to other state cancer registries an Interstate Data Exchange Agreement shall be executed by a representative of the other state registry who is authorized to legally obligate the registry and by a representative of the Louisiana State University system.

C. Contact Information for the Louisiana Tumor Registry

Louisiana Tumor Registry
1615 Poydras St, Ste 1400
New Orleans, LA 70112
Phone: 504/568-5757
Fax: 504/568-5800

Website: <http://publichealth.lsuhscc.edu/tumorregistry>

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2840 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2790 (December 2009).

Vivien W. Chen, Ph.D.
Director

0912#025

RULE

Department of Natural Resources Office of Conservation

Hazardous Liquids Pipeline Safety
(LAC 33:V.Chapters 301-313)

The Louisiana Office of Conservation has amended LAC 33:V.301 et seq. 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, Section 30:501 et seq. This Rule amends the minimum pipeline safety requirements for hazardous liquids pipelines.

There will be negligible cost to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons living and working near hazardous liquids pipelines through safer construction and operation standards imposed by the rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Hazardous Liquids Pipeline

Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Material

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline [49 CFR Part 195]

Subchapter A. General [Subpart A]

§30103. Which pipelines are covered by this Subpart?

[49 CFR 195.1]

A. Covered. Except for the pipelines listed in Subsection B of this Section, this Subpart applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf (OCS). This includes: [49 CFR 195.1(a)]

1. any pipeline that transports a highly volatile liquid (HVL); [49 CFR 195.1(a)(1)]

2. transportation through any pipeline, other than a gathering line, that has a maximum operating pressure (MOP) greater than 20 percent of the specified minimum yield strength; [49 CFR 195.1(a)(2)]

3. any pipeline segment that crosses a waterway currently used for commercial navigation; [49 CFR 195.1(a)(3)]

4. transportation of petroleum in any of the following onshore gathering lines: [49 CFR 195.1(a)(4)]

a. a pipeline located in a non-rural area; [49 CFR 195.1(a)(4)(i)]

b. to the extent provided in §30117, a regulated rural gathering line defined in §30117; or [49 CFR 195.1(a)(4)(ii)]

c. to the extent provided in §30413, a pipeline located in an inlet of the Gulf of Mexico. [49 CFR 195.1(a)(4)(iii)]

5. transportation of a hazardous liquid or carbon dioxide through a low-stress pipeline or segment of pipeline that: [49 CFR 195.1(a)(5)]

a. is in a non-rural area; or [49 CFR 195.1(a)(5)(i)]

b. meets the criteria defined in §30118.A. [49 CFR 195.1(a)(5)(ii)]

6. For purposes of the reporting requirements in Subchapter B of Chapter 301, a rural low-stress pipeline of any diameter. [49 CFR 195.1(a)(6)]

B. Excepted. This Subpart does not apply to any of the following: [49 CFR 195.1(b)]

1. transportation of a hazardous liquid transported in a gaseous state; [49 CFR 195.1(b)(1)]

2. transportation of a hazardous liquid through a pipeline by gravity; [49 CFR 195.1(b)(2)]

3. a pipeline subject to safety regulations of the U.S. Coast Guard; [49 CFR 195.1(b)(3)]

4. a low-stress pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation; [49 CFR 195.1(b)(4)]

5. transportation of hazardous liquid or carbon dioxide in an offshore pipeline in State waters where the pipeline is

located upstream from the outlet flange of the following farthest downstream facility: The facility where hydrocarbons or carbon dioxide are produced or the facility where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed; [49 CFR 195.1(b)(5)]

6. transportation of hazardous liquid or carbon dioxide in a pipeline on the OCS where the pipeline is located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator; [49 CFR 195.1(b)(6)]

7. a pipeline segment upstream (generally seaward) of the last valve on the last production facility on the OCS where a pipeline on the OCS is producer-operated and crosses into State waters without first connecting to a transporting operator's facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. A producing operator of a segment falling within this exception may petition the Administrator, under §190.9 of this chapter, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance; [49 CFR 195.1(b)(7)]

8. transportation of a hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with such facilities; [49 CFR 195.1(b)(8)]

9. transportation of a hazardous liquid or carbon dioxide: [49 CFR 195.1(b)(9)]

a. by vessel, aircraft, tank truck, tank car, or other non-pipeline mode of transportation; or [49 CFR 195.1(b)(9)(i)]

b. through facilities located on the grounds of a materials transportation terminal if the facilities are used exclusively to transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline. These facilities do not include any device and associated piping that are necessary to control pressure in the pipeline under §30406.B; or [49 CFR 195.1(b)(9)(ii)]

10. transportation of carbon dioxide downstream from the applicable following point: [49 CFR 195.1(b)(10)]

a. the inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream; or [49 CFR 195.1(b)(10)(i)]

b. the connection of the first branch pipeline in the production field where the pipeline transports carbon dioxide to an injection well or to a header or manifold from which a pipeline branches to an injection well. [49 CFR 195.1(b)(10)(ii)]

C. Breakout Tanks. Breakout tanks subject to this Subpart must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies specifically to breakout tanks and a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with Sections §30189.B, 30205.B, 30264.B and E,

30307, 30428.C and D, and 30432.B and C. [49 CFR 195.1(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 27:1523 (September 2001), LR 29:2804 (December 2003), LR 33:466 (March 2007), LR 35:2791 (December 2009).

§30107. Matter Incorporated by Reference in Whole or in Part [49 CFR 195.3]

A. ...

B. All incorporated materials are available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows [49 CFR 195.3(b)].

B.1. - B.7. ...

C. The full titles of publications incorporated by reference wholly or partially in this Subpart are as follows. Numbers in parentheses indicate applicable editions: [49 CFR 195.3(c)].

Source and Name of Referenced Material	Title 33 Reference
A. Pipeline Research Council International, Inc. (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§30452.H.4.a.ii.
B. American Petroleum Institute (API):	
(1) ANSI/API Specification 5L/ISO 3183 "Specification for Line Pipe" (43rd edition and errata, 2004, and 44th edition, 2007).	§§30161.B.1; 30161.E.
(2) API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (22nd edition, January 2002)	§30173.A.4.
(3) API Specification 12F "Specification for Shop Welded Tanks for Storage of Production Liquids" (11th edition, November 1994)	§§30189.B.1; 30205.B.2; 30264.B.1; 30264.E.1; 30307.A; 30565; 30579.D.
(4) API 510 "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration" (8th edition, June 1997, and Addenda 1 through 4)	§§30205.B.3; 30432.C.
(5) API Standard 620 "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (10th edition, 2002 including Addendum 1)	§§30189.B.2; 30205.B.2; 30264.B.1; 30264.E.3; 30307.B.

Source and Name of Referenced Material	Title 33 Reference
(6) API 650 "Welded Steel Tanks for Oil Storage" (10th edition, 1998 including Addenda 1-3)	§§30189.B.3; 30205.B.1; 30264.B.1; 30264.E.2; 30307.C; 30307.D; 30565; 30579.D.
(7) API Recommended Practice 651 "Cathodic Protection of Aboveground Petroleum Storage Tanks" (2nd edition, December 1997)	§§30565; 30579.D.
(8) API Recommended Practice 652 "Lining of Aboveground Petroleum Storage Tank Bottoms" (2nd edition, December 1997)	§30579.D.
(9) API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" (3rd edition, 2001, including Addendum 1, 2003)	§§30205.B.1; 30432.B.
(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition 1999, including errata October 31, 2001; and 20th edition 2007, including errata 2008).	§§30222; 30228.B.; 30214.A
(11) API 1130 "Computational Pipeline Monitoring" (2nd edition, 2002)	§§30191; 30444.
(12) API Standard 2000 "Venting Atmospheric and Low Pressure Storage Tanks" (5th edition, April 1998)	§§30264.E.2; 30264.E.3.
(13) API Recommended Practice 2003 "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents" (6th edition, 1998).	§30405.A.
(14) API Publication 2026 "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (2nd edition, 1998)	§30405.B.
(15) API Recommended Practice 2350 "Overfill Protection for Storage Tanks In Petroleum Facilities" (2nd edition, 1996)	§30428.C.
(16) API Standard 2510 "Design and Construction of LPG Installations" (8th edition, 2001)	§§30189.B.3; 30205.B.3; 30264.B.2; 30264.E.4; 30307.E; 30428.C; 30432.C.
(17) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003)	§§30440.A; 30440.B; 30440.C.
C. ASME International (ASME):	
(1) ASME B16.9-2003 (February 2004) "Factory-Made Wrought Steel Butt Welding Fittings"	§30175.A.
(2) ASME B31.4 -2002 (October 2002) "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids"	§30452.H.4.a.
(3) ASME B31G-1991 (Reaffirmed; 2004) "Manual for Determining the Remaining Strength of Corroded Pipelines"	§§30452.H.4.a.ii; 30452.H.4.c.iv.
(4) ASME B31.8-2003 (February 2004) "Gas Transmission and Distribution Piping Systems"	§§30111.A.1.a; 30406.A.1.a.
(5) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005)	§§30181; 30307.E.
(6) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules for Construction for Pressure Vessels" (2004 edition, including addenda through July 1, 2005)	§30307.E.
(7) ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications," (2004 edition, including addenda through July 1, 2005)	§30222.

Source and Name of Referenced Material	Title 33 Reference
D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP-75-2004 "Specification for High Test Wrought Butt Welding Fittings"	§30175.A.
(2) [Reserved]	
E. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A53/A53M-04a (2004) "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless"	§30161.E.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service"	§30161.E.
(3) ASTM Designation: A 333/A 333M-05 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service"	§30161.E.
(4) ASTM Designation: A 381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems"	§30161.E.
(5) ASTM Designation: A 671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures"	§30161.E.
(6) ASTM Designation: A 672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures"	§30161.E.
(7) ASTM Designation: A 691 -98 (Reapproved 2002) "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures"	§30161.E.
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code"	§30264.B.1.
(2) [Reserved]	
G. NACE International (NACE):	
(1) NACE Standard RP 0169-2002: "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"	§30571.
(2) NACE Standard RP0502-2002 "Pipeline External Corrosion Direct Assessment Methodology"	§30588.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (1998), LR 27:1523 (September 2001), LR 29:2806 (December 2003), LR 31:676 (March 2005), LR 33:467 (March 2007), LR 35:2792 (December 2009).

§30117. What is a regulated rural gathering line and what requirements apply? [49 CFR 195.11]

A. Each operator of a regulated rural gathering line, as defined in Paragraph 1 of this section, must comply with the safety requirements described in Paragraph 2 of this Section. [49 CFR 195.11]

1. Definition. As used in this section, a *regulated rural gathering line* means an onshore gathering line in a rural area that meets all of the following criteria— [49 CFR 195.11(a)]

a. has a nominal diameter from 6 $\frac{3}{8}$ inches (168 mm) to 8 $\frac{5}{8}$ inches (219.1 mm); [49 CFR 195.11(a)(1)]

b. is located in or within one-quarter mile (.40 km) of an unusually sensitive area as defined in §30112; and [49 CFR 195.11(a)(2)]

c. operates at a maximum pressure established under §30406 corresponding to: [49 CFR 195.11(a)(3)]

i. A stress level greater than 20 percent of the specified minimum yield strength of the line pipe; or [49 CFR 195.11(a)(3)(i)]

ii. if the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure of more than 125 psi (861 kPa) gage. [49 CFR 195.11(a)(3)(ii)]

2. Safety Requirements. Each operator must prepare, follow, and maintain written procedures to carry out the requirements of this section. Except for the requirements in Subparagraphs A.2.b, A.2.c, A.2.i and A.2.j of this section, the safety requirements apply to all materials of construction. [49 CFR 195.11(b)]

a. Identify all segments of pipeline meeting the criteria in Paragraph 1 of this section before April 3, 2009. [49 CFR 195.11(b)(1)]

b. For steel pipelines constructed, replaced, relocated, or otherwise changed after July 3, 2009, design, install, construct, initially inspect, and initially test the pipeline in compliance with this Subpart, unless the pipeline is converted under §30111. [49 CFR 195.11(b)(2)]

c. For non-steel pipelines constructed after July 3, 2009, notify the Administrator according to §30114. [49 CFR 195.11(b)(3)]

d. Beginning no later than January 3, 2009, comply with the reporting requirements in Subchapter B of Chapter 301 this Subpart. [49 CFR 195.11(b)(4)]

e. Establish the maximum operating pressure of the pipeline according to §30406 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. [49 CFR 195.11(b)(5)]

f. Install line markers according to §30410 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. Continue to maintain line markers in compliance with §30410. [49 CFR 195.11(b)(6)]

g. Establish a continuing public education program in compliance with §30440 before transportation begins, or if the pipeline exists on July 3, 2008, before January 3, 2010. Continue to carry out such program in compliance with §30440. [49 CFR 195.11(b)(7)]

h. Establish a damage prevention program in compliance with §30442 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. Continue to carry out such program in compliance with §30442. [49 CFR 195.11(b)(8)]

i. For steel pipelines, comply with Subchapter B of Chapter 305 of this Subpart, except corrosion control is not required for pipelines existing on July 3, 2008 before July 3, 2011. [49 CFR 195.11(b)(9)]

j. For steel pipelines, establish and follow a comprehensive and effective program to continuously identify operating conditions that could contribute to internal corrosion. The program must include measures to prevent and mitigate internal corrosion, such as cleaning the pipeline and using inhibitors. This program must be established before transportation begins or if the pipeline exists on July 3, 2008, before July 3, 2009. [49 CFR 195.11(b)(10)]

k. To comply with the Operator Qualification program requirements in Subchapter A of Chapter 305 of this Subpart, have a written description of the processes used to carry out the requirements in §30505 to determine the

qualification of persons performing operations and maintenance tasks. These processes must be established before transportation begins or if the pipeline exists on July 3, 2008, before July 3, 2009. [49 CFR 195.11(b)(11)]

3. New Unusually Sensitive Areas. If, after July 3, 2008, a new unusually sensitive area is identified and a segment of pipeline becomes regulated as a result, except for the requirements of Subparagraphs A.2.i and A.2.j of this section, the operator must implement the requirements in Subparagraphs A.2.b through A.2.k of this section for the affected segment within 6 months of identification. For steel pipelines, comply with the deadlines in Subparagraph A.2.i and A.2.j. [49 CFR 195.11(c)]

4. Record Retention. An operator must maintain records demonstrating compliance with each requirement according to the following schedule. [49 CFR 195.11(d)]

a. An operator must maintain the segment identification records required in Subparagraph A.2.a of this section and the records required to comply with A.2.j of this section, for the life of the pipe. [49 CFR 195.11(d)(1)]

b. An operator must maintain the records necessary to demonstrate compliance with each requirement in Subparagraphs A.2.b through A.2.i, and A.2.k of this section according to the record retention requirements of the referenced section or Chapter. [49 CFR 195.11(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:2793 (December 2009).

§30118. What requirements apply to low-stress pipelines in rural areas? [49 CFR 195.12]

A. General. This section does not apply to a rural low-stress pipeline regulated under this Subpart as a low-stress pipeline that crosses a waterway currently used for commercial navigation. An operator of a rural low-stress pipeline meeting the following criteria must comply with the safety requirements described in Subsection B of this Section. The pipeline: [49 CFR 195.12(a)]

1. has a nominal diameter of 8 $\frac{3}{8}$ inches (219.1 mm) or more; [49 CFR 195.12(a)(1)]

2. is located in or within a half mile (.80 km) of an unusually sensitive area (USA) as defined in §30112; and [49 CFR 195.12(a)(2)]

3. operates at a maximum pressure established under §30406 corresponding to: [49 CFR 195.12(a)(3)]

a. a stress level equal to or less than 20 percent of the specified minimum yield strength of the line pipe; or [49 CFR 195.12(a)(3)(i)]

b. if the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure equal to or less than 125 psi (861 kPa) gage. [49 CFR 195.12(a)(3)(ii)]

B. Requirements. An operator of a pipeline meeting the criteria in Subsection A of this section must comply with the following safety requirements and compliance deadlines. [49 CFR 195.12(b)]

1. Identify all segments of pipeline meeting the criteria in Subsection A of this section before April 3, 2009. [49 CFR 195.12(b)(1)]

2. Beginning no later than January 3, 2009, comply with the reporting requirements of Subchapter B of Chapter 301 for the identified segments. [49 CFR 195.12(b)(2)]

3.a. Establish a written program in compliance with §30452 before July 3, 2009, to assure the integrity of the low-stress pipeline segments. Continue to carry out such program in compliance with §30452. [49 CFR 195.12(b)(3)(i)]

b. To carry out the integrity management requirements in §30452, an operator may conduct a determination per §30452.A in lieu of the half mile buffer. [49 CFR 195.12(b)(3)(ii)]

c. Complete the baseline assessment of all segments in accordance with §30452.C before July 3, 2015, and complete at least 50 percent of the assessments, beginning with the highest risk pipe, before January 3, 2012. [49 CFR 195.12(b)(3)(iii)]

4. Comply with all other safety requirements of this Subpart, except Subchapter B of Chapter 305, before July 3, 2009. Comply with Subchapter B of Chapter 305 before July 3, 2011. [49 CFR 195.12(b)(4)]

C. Economic Compliance Burden [49 CFR 195.12(c)]

1. An operator may notify PHMSA in accordance with §30452.M of a situation meeting the following criteria: [49 CFR 195.12(c)(1)]

a. the pipeline meets the criteria in Subsection A of this section; [49 CFR 195.12(c)(1)(i)]

b. the pipeline carries crude oil from a production facility; [49 CFR 195.12(c)(1)(ii)]

c. the pipeline, when in operation, operates at a flow rate less than or equal to 14,000 barrels per day; and [49 CFR 195.12(c)(1)(iii)]

d. the operator determines it would abandon or shut-down the pipeline as a result of the economic burden to comply with the assessment requirements in §§30452.D or 30452.J. [49 CFR 195.12(c)(1)(iv)]

2. A notification submitted under this provision must include, at minimum, the following information about the pipeline: Its operating, maintenance and leak history; the estimated cost to comply with the integrity assessment requirements (with a brief description of the basis for the estimate); the estimated amount of production from affected wells per year, whether wells will be shut in or alternate transportation used, and if alternate transportation will be used, the estimated cost to do so. [49 CFR 195.12(c)(2)]

3. When an operator notifies PHMSA in accordance with Paragraph C.1 of this section, PHMSA will stay compliant with §§30452.D and 30452.J.3 until it has completed an analysis of the notification. PHMSA will consult the Department of Energy (DOE), as appropriate, to help analyze the potential energy impact of loss of the pipeline. Based on the analysis, PHMSA may grant the operator a special permit to allow continued operation of the pipeline subject to alternative safety requirements. [49 CFR 195.12(c)(3)]

D. New Unusually Sensitive Areas. If, after July 3, 2008, an operator identifies a new unusually sensitive area and a segment of pipeline meets the criteria in Subsection A of this section, the operator must take the following actions: [49 CFR 195.12(d)]

1. except for Paragraph B.2 of this section and the requirements of Subchapter B of Chapter 305, comply with all other safety requirements of this Subpart before July 3, 2009. Comply with Subchapter B of Chapter 305 before July 3, 2011. [49 CFR 195.12(d)(1)]

2. establish the program required in Subparagraph B.3.a within 12 months following the date the area is identified. Continue to carry out such program in compliance with §30452; and [49 CFR 195.12(d)(2)]

3. complete the baseline assessment required by Subparagraph B.3.b of this section according to the schedule in §30452.D.3. [49 CFR 195.12(d)(3)]

E. Record Retention. An operator must maintain records demonstrating compliance with each requirement according to the following schedule. [49 CFR 195.12(e)]

1. An operator must maintain the segment identification records required in Paragraph B.1 of this section for the life of the pipe. [49 CFR 195.12(e)(1)]

2. An operator must maintain the records necessary to demonstrate compliance with each requirement in Paragraphs B.2 through B.4 of this section according to the record retention requirements of the referenced section or Chapter. [49 CFR 195.12(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:2794 (December 2009).

Subchapter B. Reporting Accidents and Safety-Related Conditions [Subpart B]

§30123. Scope [49 CFR 195.48]

A. This Subchapter prescribes requirements for periodic reporting and for reporting of accidents and safety-related conditions. This Subchapter applies to all pipelines subject to this Subpart and, beginning January 5, 2009, applies to all rural low-stress hazardous liquid pipelines. An operator of a rural low-stress pipeline not otherwise subject to this Subpart is not required to complete Parts J and K of the hazardous liquid annual report form (PHMSA F 7000-1.1) required by §30137 or to provide the estimate of total miles that could affect high consequence areas in Part B of that form. [49CFR 195.48]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:2795 (December 2009).

§30127. Telephonic Notice of Certain Accidents [49 CFR 195.52]

A. - A.5. ...

B. Reports made under §30127.A are made by telephone to 800-424-8802 (in Washington, D.C. 20590-0001 (202) 372-2428) as well as Louisiana (225) 342-5505 (day or night) and must include the following information: [49 CFR 195.52(b)]

B.1. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (April 1994), LR 21:816 (August 1995), LR 29:2811 (December 2003), LR 35:2795 (December 2009).

§30135. Filing Safety-Related Condition Reports [49 CFR 195.56]

A. Each report of a safety-related condition under §30133.A must be filed (received by the commissioner and administrator) in writing within five working days (not including Saturday, Sunday, or Federal holidays) after the

day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (202) 366-7128 and for Louisiana (225) 342-5529.[49 CFR 195.56(a)]

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (April 1994), LR 28:85 (January 2002), LR 29:2812 (December 2003), LR 35:2795 (December 2009).

§30137. Annual Report

A. Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. The hazardous liquid operator annual report must be filed by June 15 each year. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, and carbon dioxide pipelines. [49 CFR 195.49]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:2812 (December 2003), LR 35:2795 (December 2009).

§30139. Filing Offshore Pipeline Condition Reports [49 CFR 195.57]

A. - A.6. ...

B. The report shall be mailed to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 and concurrently to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 [49 CFR 195.57(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:468 (March 2007), LR 35:2795 (December 2009).

§30140. Address for Written Reports [49 CFR 195.58]

A. Each written report required by this Subchapter must be made to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 and concurrently to Office of Conservation, Pipeline Safety, P.O. Box 94275, Baton Rouge, LA 70804-9275. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency [49 CFR 195.58].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:469 (March 2007), LR 35:2795 (December 2009).

§30141. Abandonment or Deactivation of Facilities.
[49 CFR 195.59]

A. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions". To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at <http://www.npms.PHMSA.dot.gov> or contact the NPMS National Repository at (703) 317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax, or e-mail to the Office of Pipeline Safety, Pipeline Hazardous Materials Safety Administration, Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; fax (202) 366-4566; e-mail, "InformationResourcesManager@PHMSA.dot.gov". The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 195.59(a)].

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), amended LR 33:469 (March 2007), LR 35:2796 (December 2009).

§30144. Supplies of Accident Report DOT Form 7000-1
[49 CFR 195.62]

A. Each operator shall maintain an adequate supply of forms that are a facsimile of DOT Form 7000-1 and Louisiana's Accident Report Form to enable it to promptly report accidents. The department will, upon request, furnish specimen copies of the form. Requests for DOT Form 7000-1 should be addressed to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001. Requests for Louisiana's Accident Report Form should be addressed to Office of

Pipeline Safety, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275. [49 CFR 195.62]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), LR 35:2796 (December 2009).

Subchapter C. Design Requirements [Subpart C]
§30173. Valves [49 CFR 195.116]

A. - A.3. ...

4. Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in Section 10 of API Standard 6D (incorporated by reference, see §30107). [49 CFR 195.116(d)]

A.5. - A.6.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 29:2816 (December 2003), LR 33:469 (March 2007), LR 35:2796 (December 2009).

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction
[49 CFR Part 195 Subpart D]

§30228. Welds and Welding Inspection: Standards of Acceptability [49 CFR 195.228]

A. ...

B. The acceptability of a weld is determined according to the standards in Section 9 of API 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 (incorporated by reference, see §30107) applies to the weld, the acceptability of the weld may be determined under that Appendix. [49 CFR 195.228(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2819 (December 2003), amended LR 31:677 (March 2005), LR 35:2796 (December 2009).

§30246. Installation of Pipe in a Ditch
[49 CFR 195.246]

A. ...

B. Except for pipe in the Gulf of Mexico and its inlets in waters less than 15 feet deep, all offshore pipe in water at least 12 feet deep (3.7 meters) but not more than 200 feet deep (61 meters) deep as measured from the mean low water must be installed so that the top of the pipe is below the underwater natural bottom (as determined by recognized and generally accepted practices) unless the pipe is supported by stanchions held in place by anchors or heavy concrete coating or protected by an equivalent means. [49 CFR 195.246(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2819 (December 2003), amended LR 31:677 (March 2005), LR 35:2796 (December 2009).

§30264. Impoundment, Protection against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks [49 CFR 195.264]

A. - B.1. ...

a. impoundment around a breakout tank must be installed in accordance with Section 4.3.2.3.2.; and [49 CFR 195.264(b)(1)(i)]

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 4.3.2.3.1. [49 CFR 195.264(b)(1)(ii)]

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 5 or 11 of API Standard 2510 (incorporated by reference, see §30107). [49 CFR 195.264(b)(2)]

C. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2821 (December 2003), amended LR 33:470 (March 2007), LR 35:2797 (December 2009).

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]

§30434. Signs [49 CFR 195.434]

A. Each operator must maintain signs visible to the public around each pumping station and breakout tank area. Each sign must contain the name of the operator and a telephone number (including area code) where the operator can be reached at all times. [49 CFR 195.434]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), amended LR 31:679 (March 2005), LR 35:2797 (December 2009).

§30440. Public Awareness [49 CFR 195.440]

A. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §30107). [49 CFR 195.440(a)]

B. The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities. [49 CFR 195.440(b)]

C. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety. [49 CFR 195.440(c)]

D. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on: [49 CFR 195.440(d)]

1. use of a one-call notification system prior to excavation and other damage prevention activities; [49 CFR 195.440(d)(1)]

2. possible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline facility; [49 CFR 195.440(d)(2)]

3. physical indications that such a release may have occurred; [49 CFR 195.440(d)(3)]

4. steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release; and [49 CFR 195.440(d)(4)]

5. procedures to report such an event. [49 CFR 195.440(d)(5)]

E. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. [49 CFR 195.440(e)]

F. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports hazardous liquid or carbon dioxide. [49 CFR 195.440(f)]

G. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. [49 CFR 195.440(g)]

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency. [49 CFR 195.440(h)]

I. The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies. [49 CFR 195.440(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), amended LR 33:470 (March 2007), LR 35:2797 (December 2009).

§30442. Damage Prevention Program [49 CFR 195.442]

A. - C.6.b. ...

D. A damage prevention program under this Section is not required for the following pipelines: [49 CFR 195.442(d)]

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), LR 35:2797 (December 2009).

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. - C.1.a.i. ...

ii. pressure test conducted in accordance with Chapter 303. of this Subpart; [49 CFR 195.452 (c)(1)(i)(B)]

iii. external corrosion direct assessment in accordance with §30588; or [49 CFR 195.452(c)(1)(i)(C)]

C.1.a.iv. - G.4. ...

H. What actions must an operator take to address integrity issues? [49 CFR 195.452(h)]

1. General Requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or

information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §30422 when making a repair. [49 CFR 195.452(h)(1)]

a. Temporary Pressure Reduction. An operator must notify PHMSA, in accordance with Subsection M of this section, if the operator cannot meet the schedule for evaluation and remediation required under Paragraph H.3 of this section and cannot provide safety through a temporary reduction in operating pressure. [49 CFR 195.452(h)(1)(i)]

b. Long-Term Pressure Reduction. When a pressure reduction exceeds 365 days, the operator must notify PHMSA in accordance with Subsection M of this section and explain the reasons for the delay. An operator must also take further remedial action to ensure the safety of the pipeline. [49 CFR 195.452(h)(1)(ii)]

2. ...

3. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule prioritizing the conditions for evaluation and remediation. If an operator cannot meet the schedule for any condition, the operator must explain the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety or environmental protection. [49 CFR 195.452(h)(3)]

4. Special Requirements for Scheduling Remediation [49 CFR 195.452(h)(4)]

a. Immediate Repair Conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in section 451.7 of ASME/ANSI B31.4 (incorporated by reference, see §30107); if applicable. If the formula is not applicable to the type of anomaly or would produce a higher operating pressure, an operator must use an alternative acceptable method to calculate a reduced operating pressure. An operator must treat the following conditions as immediate repair conditions: [49 CFR 195.452(h)(4)(i)]

H.4.a.i. - J.2. ...

3. Assessment Intervals. An operator must establish five-year intervals, not to exceed 68 months, for continually assessing the line pipe's integrity. An operator must base the assessment intervals on the risk the line pipe poses to the high consequence area to determine the priority for assessing the pipeline segments. An operator must establish the assessment intervals based on the factors specified in Subsection E of this Section, the analysis of the results from the last integrity assessment, and the information analysis required by Subsection G of this Section. [49 CFR 195.452(j)(3)]

4. - J.5.b ...

c. external corrosion direct assessment in accordance with §30588; or [49 CFR 195.452(j)(5)(iii)]

J.5.d. - L.2. ...

M. How does an operator notify PHMSA? An operator must provide any notification required by this section by: [49 CFR 195.452(m)]

1. entering the information directly on the Integrity Management Database Web site at <http://primis.PHMSA.dot.gov/imdb/>; [49 CFR 195.452(m)(1)]

2. sending the notification to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, and to the Commissioner of Conservation, Pipeline Safety Section, P.O. Box 94275, Baton Rouge, LA 70804-9275; or [195.452(m)(2)]

3. sending the notification to the Information Resources Manager by facsimile to (202) 366-7128, and to the Commissioner of Conservation, Pipeline Safety Section, by facsimile number (225) 342-5529. [195.452(m)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:471 (March 2007), LR 35:2797 (December 2009).

Chapter 305. Transportation of Hazardous Liquids by Pipeline—Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G] and Corrosion Control [49 CFR Part 195 Subpart H]

Subchapter A. Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G]

§30505. Qualification Program [49 CFR 195.505]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks; [49 CFR 195.505(f)]

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed; [49 CFR 195.505(g)]

8. after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and [49 CFR 195.505(h)]

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2835 (December 2003), amended LR 33:471 (March 2007), LR 35:2798 (December 2009).

Subchapter B. Corrosion Control [49 CFR Part 195 Subpart H]

§30573. What must I do to monitor external corrosion control? [49 CFR 195.573]

A. - A.1. ...

2. Identify not more than two years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard RP0169 (incorporated by reference, see §30107). [49 CFR 195.573(a)(2)]

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2838 (December 2003), amended LR 33:472 (March 2007), LR 35:2798 (December 2009).

§30588. What standards apply to direct assessment?

[49 CFR 195.588]

A. If you use direct assessment on an onshore pipeline to evaluate the effects of external corrosion, you must follow the requirements of this section for performing external corrosion direct assessment. This section does not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process. [49 CFR 195.588(a)]

B. The requirements for performing external corrosion direct assessment are as follows: [49 CFR 195.588(b)]

1. General. You must follow the requirements of NACE Standard RP0502-2002 (incorporated by reference, see §30107). Also, you must develop and implement an ECDA plan that includes procedures addressing pre-assessment, indirect examination, direct examination, and post-assessment. [49 CFR 195.588(b)(1)]

2. Pre-assessment. In addition to the requirements in Section 3 of NACE Standard RP0502-2002, the ECDA plan procedures for pre-assessment must include: [49 CFR 195.588(b)(2)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment; [49 CFR 195.588(b)(2)(i)]

b. the basis on which you select at least two different, but complementary, indirect assessment tools to assess each ECDA region; and [49 CFR 195.588(b)(2)(ii)]

c. if you utilize an indirect inspection method not described in Appendix A of NACE Standard RP0502-2002, you must demonstrate the applicability, validation basis, equipment used, application procedure, and utilization of data for the inspection method. [49 CFR 195.588(b)(2)(iii)]

3. Indirect examination. In addition to the requirements in Section 4 of NACE Standard RP0502-2002, the procedures for indirect examination of the ECDA regions must include: [49 CFR 195.588(b)(3)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment; [49 CFR 195.588(b)(3)(i)]

b. criteria for identifying and documenting those indications that must be considered for excavation and direct examination, including at least the following: [49 CFR 195.588(b)(3)(ii)]

i. the known sensitivities of assessment tools; [49 CFR 195.588(b)(3)(ii)(A)]

ii. the procedures for using each tool; and [49 CFR 195.588(b)(3)(ii)(B)]

iii. the approach to be used for decreasing the physical spacing of indirect assessment tool readings when the presence of a defect is suspected; [49 CFR 195.588(b)(3)(ii)(C)]

c. for each indication identified during the indirect examination, criteria for: [49 CFR 195.588(b)(3)(iii)]:

i. defining the urgency of excavation and direct examination of the indication; and [49 CFR 195.588(b)(3)(iii)(A)]

ii. defining the excavation urgency as immediate, scheduled, or monitored; and [49 CFR 195.588(b)(3)(iii)(B)]

d. criteria for scheduling excavations of indications in each urgency level. [49 CFR 195.588(b)(3)(iv)]

4. direct examination. In addition to the requirements in Section 5 of NACE Standard RP0502-2002, the procedures for direct examination of indications from the indirect examination must include: [49 CFR 195.588(b)(4)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment; [49 CFR 195.588(b)(4)(i)]

b. criteria for deciding what action should be taken if either: [49 CFR 195.588(b)(4)(ii)]

i. corrosion defects are discovered that exceed allowable limits (Section 5.5.2.2 of NACE Standard RP0502-2002 provides guidance for criteria); or [49 CFR 195.588(b)(4)(ii)(A)]

ii. root cause analysis reveals conditions for which ECDA is not suitable (Section 5.6.2 of NACE Standard RP0502-2002 provides guidance for criteria); [49 CFR 195.588(b)(4)(ii)(B)]

c. criteria and notification procedures for any changes in the ECDA plan, including changes that affect the severity classification, the priority of direct examination, and the time frame for direct examination of indications; and [49 CFR 195.588(b)(4)(iii)]

d. criteria that describe how and on what basis you will reclassify and re-prioritize any of the provisions specified in Section 5.9 of NACE Standard RP0502-2002. [49 CFR 195.588(b)(4)(iv)]

5. post assessment and continuing evaluation. In addition to the requirements in Section 6 of NACE Standard UP 0502-2002, the procedures for post assessment of the effectiveness of the ECDA process must include: [49 CFR 195.588(b)(5)]

a. measures for evaluating the long-term effectiveness of ECDA in addressing external corrosion in pipeline segments; and [49 CFR 195.588(b)(5)(i)]

b. criteria for evaluating whether conditions discovered by direct examination of indications in each ECDA region indicate a need for reassessment of the pipeline segment at an interval less than that specified in Sections 6.2 and 6.3 of NACE Standard RP0502-2002 (see Appendix D of NACE Standard RP0502-2002). [49 CFR 195.588(b)(5)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 33:472 (March 2007), LR 35:2799 (December 2009).

James H. Welsh
Commissioner

0912#049

RULE

**Department of Natural Resources
Office of Conservation**

Natural Gas Pipeline Safety
(LAC 43:XIII. Chapters 1-65)

The Louisiana Office of Conservation amended LAC 43:XIII.101 et seq. 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, Section 30:501 et seq. These Rules amend the minimum pipeline safety requirements for natural gas pipelines.

There will be negligible cost to directly affected persons or natural gas pipeline operators. Benefits will be realized by persons living and working near natural gas pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Natural Gas Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation—Pipeline Safety

Subpart 2. Transportation of Natural Gas and Other Gas by Pipeline [49 CFR Part 191]

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

§307. Addressee for Written Reports [49 CFR 191.7]

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII must be submitted to Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, the Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Safety-related condition reports required by §323 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency. [49 CFR 191.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 31:679 (March 2005), LR 33:473 (March 2007), LR 35:2800 (December 2009).

§325. Filing Safety-Related Condition Reports [49 CFR 191.25]

A. Each report of a safety-related condition under §323.A must be filed concurrently (received by the commissioner and associate administrator, OPS) in writing within five working days (not including Saturday, Sunday, or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by facsimile (FAX), dial (225) 342-5529 (state) and (202) 366-7128 (federal). [49 CFR 191.25]

B. - B.8 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1223 (June 2004), LR 35:2800 (December 2009).

§327. Filing Offshore Pipeline Condition Reports [49 CFR 191.27]

A. - A.6. ...

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 and concurrently to Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, the Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. [49 CFR 191.27(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:854 (August 1992), amended LR 20:443 (April 1994), LR 30:1224 (June 2004), LR 33:474 (March 2007), LR 35:2800 (December 2009).

Subpart 3. Transportation of Natural Gas or Other Gas By Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 5. General [Subpart A]

§501. What is the scope of this Subpart? [49 CFR 192.1]

A. - B.4.b. ...

c. within inlets of the Gulf of Mexico, except for the requirements in §2712; or [CFR 49 192. 1(b)(4)(iii)]

5. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 33:474 (March 2007), LR 35:2800 (December 2009).

§503. Definitions [49 CFR 192.3]

A. ...

Special Class System—a pipeline system for distributing gas to a federal, state, or local government facility or a private facility performing a government function, where the operator receives or purchases gas from an outside source and distributes the gas through a pipeline system to more than one outlet (building) beyond the meter or regulator,

which ultimate outlet may, but need not be, individually metered or charged a fee for the gas. Any exemption from pipeline safety regulation granted to master meter systems will apply to special class systems.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:474 (March 2007), LR 35:2800 (December 2009).

**§507. What documents are incorporated by reference partly or wholly in this Part?
[49 CFR 192.7]**

A. ...

B. All incorporated materials are available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC, 20590-0001 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, the incorporated materials are available from the respective organizations listed in Paragraph C.1 of this section. [49 CFR 192.7(b)]

C. - C.1.i. ...

2. Documents incorporated by reference (Numbers in Parentheses Indicate Applicable Editions). [49 CFR 192.7(c)(2)]

Source and Name of Referenced Material	Title 43 Reference
A. Pipeline Research Council International (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe"(December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§§ 3333.A; 2137.C.
B. American Petroleum Institute (API):	
(1) ANSI/API Specification 5L/ISO 3183 "Specification for Line Pipe" (43rd edition and errata, 2004, and 44th edition, 2007).	§§ 705.E; 912; 913; §5103 Item I.
(2) API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (6th edition, 2002).	§715.A.1.
(3) API Specification 6D "Pipeline Valves" (22nd edition, January 2002).	§1105.A.
(4) API Recommended Practice 80 (API RP 80) "Guidelines for the Definition of Onshore Gas Gathering Lines" (1st edition, April 2000)	§508.A; 508.A.1; 508A.2; 508A.3; 508A.4
(5) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999, including Errata October 31, 2001; and 20th edition 2007, including errata 2008).	§§ 1307.A; 1309.C.1; 1321.C; 5103 Item II.
(6) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003)	§2716.A; 2716.B; 2716.C

C. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A 53/A53M-04a (2004) "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc Coated, Welded and Seamless".	§§ 913; 5103 Item I.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service".	§§ 913; 5103 Item I.
(3) ASTM Designation: A333/A333M-05 (2005) "Standard Specification for Seamless and Welded Steel Pipe for Low- Temperature Service."	§§ 913; 5103 Item I.
(4) ASTM Designation: A372/A372M-03 (2003) "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels".	§1137.B.1.
(5) ASTM Designation: A381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems".	§§ 913; 5103 Item I.
(6) ASTM Designation: A 578/A578M-96 (Re- approved 2001) "Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications".	§ 912.C.2.iii
(7) ASTM Designation: A671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures".	§§ 913; 5103 Item I.
(8) ASTM Designation: A672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-1996).	§§ 913; 5103 Item I.
(9) ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High- Pressure Service at High Temperatures".	§§ 913; 5103 Item I.
(10) ASTM Designation: D638-03 "Standard Test Method for Tensile Properties of Plastics".	§§ 1513.A.3; 1513.B.1.
(11) ASTM Designation: D2513-87 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings".	§ 713.A.1.
(12) ASTM Designation: D2513-99 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings.	§§ 1151.B; 1511.B.2; 1513.A.1.a; 5103 Item I.
(13) ASTM Designation: D 2517-00 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings".	§§ 1151.A; 1511.D.1; 1513.A.1.b; 5103 Item I.
(14) ASTM Designation: F1055-1998 "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing".	§ 1513.A.1.c.
D. ASME International (ASME):	
(1) ASME B16.1-1998 "Cast Iron Pipe Flanges and Flanged Fittings".	§ 1107.C.
(2) ASME B16.5-2003 (October 2004) "Pipe Flanges and Flanged Fittings".	§§ 1107.A; 1509.
(3) ASME B31G-1991 (Reaffirmed 2004) "Manual for Determining the Remaining Strength of Corroded Pipelines".	§§ 2137.C; 3333.A.
(4) ASME B31.8-2003 (February 2004) "Gas Transmission and Distribution Piping Systems".	§2719.A.1.a.

(5) ASME B31.8S-2004 "Supplement to B31.8 on Managing System Integrity of Gas Pipelines".	§§ 3303.C; 3307.B; 3311.A; 3311.A.9; 3311.A.11; 3311.A.12; 3311.A.13; 3313.A; 3313.B.1; 3317.A; 3317.B; 3317.C; 3317.E.1; 3317.E.4; 3321.A.1; 3323.B.2; 3323.B.3; 3325.B; 3325.B.1; 3325.B.2; 3325.B.3; 3325.B.4; 3327.B; 3327.C.1.a; 3329.B.1; 3329.B.2; 3333.A; 3333.D.1; 3333.D.1.a; 3335.A; 3335.B.1.d; 3337.C.1; 3339.A.1.a.i; 3339.A.1.a.ii; 3339.A.1.c; 3345.A.
(6) ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers (2004 edition including addenda through July 1, 2005).	§ 1113.A.
(7) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005).	§§ 1113.A; 1113.B; 1113.D; 1125.B.3.
(8) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2, "Rules for Construction of Pressure Vessels-Alternative Rules," (2004 edition, including addenda through July 1, 2005).	§§ 1113.B; 1125.B.3.
(9) ASME Boiler and Pressure Vessel Code, Section IX, "Welding and Brazing Qualifications" (2004 edition, including addenda through July 1, 2005).	§§ 1307.A; 5103 Item II.
E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP44-1996(Reaffirmed; 2001) "Steel Pipe Line Flanges".	§ 1107.A.
(2) [Reserved]	
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code".	§2935.B.
(2) NFPA 58 (2004) "Liquefied Petroleum Gas Code (LP-Gas Code)".	§§ 511.A; 511.B; 511.C.
(3) NFPA 59 (2004) "Utility LP-Gas Plant Code".	§§ 511.A; 511.B; 511.C
(4) NFPA 70 (2005) "National Electrical Code".	§§ 1123.E; 1149.C.
G. Plastics Pipe Institute, Inc. (PPI):	
(1) PPI TR-3/2004 (2004) "Policies and Procedures for Developing Hydrostatic Design Bases (HDB), Pressure Design Bases (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe.	§921.
H. NACE International (NACE):	
(1) NACE Standard RP-0502-2002 "Pipeline External Corrosion Direct Assessment Methodology".	§§ 3323.B.1; 3325.B; 3325.B.1; 3325.B.1.b; 3325.B.2; 3325.B.3; 3325.B.3.b; 3325.B.3.d; 3325.B.4; 3325.B.4.b; 3331.D; 3335.B.1.d; 3339.A.2.
I. Gas Technology Institute (GTI). (Formerly Gas Research Institute):	
(1) GRI 02/0057 (2002) "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology."	§§ 3327.C.2; 307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

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Subpart 3. Transportation of Natural Gas or Other Gas By Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 9. Pipe Design [Subpart C]

§912. Additional Design Requirements for Steel Pipe Using Alternative Maximum Allowable Operating Pressure. [49 CFR 192.112]

A. For a new or existing pipeline segment to be eligible for operation at the alternative maximum allowable operating pressure (MAOP) calculated under §2720, a segment must meet the following additional design requirements. Records for alternative MAOP must be maintained, for the useful life of the pipeline, demonstrating compliance with these requirements: [49 CFR 192.112]

1. To address this design issue (a-h): The pipeline segment must meet these additional requirements: [49 CFR 192.112]

a. general standards for the steel pipe. [49 CFR 192.112(a)]

i. The plate, skelp, or coil used for the pipe must be micro-alloyed, fine grain, fully killed, continuously cast steel with calcium treatment. [49 CFR 192.112(a)(1)]

ii. The carbon equivalents of the steel used for pipe must not exceed 0.25 percent by weight, as calculated by the Ito-Bessyo formula (Pcm formula) or 0.43 percent by weight, as calculated by the International Institute of Welding (IIW) formula. [49 CFR 192.112(a)(2)]

iii. The ratio of the specified outside diameter of the pipe to the specified wall thickness must be less than 100. The wall thickness or other mitigative measures must prevent denting and ovality anomalies during construction, strength testing and anticipated operational stresses. [49 CFR 192.112(a)(3)]

iv. The pipe must be manufactured using API Specification 5L, product specification level 2 (incorporated by reference, see §507) for maximum operating pressures and minimum and maximum operating temperatures and other requirements under this Section. [49 CFR 192.112(a)(4)]

b. Fracture control. [49 CFR 192.112(b)]

i. The toughness properties for pipe must address the potential for initiation, propagation and arrest of fractures in accordance with: [49 CFR 192.112(b)(1)]

(a). API Specification 5L (incorporated by reference, see §507); or [49 CFR 192.112(b)(1)(i)]

(b). American Society of Mechanical Engineers (ASME) B31.8 (incorporated by reference, see §507); and [49 CFR 192.112(b)(1)(ii)]

(c). Any correction factors needed to address pipe grades, pressures, temperatures, or gas compositions not expressly addressed in API Specification 5L, product specification level 2 or ASME B31.8 (incorporated by reference, see §507). [49 CFR 192.112(b)(1)(iii)]

ii. Fracture control must: [49 CFR 192.112(b)(2)]

(a). Ensure resistance to fracture initiation while addressing the full range of operating temperatures,

pressures, gas compositions, pipe grade and operating stress levels, including maximum pressures and minimum temperatures for shut-in conditions, that the pipeline is expected to experience. If these parameters change during operation of the pipeline such that they are outside the bounds of what was considered in the design evaluation, the evaluation must be reviewed and updated to assure continued resistance to fracture initiation over the operating life of the pipeline; [49 CFR 192.112(b)(2)(i)]

(b). Address adjustments to toughness of pipe for each grade used and the decompression behavior of the gas at operating parameters; [49 CFR 192.112(b)(2)(ii)]

(c). Ensure at least 99 percent probability of fracture arrest within eight pipe lengths with a probability of not less than 90 percent within five pipe lengths; and [49 CFR 192.112(b)(2)(iii)]

(d). Include fracture toughness testing that is equivalent to that described in supplementary requirements SR5A, SR5B, and SR6 of API Specification 5L (incorporated by reference, see §507) and ensures ductile fracture and arrest with the following exceptions: [49 CFR 192.112(b)(2)(iv)]

(i). The results of the Charpy impact test prescribed in SR5A must indicate at least 80 percent minimum shear area for any single test on each heat of steel; and [49 CFR 192.112(b)(2)(iv)(A)]

(ii). The results of the drop weight test prescribed in SR6 must indicate 80 percent average shear area with a minimum single test result of 60 percent shear area for any steel test samples. The test results must ensure a ductile fracture and arrest. [49 CFR 192.112(b)(2)(iv)(B)]

(iii). If it is not physically possible to achieve the pipeline toughness properties of Clause b.i and b.ii of this section, additional design features, such as mechanical or composite crack arrestors and/or heavier walled pipe of proper design and spacing, must be used to ensure fracture arrest as described in Subclause b.ii.c of this Section. [49 CFR 192.112(b)(3)]

c. Plate/coil quality control. [49 CFR 192.112(c)]

i. There must be an internal quality management program at all mills involved in producing steel, plate, coil, skelp, and/or rolling pipe to be operated at alternative MAOP. These programs must be structured to eliminate or detect defects and inclusions affecting pipe quality. [49 CFR 192.112(c)(1)]

ii. A mill inspection program or internal quality management program must include (a) and either (b) or (c): [49 CFR 192.112(c)(2)]

(a). An ultrasonic test of the ends and at least 35 percent of the surface of the plate/coil or pipe to identify imperfections that impair serviceability such as laminations, cracks, and inclusions. At least 95 percent of the lengths of pipe manufactured must be tested. For all pipelines designed after November 17, 2008, the test must be done in accordance with ASTM A578/A578M Level B, or API 5L Paragraph 7.8.10 (incorporated by reference, see §507) or equivalent method, and either [49 CFR 192.112(c)(2)(i)]

(b). A macro etch test or other equivalent method to identify inclusions that may form centerline segregation during the continuous casting process. Use of sulfur prints is not an equivalent method. The test must be carried out on the first or second slab of each sequence graded with an

acceptance criteria of one or two on the Mannesmann scale or equivalent; or [49 CFR 192.112(c)(2)(ii)]

(c). A quality assurance monitoring program implemented by the operator that includes audits of: [49 CFR 192.112(c)(2)(iii)]

(i). all steelmaking and casting facilities, [49 CFR 192.112(c)(2)(iii)(a)]

(ii). quality control plans and manufacturing procedure specifications, [49 CFR 192.112(c)(2)(iii)(b)]

(iii). equipment maintenance and records of conformance, [49 CFR 192.112(c)(2)(iii)(c)]

(iv). applicable casting superheat and speeds, and [49 CFR 192.112(c)(2)(iii)(d)]

(v). centerline segregation monitoring records to ensure mitigation of centerline segregation during the continuous casting process. [49 CFR 192.112(c)(2)(iii)(e)]

d. Seam quality control. [49 CFR 192.112(d)]

i. There must be a quality assurance program for pipe seam welds to assure tensile strength provided in API Specification 5L (incorporated by reference, see §507) for appropriate grades. [49 CFR 192.112(d)(1)]

ii. There must be a hardness test, using Vickers (Hv10) hardness test method or equivalent test method, to assure a maximum hardness of 280 Vickers of the following: [49 CFR 192.112(d)(2)]

(a). A cross section of the weld seam of one pipe from each heat plus one pipe from each welding line per day; and [49 CFR 192.112(d)(2)(i)]

(b). For each sample cross section, a minimum of 13 readings (three for each heat affected zone, three in the weld metal, and two in each section of pipe base metal). [49 CFR 192.112(d)(2)(ii)]

iii. All of the seams must be ultrasonically tested after cold expansion and mill hydrostatic testing. [49 CFR 192.112(d)(3)]

e. Mill hydrostatic test. [49 CFR 192.112(e)]

i. All pipe to be used in a new pipeline segment must be hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 95 percent SMYS for 10 seconds. The test pressure may include a combination of internal test pressure and the allowance for end loading stresses imposed by the pipe mill hydrostatic testing equipment as allowed by API Specification 5L, Appendix K (incorporated by reference, see §507). [49 CFR 192.112(e)(1)]

ii. Pipe in operation prior to November 17, 2008, must have been hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 90 percent SMYS for 10 seconds. [49 CFR 192.112(e)(2)]

f. Coating. [49 CFR 192.112(f)]

i. The pipe must be protected against external corrosion by a non-shielding coating. [49 CFR 192.112(f)(1)]

ii. Coating on pipe used for trenchless installation must be non-shielding and resist abrasions and other damage possible during installation. [49 CFR 192.112(f)(2)]

iii. A quality assurance inspection and testing program for the coating must cover the surface quality of the bare pipe, surface cleanliness and chlorides, blast cleaning, application temperature control, adhesion, cathodic

disbondment, moisture permeation, bending, coating thickness, holiday detection, and repair. [49 CFR 192.112(f)(3)]

g. Fittings and flanges. [49 CFR 192.112(g)]

i. There must be certification records of flanges, factory induction bends and factory weld ells. Certification must address material properties such as chemistry, minimum yield strength and minimum wall thickness to meet design conditions. [49 CFR 192.112(g)(1)]

ii. If the carbon equivalents of flanges, bends and ells are greater than 0.42 percent by weight, the qualified welding procedures must include a pre-heat procedure. [49 CFR 192.112(g)(2)]

iii. Valves, flanges and fittings must be rated based upon the required specification rating class for the alternative MAOP. [49 CFR 192.112(g)(3)]

h. Compressor stations. [49 CFR 192.112(h)]

i. A compressor station must be designed to limit the temperature of the nearest downstream segment operating at alternative MAOP to a maximum of 120 degrees Fahrenheit (49 degrees Celsius) or the higher temperature allowed in Clause h.ii of this Section unless a long-term coating integrity monitoring program is implemented in accordance with Clause h.iii of this Section. [49 CFR 192.112(h)(1)]

ii. If research, testing and field monitoring tests demonstrate that the coating type being used will withstand a higher temperature in long-term operations, the compressor station may be designed to limit downstream piping to that higher temperature. Test results and acceptance criteria addressing coating adhesion, cathodic disbondment, and coating condition must be provided to each PHMSA pipeline safety regional office where the pipeline is in service at least 60 days prior to operating above 120 degrees Fahrenheit (49 degrees Celsius). An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.112(h)(2)]

iii. Pipeline segments operating at alternative MAOP may operate at temperatures above 120 degrees Fahrenheit (49 degrees Celsius) if the operator implements a long-term coating integrity monitoring program. The monitoring program must include examinations using direct current voltage gradient (DCVG), alternating current voltage gradient (ACVG), or an equivalent method of monitoring coating integrity. An operator must specify the periodicity at which these examinations occur and criteria for repairing identified indications. An operator must submit its long-term coating integrity monitoring program to each PHMSA pipeline safety regional office in which the pipeline is located for review before the pipeline segments may be operated at temperatures in excess of 120 degrees Fahrenheit (49 degrees Celsius). An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.112(h)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:2802 (December 2009).

§921. Design of Plastic Pipe [49 CFR 192.121]

A. Subject to the limitations of §923, the design pressure for plastic pipe is determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{D - t} (DF)$$

$$P = \frac{2S}{(SDR - 1)} (DF)$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB is determined in accordance with the listed specification at a temperature equal to 73 °F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2004, *HDB/PDB/SDB/MRS Policies*, (incorporated by reference, see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa). [Note: Arithmetic interpolation is not allowed for PA-11 pipe.]

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR= Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

DF = 0.32 or

= 0.40 for nominal pipe size (IPS or CTS) 4-inch or less,

SDR-11 or greater (i.e., thicker pipe wall), PA-11 pipe produced after January 23, 2009. [49 CFR 192.121]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009).

§923. Design Limitations for Plastic Pipe [49 CFR 192.123]

A. Except as provided in Subsection E and Subsection F of this Section, the design pressure may not exceed a gauge pressure of 100 psig (689 kPa) for plastic pipe used in: [49 CFR 192.123(a)]

A.1 – C. ...

D. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table. [49 CFR 192.123(d)]

Nominal Size in Inches (Millimeters)	Minimum Wall Thickness Inches (Millimeters)
2 (51)	0.060 (1.52)
3 (76)	0.060 (1.52)
4 (102)	0.070 (1.78)
6 (152)	0.100 (2.54)

E. - E.4. ...

F. The design pressure for polyamide-11 (PA-11) pipe produced after January 23, 2009 may exceed a gauge pressure of 100 psig (689 kPa) provided that: [49 CFR 192.123(f)]

1. The design pressure does not exceed 200 psig (1379 kPa); [49 CFR 192.123(f)(1)]

2. The pipe size is nominal pipe size (IPS or CTS) 4-inch or less; and [49 CFR 192.123(f)(2)]

3. The pipe has a standard dimension ratio of SDR-11 or greater (i.e., thicker pipe wall). [49 CFR 192.123(f)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009).

**Subpart 3. Transportation of Natural Gas or Other Gas
By Pipeline: Minimum Safety Standards
[49 CFR Part 192]**

**Chapter 11. Design of Pipeline Components
[Subpart D]**

§1103. General Requirements [49 CFR 192.143]

A. Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings without impairment of its serviceability with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service. However, if design based upon unit stresses is impractical for a particular component, design may be based upon a pressure rating established by the manufacturer by pressure testing that component or a prototype of the component. [49 CFR 192.143(a)]

B. The design and installation of pipeline components and facilities must meet applicable requirements for corrosion control found in Chapter 21 of this Subpart. [49 CFR 192.143(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1232 (June 2004), LR 35:2805 (December 2009).

**§1143. Vaults: Structural Design Requirements
[49 CFR 192.183]**

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 30:1238 (June 2004), LR 35:2805 (December 2009).

**Subpart 3. Transportation of Natural or Other Gas by
Pipeline: Minimum Safety Standards [49CFR Part 192]
Chapter 17. General Construction Requirements for
Transmission Lines and Mains
[Subpart G]**

§1727. Cover [49 CFR 192.327]

A. - E. ...

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet

(60 meters) deep, as measured from the mean low tide, must be installed as follows. [49 CFR 192.327(f)]

1. Except as provided in Subsection C of this Section, pipe under water less than 12 feet (3.66 meters) deep, must be installed with a minimum cover of 36 inches (914 millimeters) in soil or 18 inches (457 millimeters) in consolidated rock between the top of the pipe and the natural bottom. [49 CFR 192.327(f)(1)]

2. Pipe under water at least 12 feet (3.66 meters) deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. [49 CFR 192.327(f)(2)]

G. All pipelines installed under water in the Gulf of Mexico and its inlets, as defined in §503, must be installed in accordance with §2712.C.3. [49 CFR 192.327(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1247 (June 2004), LR 31:684 (March 2005), LR 35:2805 (December 2009).

**§1728. Additional Construction Requirements for Steel
Pipe Using Alternative Maximum Allowable
Operating Pressure. [49 CFR 192.328]**

A. For a new or existing pipeline segment to be eligible for operation at the alternative maximum allowable operating pressure calculated under §2720, a segment must meet the following additional construction requirements. Records must be maintained, for the useful life of the pipeline, demonstrating compliance with these requirements: [49 CFR 192.328]

1. to address these construction issues (a.-e.): The pipeline segment must meet this additional construction requirement: [49 CFR 192.328]

a. quality assurance. [49 CFR 192.328(a)]

i. the construction of the pipeline segment must be done under a quality assurance plan addressing pipe inspection, hauling and stringing, field bending, welding, non-destructive examination of girth welds, applying and testing field applied coating, lowering of the pipeline into the ditch, padding and backfilling, and hydrostatic testing. [49 CFR 192.328(a)(1)]

ii. The quality assurance plan for applying and testing field applied coating to girth welds must be: [49 CFR 192.328(a)(2)]

(a). Equivalent to that required under §912.A.1.f.iii for pipe; and [49 CFR 192.328(a)(2)(i)]

(b). Performed by an individual with the knowledge, skills, and ability to assure effective coating application. [49 CFR 192.328(a)(2)(ii)]

b. Girth welds. [49 CFR 192.328(b)]

i. All girth welds on a new pipeline segment must be non-destructively examined in accordance with §1323.B and C. [49 CFR 192.328(b)(1)]

c. Depth of cover. [49 CFR 192.328(c)]

i. Notwithstanding any lesser depth of cover otherwise allowed in §1727, there must be at least 36 inches (914 millimeters) of cover or equivalent means to protect the pipeline from outside force damage. [49 CFR 192.328(c)(1)]

ii. In areas where deep tilling or other activities could threaten the pipeline, the top of the pipeline must be installed at least one foot below the deepest expected penetration of the soil. [49 CFR 192.328(c)(2)]

d. Initial strength testing. [49 CFR 192.328(d)]

i. The pipeline segment must not have experienced failures indicative of systemic material defects during strength testing, including initial hydrostatic testing. A root cause analysis, including metallurgical examination of the failed pipe, must be performed for any failure experienced to verify that it is not indicative of a systemic concern. The results of this root cause analysis must be reported to each PHMSA pipeline safety regional office where the pipe is in service at least 60 days prior to operating at the alternative MAOP. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.328(d)(1)]

e. Interference currents. [49 CFR 192.328(e)]

i. For a new pipeline segment, the construction must address the impacts of induced alternating current from parallel electric transmission lines and other known sources of potential interference with corrosion control. [49 CFR 192.328(e)(1)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:2805 (December 2009).

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 21. Requirements for Corrosion Control [Subpart I]

§2128. Internal Corrosion Control: Design and Construction of Transmission Line [49 CFR 192.476]

A. Design and construction. Except as provided in subsection B of this section, each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line must have features incorporated into its design and construction to reduce the risk of internal corrosion. At a minimum, unless it is impracticable or unnecessary to do so, each new transmission line or replacement of line pipe, valve, fitting, or other line component in a transmission line must: [49 CFR 192.476(a)]

1. be configured to reduce the risk that liquids will collect in the line; [49 CFR 192.476(a)(1)]

2. have effective liquid removal features whenever the configuration would allow liquids to collect; and [49 CFR 192.476(a)(2)]

3. allow use of devices for monitoring internal corrosion at locations with significant potential for internal corrosion. [49 CFR 192.476(a)(3)]

B. Exceptions to applicability. The design and construction requirements of Subsection A of this Section do not apply to the following: [49 CFR 192.476(b)]

1. offshore pipeline; and [49 CFR 192.476(b)(1)]

2. pipeline installed or line pipe, valve, fitting or other line component replaced before May 23, 2007. [49 CFR 192.476(b)(2)]

C. Change to existing transmission line. When an operator changes the configuration of a transmission line, the operator must evaluate the impact of the change on internal corrosion risk to the downstream portion of an existing onshore transmission line and provide for removal of liquids and monitoring of internal corrosion as appropriate. [49 CFR 192.476(c)]

D. Records. An operator must maintain records demonstrating compliance with this Section. Provided the records show why incorporating design features addressing paragraph A.1, A.2, or A.3 of this Section is impracticable or unnecessary, an operator may fulfill this requirement through written procedures supported by as-built drawings or other construction records. [49 CFR 192.476(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:2806 (December 2009).

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 27. Operations [Subpart L]

§2711. Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure [49 CFR 192.611]

A. ...

1. If the segment involved has been previously tested in place for a period of not less than 8 hours: [49 CFR 192.611(a)(1)]

a. The maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations. [49 CFR 192.611(a)(1)(i)]

b. The alternative maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations and 0.667 times the test pressure in Class 3 locations. For pipelines operating at alternative maximum allowable pressure per §2720, the corresponding hoop stress may not exceed 80 percent of the SMYS of the pipe in Class 2 locations and 67 percent of SMYS in Class 3 locations. [49 CFR 192.611(a)(1)(ii)]

2. - 3.b. ...

c. For pipeline operating at an alternative maximum allowable operating pressure per §2720, the alternative maximum allowable operating pressure after the requalification test is 0.8 times the test pressure for Class 2 locations and 0.667 times the test pressure for Class 3 locations. The corresponding hoop stress may not exceed 80 percent of the SMYS of the pipe in Class 2 locations and 67 percent of SMYS in Class 3 locations. [49 CFR 192.611(a)(3)(iii)]

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:533 (July 1984), LR 18:858 (August 1992), LR 30:1261 (June 2004), LR 31:684 (March 2005), LR 35:2806 (December 2009).

§2716. Public Awareness [49 CFR 192.616]

A. Except for an operator of a master meter or petroleum gas system covered under Subsection J of this Section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (Incorporated by Reference, see §507). [49 CFR 192.616(a)]

B. - G. ...

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. The operator of a master meter or petroleum gas system covered under Subsection J of this Section must complete development of its written procedure by June 13, 2008. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency. [49 CFR 192.616(h)]

I. ...

J. Unless the operator transports gas as a primary activity, the operator of a master meter or petroleum gas system is not required to develop a public awareness program as prescribed in Subsections A through G of this Section. Instead the operator must develop and implement a written procedure to provide its customers public awareness messages twice annually. If the master meter or petroleum gas system is located on property the operator does not control, the operator must provide similar messages twice annually to persons controlling the property. The public awareness message must include: [49 CFR 192.616(j)]

- 1. a description of the purpose and reliability of the pipeline; [49 CFR 192.616(j)(1)]
- 2. an overview of the hazards of the pipeline and prevention measures used; [49 CFR 192.616(j)(2)]
- 3. information about damage prevention; [49 CFR 192.616(j)(3)]
- 4. how to recognize and respond to a leak; and [49 CFR 192.616(j)(4)]
- 5. how to get additional information. [49 CFR 192.616(j)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:823 (August 1995), LR 30:1264 (June 2004), LR 33:480 (March 2007), LR 35:2807 (December 2009).

§2719. What is the maximum allowable operating pressure for steel or plastic pipelines? [49 CFR 192.619]

A. No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under Subsection C or D of this Section, or the lowest of the following: [49 CFR 192.619(a)]

A.1. - C. ...

D. The operator of a pipeline segment of steel pipeline meeting the conditions prescribed in §2720.B may elect to operate the segment at a maximum allowable operating pressure determined under §2720.A. [49 CFR 192.619(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983),

amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007), LR 35:2807 (December 2009).

§2720 Alternative maximum allowable operating pressure for certain steel pipelines. [49 CFR 192.620]

A. *How does an operator calculate the alternative maximum allowable operating pressure?* An operator calculates the alternative maximum allowable operating pressure by using different factors in the same formulas used for calculating maximum allowable operating pressure under §2719.A as follows: [49 CFR 192.620(a)]

1. In determining the alternative design pressure under §905, use a design factor determined in accordance with §911.B, C, or D or, if none of these Subsections apply, in accordance with the following table: [49 CFR 192.620(a)(1)]

Class Location	Alternative design factor (F)
1	0.80
2	0.67
3	0.56

a. For facilities installed prior to November 17, 2008, for which §911.B, C, or D apply, use the following design factors as alternatives for the factors specified in those Subsections: §911.B–0.67 or less; 911.C and D–0.56 or less. [49 CFR 192.620(a)(1)(i)]

2. The alternative maximum allowable operating pressure is the lower of the following: [49 CFR 192.620(a)(2)]

a. The design pressure of the weakest element in the pipeline segment, determined under Chapters 9 and 11 of this Subpart. [49 CFR 192.620(a)(2)(i)]

b. The pressure obtained by dividing the pressure to which the pipeline segment was tested after construction by a factor determined in the following table: [49 CFR 192.620(a)(2)(ii)]

Class Location	Alternative test factor
1	1.25
2	¹ 1.50
3	1.50

¹For Class 2 alternative maximum allowable operating pressure segments installed prior to November 17, 2008, the alternative test factor is 1.25.

B. *When may an operator use the alternative maximum allowable operating pressure calculated under Subsection A of this Section?* An operator may use an alternative maximum allowable operating pressure calculated under subsection A of this Section if the following conditions are met: [49 CFR 192.620(b)]

1. The pipeline segment is in a Class 1, 2, or 3 location; [49 CFR 192.620(b)(1)]

2. The pipeline segment is constructed of steel pipe meeting the additional design requirements in §912; [49 CFR 192.620(b)(2)]

3. A supervisory control and data acquisition system provides remote monitoring and control of the pipeline segment. The control provided must include monitoring of pressures and flows, monitoring compressor start-ups and shut-downs, and remote closure of valves; [49 CFR 192.620(b)(3)]

4. The pipeline segment meets the additional construction requirements described in §1728; [49 CFR 192.620(b)(4)]

5. The pipeline segment does not contain any mechanical couplings used in place of girth welds; [49 CFR 192.620(b)(5)]

6. If a pipeline segment has been previously operated, the segment has not experienced any failure during normal operations indicative of a systemic fault in material as determined by a root cause analysis, including metallurgical examination of the failed pipe. The results of this root cause analysis must be reported to each PHMSA pipeline safety regional office where the pipeline is in service at least 60 days prior to operation at the alternative MAOP. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that State; and [49 CFR 192.620(b)(6)]

7. At least 95 percent of girth welds on a segment that was constructed prior to November 17, 2008, must have been non-destructively examined in accordance with §1323.B and C. [49 CFR 192.620(b)(7)]

C. *What is an operator electing to use the alternative maximum allowable operating pressure required to do?* If an operator elects to use the alternative maximum allowable operating pressure calculated under subsection A of this Section for a pipeline segment, the operator must do each of the following. [49 CFR 192.620(c)]

1. Notify each PHMSA pipeline safety regional office where the pipeline is in service of its election with respect to a segment at least 180 days before operating at the alternative maximum allowable operating pressure. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.620(c)(1)]

2. Certify, by signature of a senior executive officer of the company, as follows: [49 CFR 192.620(c)(2)]

a. the pipeline segment meets the conditions described in Subsection B of this Section; and [49 CFR 192.620(c)(2)(i)]

b. the operating and maintenance procedures include the additional operating and maintenance requirements of Subsection D of this Section; and [49 CFR 192.620(c)(2)(ii)]

c. the review and any needed program upgrade of the damage prevention program required by Clause D.1.d.v of this Section has been completed. [49 CFR 192.620(c)(2)(iii)]

3. Send a copy of the certification required by Paragraph C.2 of this Section to each PHMSA pipeline safety regional office where the pipeline is in service 30 days prior to operating at the alternative MAOP. An operator must also send a copy to a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.620(c)(3)]

4. For each pipeline segment, do one of the following: [49 CFR 192.620(c)(4)]

a. perform a strength test as described in §2305 at a test pressure calculated under Subsection A of this Section; or [49 CFR 192.620(c)(4)(i)]

b. for a pipeline segment in existence prior to November 17, 2008, certify, under Paragraph C.2 of this Section, that the strength test performed under §2305 was conducted at a test pressure calculated under Subsection A of this Section, or conduct a new strength test in accordance with Subparagraph C.4.a of this sStion. [49 CFR 192.620(c)(4)(ii)]

5. Comply with the additional operation and maintenance requirements described in Subsection D of this Section. [49 CFR 192.620(c)(5)]

6. If the performance of a construction task associated with implementing alternative MAOP can affect the integrity of the pipeline segment, treat that task as a “covered task”, notwithstanding the definition in §3101.B and implement the requirements of Chapter 31 as appropriate. [49 CFR 192.620(c)(6)]

7. Maintain, for the useful life of the pipeline, records demonstrating compliance with Subsections B, C.6, and D of this Section. [49 CFR 192.620(c)(7)]

8. A Class 1 and Class 2 pipeline location can be upgraded one class due to class changes per §2711.A.3.a. All class location changes from Class 1 to Class 2 and from Class 2 to Class 3 must have all anomalies evaluated and remediated per: The “original pipeline class grade” §2720.D.1.k anomaly repair requirements; and all anomalies with a wall loss equal to or greater than 40 percent must be excavated and remediated. Pipelines in Class 4 may not operate at an alternative MAOP. [49 CFR 192.620(c)(8)]

D. What additional operation and maintenance requirements apply to operation at the alternative maximum allowable operating pressure? In addition to compliance with other applicable safety standards in this Part, if an operator establishes a maximum allowable operating pressure for a pipeline segment under Subsection A of this Section, an operator must comply with the additional operation and maintenance requirements as follows. [49 CFR 192.620(d)]

1. To address increased risk of a maximum allowable operating pressure based on higher stress levels in the following areas (a–k): Take the following additional steps: [49 CFR 192.620(d)]

a. identifying and evaluating threats. Develop a threat matrix consistent with §3317 to do the following: [49 CFR 192.620(d)(1)]

i. identify and compare the increased risk of operating the pipeline at the increased stress level under this Section with conventional operation; and [49 CFR 192.620(d)(1)(i)]

ii. describe and implement procedures used to mitigate the risk; [49 CFR 192.620(d)(1)(ii)]

b. notifying the public: [49 CFR 192.620(d)(2)]

i. recalculate the potential impact circle as defined in §3303 to reflect use of the alternative maximum operating pressure calculated under Subsection A of this Section and pipeline operating conditions; and [49 CFR 192.620(d)(2)(i)]

ii. in implementing the public education program required under §2716, perform the following: [49 CFR 192.620(d)(2)(ii)]

(a). include persons occupying property within 220 yards of the centerline and within the potential impact circle within the targeted audience; and [49 CFR 192.620(d)(2)(ii)(A)]

(b). include information about the integrity management activities performed under this Section within the message provided to the audience; [49 CFR 192.620(d)(2)(ii)(B)]

c. responding to an emergency in an area defined as a high consequence area in §3303: [49 CFR 192.620(d)(3)]

i. ensure that the identification of high consequence areas reflects the larger potential impact circle recalculated under Clause D.1.a.i of this Section; [49 CFR 192.620(d)(3)(i)]

ii. if personnel response time to mainline valves on either side of the high consequence area exceeds one hour (under normal driving conditions and speed limits) from the time the event is identified in the control room, provide remote valve control through a supervisory control and data acquisition (SCADA) system, other leak detection system, or an alternative method of control; [49 CFR 192.620(d)(3)(ii)]

iii. remote valve control must include the ability to close and monitor the valve position (open or closed), and monitor pressure upstream and downstream; [49 CFR 192.620(d)(3)(iii)]

iv. a line break valve control system using differential pressure, rate of pressure drop or other widely-accepted method is an acceptable alternative to remote valve control; [49 CFR 192.620(d)(3)(iv)]

d. protecting the right-of-way: [49 CFR 192.620(d)(4)]

i. patrol the right-of-way at intervals not exceeding 45 days, but at least 12 times each calendar year, to inspect for excavation activities, ground movement, wash outs, leakage, or other activities or conditions affecting the safety operation of the pipeline: [49 CFR 192.620(d)(4)(i)]

ii. develop and implement a plan to monitor for and mitigate occurrences of unstable soil and ground movement; [49 CFR 192.620(d)(4)(ii)]

iii. if observed conditions indicate the possible loss of cover, perform a depth of cover study and replace cover as necessary to restore the depth of cover or apply alternative means to provide protection equivalent to the originally-required depth of cover; [49 CFR 192.620(d)(4)(iii)]

iv. use line-of-sight line markers satisfying the requirements of §2907.D except in agricultural areas, large water crossings or swamp, steep terrain, or where prohibited by Federal Energy Regulatory Commission orders, permits, or local law; [49 CFR 192.620(d)(4)(iv)]

v. review the damage prevention program under §2714.A in light of national consensus practices, to ensure the program provides adequate protection of the right-of-way. Identify the standards or practices considered in the review, and meet or exceed those standards or practices by incorporating appropriate changes into the program; [49 CFR 192.620(d)(4)(v)]

vi. develop and implement a right-of-way management plan to protect the pipeline segment from damage due to excavation activities; [49 CFR 192.620(d)(4)(vi)]

e. controlling internal corrosion: [49 CFR 192.620(d)(5)]

i. develop and implement a program to monitor for and mitigate the presence of, deleterious gas stream constituents; [192.620(d)(5)(i)]

ii. at points where gas with potentially deleterious contaminants enters the pipeline, use filter separators or separators and gas quality monitoring equipment. [49 CFR 192.620(d)(5)(ii)]

iii. Use gas quality monitoring equipment that includes a moisture analyzer, chromatograph, and periodic hydrogen sulfide sampling. [49 CFR 192.620(d)(5)(iii)]

iv. use cleaning pigs and inhibitors, and sample accumulated liquids when corrosive gas is present; [49 CFR 192.620(d)(5)(iv)]

v. address deleterious gas stream constituents as follows: [49 CFR 192.620(d)(5)(v)]

(a). limit carbon dioxide to 3 percent by volume; [49 CFR 192.620(d)(5)(v)(A)]

(b). allow no free water and otherwise limit water to seven pounds per million cubic feet of gas; and [49 CFR 192.620(d)(5)(v)(B)]

(c). limit hydrogen sulfide to 1.0 grain per hundred cubic feet (16 ppm) of gas, where the hydrogen sulfide is greater than 0.5 grain per hundred cubic feet (8 ppm) of gas, implement a pigging and inhibitor injection program to address deleterious gas stream constituents, including follow-up sampling and quality testing of liquids at receipt points; [49 CFR 192.620(d)(5)(v)(C)]

vi. review the program at least quarterly based on the gas stream experience and implement adjustments to monitor for, and mitigate the presence of, deleterious gas stream constituents; [49 CFR 192.620(d)(5)(vi)]

f. controlling interference that can impact external corrosion: [49 CFR 192.620(d)(6)]

i. prior to operating an existing pipeline segment at an alternate maximum allowable operating pressure calculated under this section, or within six months after placing a new pipeline segment in service at an alternate maximum allowable operating pressure calculated under this section, address any interference currents on the pipeline segment; [49 CFR 192.620(d)(6)(i)]

ii. to address interference currents, perform the following: [49 CFR 192.620(d)(6)(ii)]

(a). conduct an interference survey to detect the presence and level of any electrical current that could impact external corrosion where interference is suspected; [49 CFR 192.620(d)(6)(ii)(A)]

(b). analyze the results of the survey; and [49 CFR 192.620(d)(6)(ii)(B)]

(c). take any remedial action needed within 6 months after completing the survey to protect the pipeline segment from deleterious current; [49 CFR 192.620(d)(6)(ii)(C)]

g. confirming external corrosion control through indirect assessment: [49 CFR 192.620(d)(7)]

i. within six months after placing the cathodic protection of a new pipeline segment in operation, or within six months after certifying a segment under §2720.C.1 of an existing pipeline segment under this Section, assess the adequacy of the cathodic protection through an indirect method such as close-interval survey, and the integrity of

the coating using direct current voltage gradient (DCVG) or alternating current voltage gradient (ACVG); [49 CFR 192.620(d)(7)(i)]

ii. remediate any construction damaged coating with a voltage drop classified as moderate or severe (IR drop greater than 35% for DCVG or 50 dB[μ]v for ACVG) under section 4 of NACE RP-0502-2002 (incorporated by reference, see §507); [49 CFR 192.620(d)(7)(ii)]

iii. within six months after completing the baseline internal inspection required under Subparagraph h of this Section, integrate the results of the indirect assessment required under Clause D.1.f.i of this Section with the results of the baseline internal inspection and take any needed remedial actions; [49 CFR 192.620(d)(7)(iii)]

iv. for all pipeline segments in high consequence areas, perform periodic assessments as follows: [49 CFR 192.620(d)(7)(iv)]

(a). conduct periodic close interval surveys with current interrupted to confirm voltage drops in association with periodic assessments under Chapter 33 of this Subpart: [49 CFR 192.620(d)(7)(iv)(A)]

(b). locate pipe-to-soil test stations at half-mile intervals within each high consequence area ensuring at least one station is within each high consequence area, if practicable; [49 CFR 192.620(d)(7)(iv)(B)]

(c). integrate the results with those of the baseline and periodic assessments for integrity done under Subparagraphs D.1.h and D.1.i of this Section; [49 CFR 192.620(d)(7)(iv)(C)]

h. controlling external corrosion through cathodic protection: [49 CFR 192.620(d)(8)]

i. if an annual test station reading indicates cathodic protection below the level of protection required in Chapter 21 of this Subpart, complete remedial action within six months of the failed reading or notify each PHMSA pipeline safety regional office where the pipeline is in service demonstrating that the integrity of the pipeline is not compromised if the repair takes longer than 6 months. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state; and [49 CFR 192.620(d)(8)(i)]

ii. after remedial action to address a failed reading, confirm restoration of adequate corrosion control by a close interval survey on either side of the affected test station to the next test station; [49 CFR 192.620(d)(8)(ii)]

iii. If the pipeline segment has been in operation, the cathodic protection system on the pipeline segment must have been operational within 12 months of the completion of construction; [49 CFR 192.620(d)(8)(iii)]

i. conducting a baseline assessment of integrity; [49 CFR 192.620(d)(9)]

i. Except as provided in Clause D.1.h.iii of this section, for a new pipeline segment operating at the new alternative maximum allowable operating pressure, perform a baseline internal inspection of the entire pipeline segment as follows: [49 CFR 192.620(d)(9)(i)]

(a). assess using a geometry tool after the initial hydrostatic test and backfill and within six months after placing the new pipeline segment in service; and [49 CFR 192.620(d)(9)(i)(A)]

(b). assess using a high resolution magnetic flux tool within three years after placing the new pipeline segment in service at the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(9)(i)(B)]

ii. except as provided in Clause D.1.h.iii of this section, for an existing pipeline segment, perform a baseline internal assessment using a geometry tool and a high resolution magnetic flux tool before, but within two years prior to, raising pressure to the alternative maximum allowable operating pressure as allowed under this Section; [49 CFR 192.620(d)(9)(ii)]

iii. if headers, mainline valve by-passes, compressor station piping, meter station piping, or other short portion of a pipeline segment operating at alternative maximum allowable operating pressure cannot accommodate a geometry tool and a high resolution magnetic flux tool, use direct assessment (per §3325, §3327 and/or §3329) or pressure testing (per Chapter 23 of this Subpart) to assess that portion; [49 CFR 192.620(d)(9)(iii)]

j. conducting periodic assessments of integrity: [49 CFR 192.620(d)(10)]

i. determine a frequency for subsequent periodic integrity assessments as if all the alternative maximum allowable operating pressure pipeline segments were covered by Chapter 33 of this Subpart; and [49 CFR 192.620(d)(10)(i)]

ii. conduct periodic internal inspections using a high resolution magnetic flux tool on the frequency determined under Clause D.1.i.i of this Section, or [49 CFR 192.620(d)(10)(ii)]

iii. use direct assessment (per §3325, §3327 and/or §3329) or pressure testing (per Chapter 23 of this Subpart) for periodic assessment of a portion of a segment to the extent permitted for a baseline assessment under Clause D.1.h.iii of this Section;

k. making repairs: [49 CFR 192.620(d)(11)]

i. perform the following when evaluating an anomaly: [49 CFR 192.620(d)(11)(i)]

(a). use the most conservative calculation for determining remaining strength or an alternative validated calculation based on pipe diameter, wall thickness, grade, operating pressure, operating stress level, and operating temperature: and [49 CFR 192.620(d)(11)(i)(A)]

(b). take into account the tolerances of the tools used for the inspection; [49 CFR 192.620(d)(11)(i)(B)]

ii. repair a defect immediately if any of the following apply: [49 CFR 192.620(d)(11)(ii)]

(a). the defect is a dent discovered during the baseline assessment for integrity under Subparagraph D.1.h of this Section and the defect meets the criteria for immediate repair in §1709.B; [49 CFR 192.620(d)(11)(ii)(A)]

(b). the defect meets the criteria for immediate repair in §3333.D; [49 CFR 192.620(d)(11)(ii)(B)]

(c). the alternative maximum allowable operating pressure was based on a design factor of 0.67 under Subsection A of this Section and the failure pressure is less than 1.25 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(ii)(C)]

(d). the alternative maximum allowable operating pressure was based on a design factor of 0.56

under Subsection A of this Section and the failure pressure is less than or equal to 1.4 times the alternative maximum allowable operating pressure; [49 CFR 192.620(11)(ii)(D)]

iii. if Clause D.1.j.ii of this Section does not require immediate repair, repair a defect within one year if any of the following apply: [49 CFR 192.620(d)(11)(iii)]

(a). the defect meets the criteria for repair within one year in §3333.D; [49 CFR 192.620(d)(11)(iii)(A)]

(b). the alternative maximum allowable operating pressure was based on a design factor of 0.80 under Subsection A of this Section and the failure pressure is less than 1.25 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(iii)(B)]

(c). the alternative maximum allowable operating pressure was based on a design factor of 0.67 under Subsection A of this Section and the failure pressure is less than 1.50 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(iii)(C)]

(d). the alternative maximum allowable operating pressure was based on a design factor of 0.56 under Subsection A of this Section and the failure pressure is less than or equal to 1.80 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(iii)(D)]

iv. evaluate any defect not required to be repaired under Clause D.1.j.ii or iii of this Section to determine its growth rate, set the maximum interval for repair or re-inspection, and repair or re-inspect within that interval. [49 CFR 192.620(d)(11)(iv)]

E. Is there any change in overpressure protection associated with operating at the alternative maximum allowable operating pressure? Notwithstanding the required capacity of pressure relieving and limiting stations otherwise required by §1161, if an operator establishes a maximum allowable operating pressure for a pipeline segment in accordance with Subsection A of this Section, an operator must: [49 CFR 192.620(e)]

1. provide overpressure protection that limits mainline pressure to a maximum of 104 percent of the maximum allowable operating pressure; and [49 CFR 192.620(e)(1)]

2. develop and follow a procedure for establishing and maintaining accurate set points for the supervisory control and data acquisition system. [49 CFR 192.620(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:2807 (December 2009).

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 29. Maintenance [Subpart M]

§2927. Abandonment or Deactivation of Facilities [49 CFR 192.727]

A. - G. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at <http://www.npms.phmsa.dot.gov> or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if

they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; fax (202) 366-4566; e-mail: InformationResourcesManager@PHMSA.dot.gov.

2. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 192.727(g)(1)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:538 (July 1984), LR 21:824 (August 1995), LR 27:1549 (September 2001), LR 30:1269 (June 2004), LR 33:481 (March 2007), LR 35:2811 (December 2009).

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 31. Operator Qualification [Subpart N] §3105. Qualification Program [49 CFR 192.805]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks; [49 CFR 192.805(f)]

A.7. - A.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007), LR 35:2811 (December 2009).

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 33. Gas Transmission Pipeline Integrity Management [Subpart O]

§3303. What Definitions Apply to this Chapter? [49 CFR 192.903]

A. ...

High Consequence Area—an area established by one of the methods described in Subparagraphs a or b as follows:

a. - c. ...

d. If in identifying a high consequence area under Clause a.iii of this definition or Clause b.i of this definition, the radius of the potential impact circle is greater than 660 feet (200 meters), the operator may identify a high

consequence area based on a prorated number of buildings intended for human occupancy within a distance 660 feet (200 meters) from the centerline of the pipeline until December 17, 2006. If an operator chooses this approach, the operator must prorate the number of buildings intended for human occupancy based on the ratio of an area with a radius of 660 feet (200 meters) to the area of the potential impact circle (i.e., the prorated number of buildings intended for human occupancy is equal to 20 x (660 feet) [or 200 meters]/ potential impact radius in feet [or meters]²).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1273 (June 2004), LR 31:685 (March 2005), LR 33:483 (March 2007), LR 35:2811 (December 2009).

§3327. What Are the Requirements for Using Internal Corrosion Direct Assessment (ICDA)?
[49 CFR 192.927]

A. - C.1. ...

a. all data elements listed in Appendix A2 of ASME/ANSI B31.8S; [49 CFR 192.927(c)(1)(i)]

C.1.b.-5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1279 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007), LR 35:2812 (December 2009).

§3333. What Actions Must Be Taken to Address Integrity Issues? [49 CFR 192.933]

A. General Requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment. [49 CFR 192.933(a)]

1. Temporary Pressure Reduction. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must determine any temporary reduction in operating pressure required by this Section using ASME/ANSI B31G (incorporated by reference, see §507) or AGA Pipeline Research Committee Project PR-3-805 ("RSTRENG," incorporated by reference, see §507) or reduce the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. (See §507 to this Part for information on availability of incorporation by reference information.) An operator must notify PHMSA in accordance with §3349 if it cannot meet the schedule for evaluation and remediation required under subsection C of this Section and cannot provide safety through temporary reduction in operating pressure or other action. An operator must also notify a state pipeline safety authority when either a covered segment is located in a state where PHMSA has an interstate agent agreement, or an

intrastate covered segment is regulated by that state. [49 CFR 192.933(a)(1)]

2. Long-term Pressure Reduction. When a pressure reduction exceeds 365 days, the operator must notify PHMSA under §3349 and explain the reasons for the remediation delay. This notice must include a technical justification that the continued pressure reduction will not jeopardize the integrity of the pipeline. The operator also must notify a state pipeline safety authority when either a covered segment is located in a state where PHMSA has an interstate agent agreement, or an intrastate covered segment is regulated by that's state. [49 CFR 192.933(a)(2)]

B. ...

C. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule prioritizing the conditions for evaluation and remediation. Unless a special requirement for remediating certain conditions applies, as provided in Subsection D of this Section, an operator must follow the schedule in ASME/ANSI B31.8S (incorporated by reference, see §507), section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must explain the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety. [49 CFR 192.933(c)]

D. - D.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), LR 35:2812 (December 2009).

§3349. How Does an Operator Notify PHMSA and the Louisiana Commissioner of Conservation?
[49 CFR 192.949]

A. An operator must provide any notification required by this Chapter to PHMSA by: [49 CFR 192.949]

1. sending the notification to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; [49 CFR 192.949(a)]

2. sending the notification by facsimile to (202) 366-4566; or [49 CFR 192.949(b)]

3. entering the information directly on the Integrity Management Database (IMDB) web site at <http://primis.phmsa.dot.gov/gasimp/>. [49 CFR 192.949(c)]

B. Any notification required by §3349.A must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007), LR 35:2812 (December 2009).

§3351. Where Does an Operator File a Report?
[49 CFR 192.951]

A. ...

1. by mail to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources

Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; [49 CFR 192.951(a)]

2. via facsimile to (202) 366-4566; or [49 CFR 192.951(b)]

3. through the online reporting system provided by PHMSA for electronic reporting available at the PHMSA Home Page at <http://phmsa.dot.gov> [49 CFR 192.951(c)]

B. Any report required by §3351.A must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275.

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Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 51. Appendices

§5103. Appendix B—Qualification of Pipe

I. Listed Pipe Specifications

API 5L—Steel pipe, "API Specification for Line Pipe" (incorporated by reference, see §507)

ASTM A 53/A53M—Steel pipe, "Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, welded and Seamless" (incorporated by reference, see §507)

ASTM A 106—Steel pipe, "Standard Specification for Seamless Carbon Steel Pipe for High temperature Service" (incorporated by reference, see §507)

ASTM A 333/A 333M—Steel pipe, "Standard Specification for Seamless and Welded steel Pipe for Low Temperature Service" (incorporated by reference, see §507)

ASTM A 381—Steel pipe, "Standard specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (incorporated by reference, see §507)

ASTM A 671—Steel pipe, "Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures" (incorporated by reference, see §507)

ASTM A 672—Steel pipe, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (incorporated by reference, see §507)

ASTM A 691—Steel pipe, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures" (incorporated by reference, see §507)

ASTM D 2513—"Thermoplastic pipe and tubing, "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (incorporated by reference, see §507)

ASTM D 2517—Thermosetting plastic pipe and tubing, "Standard Specification Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (incorporated by reference, see §507)

II. - III.C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR

27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:487 (March 2007), LR 35:2813 (December 2009).

Subpart 4. Drug and Alcohol Testing

Chapter 61. General [Part 199—Subpart A]

§6107. Stand-Down Waivers [49 CFR 199.7]

A. Each operator who seeks a waiver under 49 CFR §40.21 from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001 [49 CFR 199.7(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1293 (June 2004), amended LR 33:488 (March 2007), LR 35:2813 (December 2009).

Subpart 4. Drug and Alcohol Testing

Chapter 63. Drug Testing [Subpart B]

§6319. Reporting of Anti-Drug Testing Results [49 CFR 199.119]

A. ...

B. Each report required under this Section shall be submitted to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, PHP-60, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. [49 CFR 199.119(b)].

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1296 (June 2004), LR 33:488 (March 2007), LR 35:2813 (December 2009).

Subpart 4. Drug and Alcohol Testing

Chapter 65. Alcohol Misuse Prevention Program [Subpart C]

§6529. Reporting of Alcohol Testing Results [49 CFR 199.229]

A. - B. ...

C. Each report, required under this Section, shall be submitted to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP-60, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. [49 CFR 199.229(c)]

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:832 (August 1995), amended LR 30:1300 (June 2004), LR 35:2813 (December 2009).

James H. Welsh
Commissioner

0912#050

RULE

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Administrative Penalties (LAC 46:LIX.903)

Under the authority of R.S. 37:3288.B, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Private Security Examiners hereby amends Section 903 under Chapter 9 to amend the penalty schedule to allow for penalties up to \$50 per violation, where previously the maximum allowed was \$25. The board found the deterrent effect of the penalties was not effective at such a low amount.

The Rule will increase the maximum allowable administrative penalty the board can charge for violations of the rules governing private security companies, officers, and instructors.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LIX. Private Security Examiners
Chapter 9. Administrative Penalties
§903. Administrative Penalties Pursuant to R.S.
37:3288.B**

A. - C. ...

Penalty Fee Schedule	Not to Exceed
Licensee's failure to submit security officer application, fingerprint card, and/or necessary registration fees within prescribed time period. If the application, fingerprint card, and/or registration fees are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to resubmit fingerprint card after two written requests by the board when a deadline date is given. If the fingerprint card is not resubmitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to notify the board in writing within prescribed time period of security officers in their employ who have been terminated. If termination is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee or registrant's failure to submit information as requested by the board when a deadline date is given. If information is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to submit company license renewal fee prior to expiration date.	\$50/day up to \$500
Licensee's failure to submit renewal application and renewal fee for a registrant in their employ prior to expiration date. If the renewal application and renewal fee are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to have registrant in their employ trained within prescribed time period. If registrant is not trained within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to submit to the board a training verification form on a registrant in their employ within prescribed time period. If training verification is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Registrant's failure to carry on his person a temporary or permanent registration card while on duty.	\$50
Fingerprint cards repeatedly rejected by the Department of Public Safety as non-classifiable due to smudges, not being fully rolled, etc.	\$50
Registrant's performing security duties for any other person other than the licensee with whom he is registered.	\$50
Registrant's failure to sign registration card.	\$50
Registrant's failure to affix a photograph of registrant, taken within the last six months, to registration card.	\$50
Registrant's failure to timely surrender registration card when required to do so.	\$50
Registrant's possession or use of any registration card which has been improperly altered.	\$50
Registrant's defacing of a registration card.	\$50
Registrant's allowing improper use of a registration card.	\$50
Registrant carrying an unauthorized weapon while on duty.	not less than \$50 nor more than \$100
Licensee or registrant's submission of a check to the board that is returned from the bank deemed non-sufficient funds.	\$50
Licensee allowing registrant to carry an unauthorized weapon while on duty.	not less than \$50 nor more than \$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3288.B

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:757 (December 1987), amended LR 15:14 (January 1989), LR 18:196 (February 1992), LR 26:1077 (May 2000), LR 35:2814 (December 2009).

Wayne Rogillio
Executive Director

0912#094

RULE

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Company Licensure (LAC 46:LIX.201)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Private Security Examiners has amended Section 201 under Chapter 2 to add a requirement that an applicant for licensure include a copy of the Social Security card of the qualifying agent and/or of each officer partner of shareholder of the applicant company. The administrative processing fee is being increased by \$10 to cover administrative costs or processing company initial and renewal applications.

The Rule will add a requirement that an applicant for licensure include a copy of the Social Security card of the qualifying agent and/or of each officer partner or shareholder of the applicant company. Currently, only the Social Security number is given and sometimes is illegible. A copy of the card will alleviate any confusion in the application process.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E.8. ...

9. copy of applicant's or qualifying agent's Social Security card.

F. - I.2. ...

3. \$110 annual licensing fee to cover administrative costs.

I.3.Note. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997), LR 26:1068 (May 2000), LR 28:96 (January 2002), LR 28:2203 (October 2002), LR 31:1599 (July 2005), LR 35:2815 (December 2009).

Wayne Rogillio
Executive Director

0912#092

RULE

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Security Officer Registration (LAC 46:LIX.301)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Private Security Examiners has amended Section 301 under Chapter 3 to add a requirement that an applicant for registration who was previously exempt for paying processing fees because they worked less than 20 days at a

time, will now be required to submit a registration fee and administrative processing fee with documentation that was previously required.

The Rule adds a requirement that an applicant for registration who was previously exempt for paying processing fees because they worked less than 20 days at a time, will now be required to submit a registration fee and administrative processing fee with documentation that was previously required. The amount of the administrative fee for security officer applicant is also clearly stated at the end of the new rule.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - D.3....

4. if applicant has worked less than 20 consecutive calendar days, documentation must nevertheless be submitted along with the required fees and a termination form is included showing the dates worked;

D.5. - P.2. ...

Q. An administrative fee of \$10 made payable to the board will be assessed on all initial company applications and renewal applications, and any other fees that may be assessed by the board under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1599 (July 2005), LR 34:667 (April 2008), LR 35:2815 (December 2009).

Wayne Rogillio
Executive Director

0912#093

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Gaming

(LAC 42:VII.2723, 2730; IX.1907, 2707, 2715, 2723, 2730, 2735, 2901, 3302, 4315; XIII.2715, 2723, 2730, 4204 and 4209)

The Louisiana Gaming Control Board hereby gives notice that it has amended LAC 42:VII.2723, 2730, IX.1907, 2707, 2715, 2723, 2730, 2735, 2901, 3302, 4315, XIII.2715, 2723, 2730, 4204 and 4209.

Title 42

LOUISIANA GAMING

Subpart 2. Electronic Video Bingo

**Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

Chapter 27. Accounting Regulations

§2723. Internal Controls; Slots

A. - Q.25. ...

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

Q.27. - V.2. ...

a. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

b. - c. Repealed.

V.3. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000) amended LR 26:2305 (October 2000), LR 31:1603 (July 2005), LR 34:2648 (December 2008), LR 35:2198 (October 2009), LR 35:2815 (December 2009).

§2730. Exchange of Tokens

A. - C. ...

D. All tokens received by a licensed eligible facility as a result of an exchange authorized by this Section shall be returned to the issuing licensed eligible facility or riverboat licensee for redemption at least annually as part of an exchange unless the division approves otherwise in writing. Both licensed eligible facilities and riverboat licensees shall document the redemption in a manner approved by the division.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000), amended LR 34:2649 (December 2008), LR 35:2816 (December 2009).

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 19. General Provisions

§1907. Definitions, Words and Terms, Captions, Gender References

A. ...

* * *

Non-Gaming Supplier Permit—the same meaning as the term in R.S. 27:29.3.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999), amended LR 34:2653 (December 2008), LR 35:0000 (December 2009).

Chapter 27. Accounting Regulations

§2707. Record Retention

A. - B.4. ...

C. The Casino Operator or Casino Manager must have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan

shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2654 (December 2008), LR 35:2816 (December 2009).

§2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall be removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Casino Operator or Casino Manager's internal controls;

A.8.g.-J. ...

K. The casino operator or casino manager may extend credit to a patron only in the manner(s) provided in its internal control system approved by the division.

L. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2655 (December 2008), LR 35:2816 (December 2009).

§2723. Internal Controls; Slots

A. - Q.25. ...

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

Q.27. - V.2. ...

a. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

b. - c. Repealed.

V.3. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), LR 34:2657 (December 2008), LR 35:2816 (December 2009).

§2730. Exchange of Tokens and Chips

A. - C. ...

D. All tokens and chips received by a Casino Operator or Casino Manager as a result of an exchange authorized by this Section shall be returned to the issuing Casino Operator or Casino Manager for redemption at least annually as part of an exchange unless the division approves otherwise in writing. Both the issuing and receiving Casino Operator or Casino Manager shall document the redemption in a manner approved by the division.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1947 (October 1999), amended LR 34: 2658 (December 2008), LR 35:2816 (December 2009).

§2735. Gross Gaming Revenue Computations

A. For each table game, gross gaming revenue shall equal the soft count drop, plus or minus the change in table inventory, plus or minus the chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the chip float adjustment shall be the daily chip float calculation which shall be the total chips received to date (i.e., the initial chips received from vendors plus all subsequent shipments of chips received) less the total day's chip count (i.e., the sum of chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory chip count shall at no time exceed the total amount of chips in the total casino chip accountability. If at any time the calculated daily chip float is less than zero, the casino operator or casino manager shall adjust to reflect a zero current day chip float. Afterwards, the chip float adjustment shall be calculated daily by subtracting the previous day's chip float from the current day's chip float.

B. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1948 (October 1999), amended LR 34:2659 (December 2008), LR 35:2817 (December 2009).

Chapter 29. Operating Standards Generally

§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees

A. - C.1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning and/or maintenance purposes.

D. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 27:59 (January 2001), LR 29:2506 (November 2003), LR 34:2659 (December 2008), LR 35:2817 (December 2009).

Chapter 33. Surveillance

§3302. Digital Video Recording Standards

A. - A.2. ...

a. record and replay activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the casino operator or casino manager's internal controls as approved by the division;

A.2.b. - A.13. ...

14. Casino Operator or Casino Manager shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR

format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2660 (December 2008), LR 35:2817 (December 2009).

Chapter 43. Specifications for Gaming Tokens and Associated Equipment

§4315. Redemption and Disposal of Discontinued Chips and Tokens

A. - B.5. ...

6. such destruction must be to the satisfaction of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999), LR 35:2817 (December 2009).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 27. Accounting Regulations

§2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall be removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Casino Operator or Casino Manager's internal controls;

A.8.g. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1879 (October 1999), repromulgated LR 25:2235 (November 1999), amended LR 26:2306 (October 2000), LR 34: 2666 (December 2008), LR 35:2817 (December 2009).

§2723. Internal Controls; Slots

A. - Q.25. ...

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

Q.27. - V.2. ...

a. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

b. - c. Repealed.

V.3. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR

25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), LR 34:2667 (December 2008), LR 35:2817 (December 2009).

§2730. Exchange of Tokens and Chips

A. - C. ...

D. All tokens and chips received by a licensee as a result of an exchange authorized by this Section shall be returned to the issuing licensee for redemption at least annually as part of an exchange unless the division approves otherwise in writing. Both licensees shall document the redemption in a manner approved by the division.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2668 (December 2008), LR 35:2818 (December 2009).

Chapter 42. Electronic Gaming Devices

§4204. Progressive Electronic Gaming Devices

A. This Section authorizes the use of progressive EGDs among gaming operations licensed pursuant to the provisions of R.S. 27:51 et seq., R.S. 27:201 et seq., and R.S. 27:351 et seq., in the state of Louisiana within one riverboat provided that the EGDs meet the requirements stated in this Chapter and any additional requirements imposed by these Rules.

B. - N.4.d. ...

e. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

N.4.f. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:718 (April 2000), amended LR 31:1607 (July 2005), LR 33:2463 (November 2007), LR 34:2671 (December 2008), LR 35:2818 (December 2009).

§4209. Approval of New Electronic Gaming Devices

A. - A.31.b. ...

c. Bill validators may accept other items as approved by the division.

32. - 32.a. ...

b. - c. Repealed.

33. - 37.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:721 (April 2000), amended LR 29:2508 (November 2003), LR 31:1603 (July 2005), LR 31:1607 (July 2005), LR 34:2672 (December 2008), LR 35:2818 (December 2009).

Dane K. Morgan
Chairman

0912#027

RULE

**Department of Public Safety and Corrections
Office of State Police
Bureau of Criminal Identification and Information**

Right to Review Procedures (LAC 55:I.401)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 15:588, that the Louisiana Bureau of Criminal Identification and Information adopts Chapter 4, Subchapter A in order to set forth procedures for an individual to receive a certified copy of his Louisiana criminal history.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 4. Right to Review

Subchapter A. Right to Review Procedures

§401. Right to Review Procedures

A. In order for an individual, his authorized representative, or his attorney to receive a certified copy of his Louisiana criminal history, the individual must:

1. Complete the Rap Disclosure and Authorization Form;

2. Pay a \$26 processing fee as authorized by R.S. 15:587.B. by money order, certified check or business check, made payable to Department of Public Safety for a Louisiana state criminal history background check;

3. Provide a current original 10 print fingerprint submission (not previously processed) on a FBI Applicant Fingerprint Card taken by a local law enforcement agency which bears the individual's name, race, sex, date of birth, Social Security number, place of birth, residence of applicant (address), and reason for fingerprint which reason should state: "Right to Review." Fingerprints may be obtained at State Police headquarters for a \$10 fee as authorized per R.S. 15:587.B.

4. Mail or deliver in person the Authorization Form, Rap Disclosure Form, fee and fingerprints to: Louisiana State Police, Bureau of Criminal Identification and Information, P.O. Box 66614, Mail Slip A-6, Baton Rouge, LA 70896. If the required forms, fee, and fingerprints are mailed in, a stamped, self addressed envelope is required to receive a reply.

B. A certified copy of an individual's Louisiana criminal history will be mailed to applicant if request is received in by mail or hand delivered to applicant if appearing on site in person.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:588.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Bureau of Criminal Identification and Information, LR 35:2818 (December 2009).

Jill Boudreaux
Undersecretary

0912#035

RULE

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Uniform Construction Code
(LAC 55:VI.505, 701,703, 705, 707 and 905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34 (B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Council hereby amends Chapters 5, 7, and 9 to update various Sections with more precise wording, align the rules with current law, provide for changes to certification requirements of the International Code Council, recognize procedural requirements of local jurisdictions, and delete provisions that are no longer applicable.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 5. Enforcement of Louisiana State Uniform Construction Code

§505. Commercial Plan Review

A. Until December 31, 2007, where a parish or municipality is not providing plan review, architects, engineers, owners, parishes or municipalities on commercial projects may request International Building Code plan review by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:1683 (August 2007), amended LR 35:2819 (December 2009).

Chapter 7. Certificates of Registration

§701. General

A. On and after January 1, 2007, no person shall practice as a code enforcement officer in this state unless registered with the Louisiana State Uniform Construction Code Council (council). A person desiring to be registered as a parish or municipality building code enforcement officer or a third party provider shall apply to the council for a certificate of registration. The applicant shall apply on the application form prescribed by the council. An applicant shall furnish satisfactory proof to the council of valid certification. A certificate of registration is valid for one year and expires on the last day of the month of issuance. Those possessing certificates of registration must renew their certificates in order to remain in good standing with the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 35:2819 (December 2009).

§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

A. General

1. In order to obtain a certificate of registration from the council for a particular classification, an individual must meet the following qualifications.

B. Definitions

Building Code Enforcement Officer (BCEO)—a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

Building Official—the BCEO employed and charged by a public entity with the administration and enforcement of the Louisiana State Uniform Construction Code (LSUCC).

Inspector—a BCEO, who under the authority of the Building Official, is charged with the inspection of structures for compliance with his or her specialty classification(s) of the LSUCC.

Plans Examiner or Reviewer—a BCEO, who under the authority of the Building Official, is charged with the inspection of construction documents for compliance with his or her specialty classification(s) of the LSUCC.

Third-Party Provider (TPP)—any individual, entity, or an individual employed by an entity, contracted to act in the capacity of a BCEO by an authority having jurisdiction, a licensed contractor, or a homeowner who is exempted from the contractor licensing law under R.S. 37:2170.

Wind Mitigation Surveyor—the wind mitigation surveyor classification of third party provider is limited to performing a survey to complete the Louisiana Hurricane Loss Mitigation Survey Form. The Survey Form, LAC 37 Part XIII, Section 12721. Appendix A, is to be utilized by consumers applying for justifying discounts for features that comply with building codes, or, for installed mitigation improvements utilizing construction techniques demonstrated to reduce the amount of hurricane loss from a windstorm. This classification does not qualify applicant to perform building code inspections in compliance with the Louisiana State Uniform Construction Code Council (LSUCCC) or International Code Council (ICC) classifications for building inspectors.

C. BCEO Registration Classifications/Requirements

1. General Classifications

a. Building Official (BO)—requirements; possess a current ICC Certified Building Official certificate, a current ICC Master Code Professional certificate, or be a Louisiana Licensed Architect, or Louisiana Licensed Engineer and have two years experience as an architect, engineer, inspector, plans examiner, contractor or superintendent of construction or any combination of these. General classifications are not restricted and may enforce all classified specialties of the LSUCC.

2. Specialty Classifications

a. Commercial Inspectors

i. Commercial Building Inspector

Requirements—possess a current ICC Commercial Building

Inspector, ICC Building Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

ii. Commercial Electrical Inspector Requirements—possess a current ICC Commercial Electrical Inspector, ICC Electrical Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

iii. Commercial Mechanical Inspector Requirements—possess a current ICC Commercial Mechanical Inspector, ICC Mechanical Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

iv. Commercial Plumbing Inspector Requirements—possess a current ICC Commercial Plumbing Inspector, ICC Plumbing Inspector, ICC Commercial Combination Inspector, ICC Louisiana Commercial Plumbing Inspector, or ICC Combination Inspector certificate.

v. Commercial Energy Inspector Requirements—shall be enforced by the Office of the State Fire Marshal.

b. Commercial Plans Examiners or Reviewers

i. Building Plans Examiner Requirements—possess a current ICC Commercial Building Plans Examiner, or ICC Combination Plans Examiner certificate.

ii. Electrical Plans Examiner Requirements—possess a current ICC Commercial Electrical Plans Examiner, or ICC Combination Plans Examiner certificate.

iii. Mechanical Plans Examiner Requirements—possess a current ICC Commercial Mechanical Plans Examiner, or ICC Combination Plans Examiner certificate.

iv. Plumbing Plans Examiner Requirements—possess a current ICC Commercial Plumbing Plans Examiner, ICC Louisiana Plumbing Plan Examiner, or ICC Combination Plans Examiner certificate.

v. Commercial Energy Plans Examiner Requirements—shall be enforced by the Office of the State Fire Marshal.

c. Residential Inspectors

i. Residential Building Inspector Requirements—possess a current ICC Residential Building Inspector, ICC Building Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

ii. Residential Electrical Inspector Requirements—possess a current ICC Residential Electrical Inspector, ICC Electrical Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

iii. Residential Mechanical Inspector Requirements—possess a current ICC Residential Mechanical Inspector, ICC Mechanical Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

iv. Residential Plumbing Inspector Requirements—possess a current ICC Residential Plumbing Inspector, ICC Plumbing Inspector, ICC Residential

Combination Inspector, ICC Louisiana Residential Plumbing inspector, or ICC Combination Inspector certificate.

v. Residential Energy Inspector Requirements—possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

d. Residential Plans Examiners or Reviewers

i. Residential Plans Examiner – possess a current ICC Residential Plans Examiner certificate.

ii. Residential Energy Plans Examiner – possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:1683 (August 2007), LR 34:93 (January 2008), amended by the Department of Public Safety and Corrections, Office of Management and Finance, Uniform Construction Code Council, LR 35:490 (March 2009), amended LR 35:0000 (December 2009).

§705. Third Party Providers

A. General

1. A third party provider shall register with the council. Third party providers shall meet the requirements of the general or specialty classification(s) whichever applicable and as contracted with the parish or municipality. Furthermore, any individual employed by a third party provider who is also performing work for the parish or municipality, shall also be registered with this Council.

B. Insurance. All third party providers shall carry at least \$500,000 in professional liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration in the form of an insurance certificate listing the Louisiana State Uniform Construction Code Council as the certificate holder.

1. Exceptions

a. Wind mitigation surveyors shall carry at least \$300,000 in professional liability insurance.

C. Restrictions

1. Third party providers shall not provide plan review or inspections on projects of their own design and/or construction.

D. Code Enforcement Services for Non-Governmental Entities

1. Third party providers providing plan review services for non-governmental entities shall provide written copies of the plan review to the code enforcement officer of the municipality or parish prior to issuance of construction permits and in accordance with the administrative procedures of the authority having jurisdiction.

2. Where a third party provider provides services in a jurisdiction which has a building department, third party providers shall adhere to the permitting and inspection procedures of said jurisdiction in accordance with the administrative procedures of the authority having jurisdiction.

3. Third party providers providing inspection services for non-governmental entities shall provide written copies of the approved inspection reports to the code enforcement officer of the jurisdiction prior to the issuance of the certificate of occupancy in accordance with the administrative procedures of the authority having jurisdiction.

E. A wind mitigation surveyor classification of third party provider may specialize as a wind mitigation surveyor upon meeting the following qualifications:

1. possession of a home inspector license through the Louisiana State Board of Home Inspectors; and

2. possession of a certificate of completion for the 2006 IRC Hurricane Resistant Residential Construction Program, or other equivalent program approved by the LSUCCC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:2462 (November 2007), amended by the Department of Public Safety and Corrections, Office of Management and Finance, Uniform Construction Code Council, LR 35:491 (March 2009), amended by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 35:2819 (December 2009).

§707. Continuing Education Requirements

A. Prior to annual renewal of the certificate of registration as required by this Chapter, all building code enforcement officers and third-party providers, except Louisiana licensed architects or engineers as allowed by R.S. 40:1730.24(B), shall be registered with the International Code Council and obtain the continuing education units required for that registry.

B. Building code enforcement officers holding provisional certificates of registration and prior to certification and registration with the International Code Council shall provide evidence of one continuing education unit relating to construction code enforcement for the preceding year.

C. Prior to annual renewal of the certificate of registration, Louisiana licensed architects and engineers exempted by R.S. 40:1730.24(B) shall be licensed in the state of Louisiana and obtain the continuing education units required for that licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.38

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2666 (December 2007), amended LR 35:2821 (December 2009).

Chapter 9. Temporary Exemption to Certification Requirement

§901. Employment after January 1, 2007

A. Upon employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22© and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009).

§903. Employment prior to January 1, 2007

A. Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers already

employed in code enforcement on January 1, 2007, only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. Additionally, inspectors and plan reviews who were employed by an authority having jurisdiction before July 1, 2006, and remain employed by that authority having jurisdiction, an additional 30 month provisional certificate or registration may be granted provided the individual can demonstrate an annual minimum of three continuing education units for a core discipline as required in §703. Thereafter, anyone renewing this certificate of registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009).

§905. Third Party Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, LR 33:1370 (July 2007), amended LR 34:93 (January 2008), repealed by the Department of Public Safety, State Uniform Construction Code Council, LR 35:2821 (December 2009).

Jill Boudreaux
Undersecretary

0912#036

RULE

Department of Revenue Policy Services Division

Individual Income Tax Tables (LAC 61:I.1310)

Under the authority of R.S. 47:295, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.1310 to establish the individual income tax tables based on the new individual income tax brackets provided by Act 396 of the 2008 Regular Session of the Louisiana Legislature.

Act 396 amended R.S. 47:32(A), and provides for a reduction in tax rates and tax brackets. This statutory amendment became effective January 1, 2009.

Title 61

REVENUE AND TAXATION

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

Chapter 13 Income: Individual Income Tax Tables

§1310. Income Tax Tables

A. Residents. The tax due for resident individuals shall be determined using one of the following tables depending on your filing status:

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
0	4,500	0	0	0	0	0	0	0	0
4,500	4,750	3	0	0	0	0	0	0	0
4,750	5,000	8	0	0	0	0	0	0	0
5,000	5,250	13	0	0	0	0	0	0	0
5,250	5,500	18	0	0	0	0	0	0	0
5,500	5,750	23	3	0	0	0	0	0	0
5,750	6,000	28	8	0	0	0	0	0	0
6,000	6,250	33	13	0	0	0	0	0	0
6,250	6,500	38	18	0	0	0	0	0	0
6,500	6,750	43	23	3	0	0	0	0	0
6,750	7,000	48	28	8	0	0	0	0	0
7,000	7,250	53	33	13	0	0	0	0	0
7,250	7,500	58	38	18	0	0	0	0	0
7,500	7,750	63	43	23	3	0	0	0	0
7,750	8,000	68	48	28	8	0	0	0	0
8,000	8,250	73	53	33	13	0	0	0	0
8,250	8,500	78	58	38	18	0	0	0	0
8,500	8,750	83	63	43	23	3	0	0	0
8,750	9,000	88	68	48	28	8	0	0	0
9,000	9,250	93	73	53	33	13	0	0	0
9,250	9,500	98	78	58	38	18	0	0	0
9,500	9,750	103	83	63	43	23	3	0	0
9,750	10,000	108	88	68	48	28	8	0	0
10,000	10,250	113	93	73	53	33	13	0	0
10,250	10,500	118	98	78	58	38	18	0	0
10,500	10,750	123	103	83	63	43	23	3	0
10,750	11,000	128	108	88	68	48	28	8	0
11,000	11,250	133	113	93	73	53	33	13	0
11,250	11,500	138	118	98	78	58	38	18	0
11,500	11,750	143	123	103	83	63	43	23	3
11,750	12,000	148	128	108	88	68	48	28	8
12,000	12,250	153	133	113	93	73	53	33	13
12,250	12,500	158	138	118	98	78	58	38	18
12,500	12,750	165	145	125	105	85	65	45	25
12,750	13,000	175	155	135	115	95	75	55	35
13,000	13,250	185	165	145	125	105	85	65	45
13,250	13,500	195	175	155	135	115	95	75	55
13,500	13,750	205	185	165	145	125	105	85	65
13,750	14,000	215	195	175	155	135	115	95	75
14,000	14,250	225	205	185	165	145	125	105	85
14,250	14,500	235	215	195	175	155	135	115	95
14,500	14,750	245	225	205	185	165	145	125	105
14,750	15,000	255	235	215	195	175	155	135	115
15,000	15,250	265	245	225	205	185	165	145	125
15,250	15,500	275	255	235	215	195	175	155	135
15,500	15,750	285	265	245	225	205	185	165	145

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
15,750	16,000	295	275	255	235	215	195	175	155
16,000	16,250	305	285	265	245	225	205	185	165
16,250	16,500	315	295	275	255	235	215	195	175
16,500	16,750	325	305	285	265	245	225	205	185
16,750	17,000	335	315	295	275	255	235	215	195
17,000	17,250	345	325	305	285	265	245	225	205
17,250	17,500	355	335	315	295	275	255	235	215
17,500	17,750	365	345	325	305	285	265	245	225
17,750	18,000	375	355	335	315	295	275	255	235
18,000	18,250	385	365	345	325	305	285	265	245
18,250	18,500	395	375	355	335	315	295	275	255
18,500	18,750	405	385	365	345	325	305	285	265
18,750	19,000	415	395	375	355	335	315	295	275
19,000	19,250	425	405	385	365	345	325	305	285
19,250	19,500	435	415	395	375	355	335	315	295
19,500	19,750	445	425	405	385	365	345	325	305
19,750	20,000	455	435	415	395	375	355	335	315
20,000	20,250	465	445	425	405	385	365	345	325
20,250	20,500	475	455	435	415	395	375	355	335
20,500	20,750	485	465	445	425	405	385	365	345
20,750	21,000	495	475	455	435	415	395	375	355
21,000	21,250	505	485	465	445	425	405	385	365
21,250	21,500	515	495	475	455	435	415	395	375
21,500	21,750	525	505	485	465	445	425	405	385
21,750	22,000	535	515	495	475	455	435	415	395
22,000	22,250	545	525	505	485	465	445	425	405
22,250	22,500	555	535	515	495	475	455	435	415
22,500	22,750	565	545	525	505	485	465	445	425
22,750	23,000	575	555	535	515	495	475	455	435
23,000	23,250	585	565	545	525	505	485	465	445
23,250	23,500	595	575	555	535	515	495	475	455
23,500	23,750	605	585	565	545	525	505	485	465
23,750	24,000	615	595	575	555	535	515	495	475
24,000	24,250	625	605	585	565	545	525	505	485
24,250	24,500	635	615	595	575	555	535	515	495
24,500	24,750	645	625	605	585	565	545	525	505
24,750	25,000	655	635	615	595	575	555	535	515
25,000	25,250	665	645	625	605	585	565	545	525
25,250	25,500	675	655	635	615	595	575	555	535
25,500	25,750	685	665	645	625	605	585	565	545
25,750	26,000	695	675	655	635	615	595	575	555
26,000	26,250	705	685	665	645	625	605	585	565
26,250	26,500	715	695	675	655	635	615	595	575
26,500	26,750	725	705	685	665	645	625	605	585
26,750	27,000	735	715	695	675	655	635	615	595
27,000	27,250	745	725	705	685	665	645	625	605

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
27,250	27,500	755	735	715	695	675	655	635	615
27,500	27,750	765	745	725	705	685	665	645	625
27,750	28,000	775	755	735	715	695	675	655	635
28,000	28,250	785	765	745	725	705	685	665	645
28,250	28,500	795	775	755	735	715	695	675	655
28,500	28,750	805	785	765	745	725	705	685	665
28,750	29,000	815	795	775	755	735	715	695	675
29,000	29,250	825	805	785	765	745	725	705	685
29,250	29,500	835	815	795	775	755	735	715	695
29,500	29,750	845	825	805	785	765	745	725	705
29,750	30,000	855	835	815	795	775	755	735	715
30,000	30,250	865	845	825	805	785	765	745	725
30,250	30,500	875	855	835	815	795	775	755	735
30,500	30,750	885	865	845	825	805	785	765	745
30,750	31,000	895	875	855	835	815	795	775	755
31,000	31,250	905	885	865	845	825	805	785	765
31,250	31,500	915	895	875	855	835	815	795	775
31,500	31,750	925	905	885	865	845	825	805	785
31,750	32,000	935	915	895	875	855	835	815	795
32,000	32,250	945	925	905	885	865	845	825	805
32,250	32,500	955	935	915	895	875	855	835	815
32,500	32,750	965	945	925	905	885	865	845	825
32,750	33,000	975	955	935	915	895	875	855	835
33,000	33,250	985	965	945	925	905	885	865	845
33,250	33,500	995	975	955	935	915	895	875	855
33,500	33,750	1,005	985	965	945	925	905	885	865
33,750	34,000	1,015	995	975	955	935	915	895	875
34,000	34,250	1,025	1,005	985	965	945	925	905	885
34,250	34,500	1,035	1,015	995	975	955	935	915	895
34,500	34,750	1,045	1,025	1,005	985	965	945	925	905
34,750	35,000	1,055	1,035	1,015	995	975	955	935	915
35,000	35,250	1,065	1,045	1,025	1,005	985	965	945	925
35,250	35,500	1,075	1,055	1,035	1,015	995	975	955	935
35,500	35,750	1,085	1,065	1,045	1,025	1,005	985	965	945
35,750	36,000	1,095	1,075	1,055	1,035	1,015	995	975	955
36,000	36,250	1,105	1,085	1,065	1,045	1,025	1,005	985	965
36,250	36,500	1,115	1,095	1,075	1,055	1,035	1,015	995	975
36,500	36,750	1,125	1,105	1,085	1,065	1,045	1,025	1,005	985
36,750	37,000	1,135	1,115	1,095	1,075	1,055	1,035	1,015	995
37,000	37,250	1,145	1,125	1,105	1,085	1,065	1,045	1,025	1,005
37,250	37,500	1,155	1,135	1,115	1,095	1,075	1,055	1,035	1,015
37,500	37,750	1,165	1,145	1,125	1,105	1,085	1,065	1,045	1,025
37,750	38,000	1,175	1,155	1,135	1,115	1,095	1,075	1,055	1,035
38,000	38,250	1,185	1,165	1,145	1,125	1,105	1,085	1,065	1,045
38,250	38,500	1,195	1,175	1,155	1,135	1,115	1,095	1,075	1,055
38,500	38,750	1,205	1,185	1,165	1,145	1,125	1,105	1,085	1,065

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
38,750	39,000	1,215	1,195	1,175	1,155	1,135	1,115	1,095	1,075
39,000	39,250	1,225	1,205	1,185	1,165	1,145	1,125	1,105	1,085
39,250	39,500	1,235	1,215	1,195	1,175	1,155	1,135	1,115	1,095
39,500	39,750	1,245	1,225	1,205	1,185	1,165	1,145	1,125	1,105
39,750	40,000	1,255	1,235	1,215	1,195	1,175	1,155	1,135	1,115
40,000	40,250	1,265	1,245	1,225	1,205	1,185	1,165	1,145	1,125
40,250	40,500	1,275	1,255	1,235	1,215	1,195	1,175	1,155	1,135
40,500	40,750	1,285	1,265	1,245	1,225	1,205	1,185	1,165	1,145
40,750	41,000	1,295	1,275	1,255	1,235	1,215	1,195	1,175	1,155
41,000	41,250	1,305	1,285	1,265	1,245	1,225	1,205	1,185	1,165
41,250	41,500	1,315	1,295	1,275	1,255	1,235	1,215	1,195	1,175
41,500	41,750	1,325	1,305	1,285	1,265	1,245	1,225	1,205	1,185
41,750	42,000	1,335	1,315	1,295	1,275	1,255	1,235	1,215	1,195
42,000	42,250	1,345	1,325	1,305	1,285	1,265	1,245	1,225	1,205
42,250	42,500	1,355	1,335	1,315	1,295	1,275	1,255	1,235	1,215
42,500	42,750	1,365	1,345	1,325	1,305	1,285	1,265	1,245	1,225
42,750	43,000	1,375	1,355	1,335	1,315	1,295	1,275	1,255	1,235
43,000	43,250	1,385	1,365	1,345	1,325	1,305	1,285	1,265	1,245
43,250	43,500	1,395	1,375	1,355	1,335	1,315	1,295	1,275	1,255
43,500	43,750	1,405	1,385	1,365	1,345	1,325	1,305	1,285	1,265
43,750	44,000	1,415	1,395	1,375	1,355	1,335	1,315	1,295	1,275
44,000	44,250	1,425	1,405	1,385	1,365	1,345	1,325	1,305	1,285
44,250	44,500	1,435	1,415	1,395	1,375	1,355	1,335	1,315	1,295
44,500	44,750	1,445	1,425	1,405	1,385	1,365	1,345	1,325	1,305
44,750	45,000	1,455	1,435	1,415	1,395	1,375	1,355	1,335	1,315
45,000	45,250	1,465	1,445	1,425	1,405	1,385	1,365	1,345	1,325
45,250	45,500	1,475	1,455	1,435	1,415	1,395	1,375	1,355	1,335
45,500	45,750	1,485	1,465	1,445	1,425	1,405	1,385	1,365	1,345
45,750	46,000	1,495	1,475	1,455	1,435	1,415	1,395	1,375	1,355
46,000	46,250	1,505	1,485	1,465	1,445	1,425	1,405	1,385	1,365
46,250	46,500	1,515	1,495	1,475	1,455	1,435	1,415	1,395	1,375
46,500	46,750	1,525	1,505	1,485	1,465	1,445	1,425	1,405	1,385
46,750	47,000	1,535	1,515	1,495	1,475	1,455	1,435	1,415	1,395
47,000	47,250	1,545	1,525	1,505	1,485	1,465	1,445	1,425	1,405
47,250	47,500	1,555	1,535	1,515	1,495	1,475	1,455	1,435	1,415
47,500	47,750	1,565	1,545	1,525	1,505	1,485	1,465	1,445	1,425
47,750	48,000	1,575	1,555	1,535	1,515	1,495	1,475	1,455	1,435
48,000	48,250	1,585	1,565	1,545	1,525	1,505	1,485	1,465	1,445
48,250	48,500	1,595	1,575	1,555	1,535	1,515	1,495	1,475	1,455
48,500	48,750	1,605	1,585	1,565	1,545	1,525	1,505	1,485	1,465
48,750	49,000	1,615	1,595	1,575	1,555	1,535	1,515	1,495	1,475
49,000	49,250	1,625	1,605	1,585	1,565	1,545	1,525	1,505	1,485
49,250	49,500	1,635	1,615	1,595	1,575	1,555	1,535	1,515	1,495
49,500	49,750	1,645	1,625	1,605	1,585	1,565	1,545	1,525	1,505
49,750	50,000	1,655	1,635	1,615	1,595	1,575	1,555	1,535	1,515
50,000	50,250	1,668	1,648	1,628	1,608	1,588	1,568	1,548	1,528

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
50,250	50,500	1,683	1,663	1,643	1,623	1,603	1,583	1,563	1,543
50,500	50,750	1,698	1,678	1,658	1,638	1,618	1,598	1,578	1,558
50,750	51,000	1,713	1,693	1,673	1,653	1,633	1,613	1,593	1,573

Plus 6% of Tax Table Income in Excess of \$51,000

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisiana tax is:						
0	9,000	0	0	0	0	0	0	0
9,000	9,250	3	0	0	0	0	0	0
9,250	9,500	8	0	0	0	0	0	0
9,500	9,750	13	0	0	0	0	0	0
9,750	10,000	18	0	0	0	0	0	0
10,000	10,250	23	3	0	0	0	0	0
10,250	10,500	28	8	0	0	0	0	0
10,500	10,750	33	13	0	0	0	0	0
10,750	11,000	38	18	0	0	0	0	0
11,000	11,250	43	23	3	0	0	0	0
11,250	11,500	48	28	8	0	0	0	0
11,500	11,750	53	33	13	0	0	0	0
11,750	12,000	58	38	18	0	0	0	0
12,000	12,250	63	43	23	3	0	0	0
12,250	12,500	68	48	28	8	0	0	0
12,500	12,750	73	53	33	13	0	0	0
12,750	13,000	78	58	38	18	0	0	0

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisiana tax is:						
13,000	13,250	83	63	43	23	3	0	0
13,250	13,500	88	68	48	28	8	0	0
13,500	13,750	93	73	53	33	13	0	0
13,750	14,000	98	78	58	38	18	0	0
14,000	14,250	103	83	63	43	23	3	0
14,250	14,500	108	88	68	48	28	8	0
14,500	14,750	113	93	73	53	33	13	0
14,750	15,000	118	98	78	58	38	18	0
15,000	15,250	123	103	83	63	43	23	3
15,250	15,500	128	108	88	68	48	28	8

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisiana tax is:								
15,500	15,750	133	113	93	73	53	33	13
15,750	16,000	138	118	98	78	58	38	18
16,000	16,250	143	123	103	83	63	43	23
16,250	16,500	148	128	108	88	68	48	28
16,500	16,750	153	133	113	93	73	53	33
16,750	17,000	158	138	118	98	78	58	38
17,000	17,250	163	143	123	103	83	63	43
17,250	17,500	168	148	128	108	88	68	48
17,500	17,750	173	153	133	113	93	73	53
17,750	18,000	178	158	138	118	98	78	58
18,000	18,250	183	163	143	123	103	83	63
18,250	18,500	188	168	148	128	108	88	68
18,500	18,750	193	173	153	133	113	93	73
18,750	19,000	198	178	158	138	118	98	78
19,000	19,250	203	183	163	143	123	103	83
19,250	19,500	208	188	168	148	128	108	88
19,500	19,750	213	193	173	153	133	113	93
19,750	20,000	218	198	178	158	138	118	98
20,000	20,250	223	203	183	163	143	123	103
20,250	20,500	228	208	188	168	148	128	108
20,500	20,750	233	213	193	173	153	133	113
20,750	21,000	238	218	198	178	158	138	118
21,000	21,250	243	223	203	183	163	143	123
21,250	21,500	248	228	208	188	168	148	128
21,500	21,750	253	233	213	193	173	153	133
21,750	22,000	258	238	218	198	178	158	138
22,000	22,250	263	243	223	203	183	163	143
22,250	22,500	268	248	228	208	188	168	148
22,500	22,750	273	253	233	213	193	173	153
22,750	23,000	278	258	238	218	198	178	158
23,000	23,250	283	263	243	223	203	183	163
23,250	23,500	288	268	248	228	208	188	168
23,500	23,750	293	273	253	233	213	193	173
23,750	24,000	298	278	258	238	218	198	178
24,000	24,250	303	283	263	243	223	203	183
24,250	24,500	308	288	268	248	228	208	188
24,500	24,750	313	293	273	253	233	213	193
24,750	25,000	318	298	278	258	238	218	198
25,000	25,250	325	305	285	265	245	225	205
25,250	25,500	335	315	295	275	255	235	215
25,500	25,750	345	325	305	285	265	245	225
25,750	26,000	355	335	315	295	275	255	235
26,000	26,250	365	345	325	305	285	265	245
26,250	26,500	375	355	335	315	295	275	255
26,500	26,750	385	365	345	325	305	285	265
26,750	27,000	395	375	355	335	315	295	275

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisianan tax is:						
27,000	27,250	405	385	365	345	325	305	285
27,250	27,500	415	395	375	355	335	315	295
27,500	27,750	425	405	385	365	345	325	305

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisianan tax is:						
27,750	28,000	435	415	395	375	355	335	315
28,000	28,250	445	425	405	385	365	345	325
28,250	28,500	455	435	415	395	375	355	335
28,500	28,750	465	445	425	405	385	365	345
28,750	29,000	475	455	435	415	395	375	355
29,000	29,250	485	465	445	425	405	385	365
29,250	29,500	495	475	455	435	415	395	375
29,500	29,750	505	485	465	445	425	405	385
29,750	30,000	515	495	475	455	435	415	395
30,000	30,250	525	505	485	465	445	425	405
30,250	30,500	535	515	495	475	455	435	415
30,500	30,750	545	525	505	485	465	445	425
30,750	31,000	555	535	515	495	475	455	435
31,000	31,250	565	545	525	505	485	465	445
31,250	31,500	575	555	535	515	495	475	455
31,500	31,750	585	565	545	525	505	485	465
31,750	32,000	595	575	555	535	515	495	475
32,000	32,250	605	585	565	545	525	505	485
32,250	32,500	615	595	575	555	535	515	495
32,500	32,750	625	605	585	565	545	525	505
32,750	33,000	635	615	595	575	555	535	515
33,000	33,250	645	625	605	585	565	545	525
33,250	33,500	655	635	615	595	575	555	535
33,500	33,750	665	645	625	605	585	565	545
33,750	34,000	675	655	635	615	595	575	555
34,000	34,250	685	665	645	625	605	585	565
34,250	34,500	695	675	655	635	615	595	575
34,500	34,750	705	685	665	645	625	605	585
34,750	35,000	715	695	675	655	635	615	595
35,000	35,250	725	705	685	665	645	625	605
35,250	35,500	735	715	695	675	655	635	615
35,500	35,750	745	725	705	685	665	645	625
35,750	36,000	755	735	715	695	675	655	635
36,000	36,250	765	745	725	705	685	665	645
36,250	36,500	775	755	735	715	695	675	655
36,500	36,750	785	765	745	725	705	685	665
36,750	37,000	795	775	755	735	715	695	675

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
37,000	37,250	805	785	765	745	725	705	685
37,250	37,500	815	795	775	755	735	715	695
37,500	37,750	825	805	785	765	745	725	705
37,750	38,000	835	815	795	775	755	735	715
38,000	38,250	845	825	805	785	765	745	725
38,250	38,500	855	835	815	795	775	755	735
38,500	38,750	865	845	825	805	785	765	745
38,750	39,000	875	855	835	815	795	775	755
39,000	39,250	885	865	845	825	805	785	765
39,250	39,500	895	875	855	835	815	795	775
39,500	39,750	905	885	865	845	825	805	785
39,750	40,000	915	895	875	855	835	815	795
40,000	40,250	925	905	885	865	845	825	805
40,250	40,500	935	915	895	875	855	835	815
40,500	40,750	945	925	905	885	865	845	825
40,750	41,000	955	935	915	895	875	855	835
41,000	41,250	965	945	925	905	885	865	845
41,250	41,500	975	955	935	915	895	875	855
41,500	41,750	985	965	945	925	905	885	865
41,750	42,000	995	975	955	935	915	895	875
42,000	42,250	1,005	985	965	945	925	905	885
42,250	42,500	1,015	995	975	955	935	915	895

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
42,500	42,750	1,025	1,005	985	965	945	925	905
42,750	43,000	1,035	1,015	995	975	955	935	915
43,000	43,250	1,045	1,025	1,005	985	965	945	925
43,250	43,500	1,055	1,035	1,015	995	975	955	935
43,500	43,750	1,065	1,045	1,025	1,005	985	965	945
43,750	44,000	1,075	1,055	1,035	1,015	995	975	955
44,000	44,250	1,085	1,065	1,045	1,025	1,005	985	965
44,250	44,500	1,095	1,075	1,055	1,035	1,015	995	975
44,500	44,750	1,105	1,085	1,065	1,045	1,025	1,005	985
44,750	45,000	1,115	1,095	1,075	1,055	1,035	1,015	995
45,000	45,250	1,125	1,105	1,085	1,065	1,045	1,025	1,005
45,250	45,500	1,135	1,115	1,095	1,075	1,055	1,035	1,015
45,500	45,750	1,145	1,125	1,105	1,085	1,065	1,045	1,025
45,750	46,000	1,155	1,135	1,115	1,095	1,075	1,055	1,035
46,000	46,250	1,165	1,145	1,125	1,105	1,085	1,065	1,045
46,250	46,500	1,175	1,155	1,135	1,115	1,095	1,075	1,055
46,500	46,750	1,185	1,165	1,145	1,125	1,105	1,085	1,065
46,750	47,000	1,195	1,175	1,155	1,135	1,115	1,095	1,075
47,000	47,250	1,205	1,185	1,165	1,145	1,125	1,105	1,085

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
47,250	47,500	1,215	1,195	1,175	1,155	1,135	1,115	1,095
47,500	47,750	1,225	1,205	1,185	1,165	1,145	1,125	1,105
47,750	48,000	1,235	1,215	1,195	1,175	1,155	1,135	1,115
48,000	48,250	1,245	1,225	1,205	1,185	1,165	1,145	1,125
48,250	48,500	1,255	1,235	1,215	1,195	1,175	1,155	1,135
48,500	48,750	1,265	1,245	1,225	1,205	1,185	1,165	1,145
48,750	49,000	1,275	1,255	1,235	1,215	1,195	1,175	1,155
49,000	49,250	1,285	1,265	1,245	1,225	1,205	1,185	1,165
49,250	49,500	1,295	1,275	1,255	1,235	1,215	1,195	1,175
49,500	49,750	1,305	1,285	1,265	1,245	1,225	1,205	1,185
49,750	50,000	1,315	1,295	1,275	1,255	1,235	1,215	1,195
50,000	50,250	1,325	1,305	1,285	1,265	1,245	1,225	1,205
50,250	50,500	1,335	1,315	1,295	1,275	1,255	1,235	1,215
50,500	50,750	1,345	1,325	1,305	1,285	1,265	1,245	1,225
50,750	51,000	1,355	1,335	1,315	1,295	1,275	1,255	1,235
51,000	51,250	1,365	1,345	1,325	1,305	1,285	1,265	1,245
51,250	51,500	1,375	1,355	1,335	1,315	1,295	1,275	1,255
51,500	51,750	1,385	1,365	1,345	1,325	1,305	1,285	1,265
51,750	52,000	1,395	1,375	1,355	1,335	1,315	1,295	1,275
52,000	52,250	1,405	1,385	1,365	1,345	1,325	1,305	1,285
52,250	52,500	1,415	1,395	1,375	1,355	1,335	1,315	1,295
52,500	52,750	1,425	1,405	1,385	1,365	1,345	1,325	1,305
52,750	53,000	1,435	1,415	1,395	1,375	1,355	1,335	1,315
53,000	53,250	1,445	1,425	1,405	1,385	1,365	1,345	1,325
53,250	53,500	1,455	1,435	1,415	1,395	1,375	1,355	1,335
53,500	53,750	1,465	1,445	1,425	1,405	1,385	1,365	1,345
53,750	54,000	1,475	1,455	1,435	1,415	1,395	1,375	1,355
54,000	54,250	1,485	1,465	1,445	1,425	1,405	1,385	1,365
54,250	54,500	1,495	1,475	1,455	1,435	1,415	1,395	1,375
54,500	54,750	1,505	1,485	1,465	1,445	1,425	1,405	1,385
54,750	55,000	1,515	1,495	1,475	1,455	1,435	1,415	1,395
55,000	55,250	1,525	1,505	1,485	1,465	1,445	1,425	1,405
55,250	55,500	1,535	1,515	1,495	1,475	1,455	1,435	1,415
55,500	55,750	1,545	1,525	1,505	1,485	1,465	1,445	1,425
55,750	56,000	1,555	1,535	1,515	1,495	1,475	1,455	1,435
56,000	56,250	1,565	1,545	1,525	1,505	1,485	1,465	1,445
56,250	56,500	1,575	1,555	1,535	1,515	1,495	1,475	1,455
56,500	56,750	1,585	1,565	1,545	1,525	1,505	1,485	1,465
56,750	57,000	1,595	1,575	1,555	1,535	1,515	1,495	1,475
57,000	57,250	1,605	1,585	1,565	1,545	1,525	1,505	1,485

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
57,250	57,500	1,615	1,595	1,575	1,555	1,535	1,515	1,495
57,500	57,750	1,625	1,605	1,585	1,565	1,545	1,525	1,505
57,750	58,000	1,635	1,615	1,595	1,575	1,555	1,535	1,515
58,000	58,250	1,645	1,625	1,605	1,585	1,565	1,545	1,525
58,250	58,500	1,655	1,635	1,615	1,595	1,575	1,555	1,535
58,500	58,750	1,665	1,645	1,625	1,605	1,585	1,565	1,545
58,750	59,000	1,675	1,655	1,635	1,615	1,595	1,575	1,555
59,000	59,250	1,685	1,665	1,645	1,625	1,605	1,585	1,565
59,250	59,500	1,695	1,675	1,655	1,635	1,615	1,595	1,575
59,500	59,750	1,705	1,685	1,665	1,645	1,625	1,605	1,585
59,750	60,000	1,715	1,695	1,675	1,655	1,635	1,615	1,595
60,000	60,250	1,725	1,705	1,685	1,665	1,645	1,625	1,605
60,250	60,500	1,735	1,715	1,695	1,675	1,655	1,635	1,615
60,500	60,750	1,745	1,725	1,705	1,685	1,665	1,645	1,625
60,750	61,000	1,755	1,735	1,715	1,695	1,675	1,655	1,635
61,000	61,250	1,765	1,745	1,725	1,705	1,685	1,665	1,645
61,250	61,500	1,775	1,755	1,735	1,715	1,695	1,675	1,655
61,500	61,750	1,785	1,765	1,745	1,725	1,705	1,685	1,665
61,750	62,000	1,795	1,775	1,755	1,735	1,715	1,695	1,675
62,000	62,250	1,805	1,785	1,765	1,745	1,725	1,705	1,685
62,250	62,500	1,815	1,795	1,775	1,755	1,735	1,715	1,695
62,500	62,750	1,825	1,805	1,785	1,765	1,745	1,725	1,705
62,750	63,000	1,835	1,815	1,795	1,775	1,755	1,735	1,715
63,000	63,250	1,845	1,825	1,805	1,785	1,765	1,745	1,725
63,250	63,500	1,855	1,835	1,815	1,795	1,775	1,755	1,735
63,500	63,750	1,865	1,845	1,825	1,805	1,785	1,765	1,745
63,750	64,000	1,875	1,855	1,835	1,815	1,795	1,775	1,755
64,000	64,250	1,885	1,865	1,845	1,825	1,805	1,785	1,765
64,250	64,500	1,895	1,875	1,855	1,835	1,815	1,795	1,775
64,500	64,750	1,905	1,885	1,865	1,845	1,825	1,805	1,785
64,750	65,000	1,915	1,895	1,875	1,855	1,835	1,815	1,795
65,000	65,250	1,925	1,905	1,885	1,865	1,845	1,825	1,805
65,250	65,500	1,935	1,915	1,895	1,875	1,855	1,835	1,815
65,500	65,750	1,945	1,925	1,905	1,885	1,865	1,845	1,825
65,750	66,000	1,955	1,935	1,915	1,895	1,875	1,855	1,835
66,000	66,250	1,965	1,945	1,925	1,905	1,885	1,865	1,845
66,250	66,500	1,975	1,955	1,935	1,915	1,895	1,875	1,855
66,500	66,750	1,985	1,965	1,945	1,925	1,905	1,885	1,865
66,750	67,000	1,995	1,975	1,955	1,935	1,915	1,895	1,875
67,000	67,250	2,005	1,985	1,965	1,945	1,925	1,905	1,885
67,250	67,500	2,015	1,995	1,975	1,955	1,935	1,915	1,895
67,500	67,750	2,025	2,005	1,985	1,965	1,945	1,925	1,905
67,750	68,000	2,035	2,015	1,995	1,975	1,955	1,935	1,915
68,000	68,250	2,045	2,025	2,005	1,985	1,965	1,945	1,925
68,250	68,500	2,055	2,035	2,015	1,995	1,975	1,955	1,935
68,500	68,750	2,065	2,045	2,025	2,005	1,985	1,965	1,945

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
68,750	69,000	2,075	2,055	2,035	2,015	1,995	1,975	1,955
69,000	69,250	2,085	2,065	2,045	2,025	2,005	1,985	1,965
69,250	69,500	2,095	2,075	2,055	2,035	2,015	1,995	1,975
69,500	69,750	2,105	2,085	2,065	2,045	2,025	2,005	1,985
69,750	70,000	2,115	2,095	2,075	2,055	2,035	2,015	1,995
70,000	70,250	2,125	2,105	2,085	2,065	2,045	2,025	2,005
70,250	70,500	2,135	2,115	2,095	2,075	2,055	2,035	2,015
70,500	70,750	2,145	2,125	2,105	2,085	2,065	2,045	2,025
70,750	71,000	2,155	2,135	2,115	2,095	2,075	2,055	2,035
71,000	71,250	2,165	2,145	2,125	2,105	2,085	2,065	2,045
71,250	71,500	2,175	2,155	2,135	2,115	2,095	2,075	2,055
71,500	71,750	2,185	2,165	2,145	2,125	2,105	2,085	2,065
71,750	72,000	2,195	2,175	2,155	2,135	2,115	2,095	2,075

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
72,000	72,250	2,205	2,185	2,165	2,145	2,125	2,105	2,085
72,250	72,500	2,215	2,195	2,175	2,155	2,135	2,115	2,095
72,500	72,750	2,225	2,205	2,185	2,165	2,145	2,125	2,105
72,750	73,000	2,235	2,215	2,195	2,175	2,155	2,135	2,115
73,000	73,250	2,245	2,225	2,205	2,185	2,165	2,145	2,125
73,250	73,500	2,255	2,235	2,215	2,195	2,175	2,155	2,135
73,500	73,750	2,265	2,245	2,225	2,205	2,185	2,165	2,145
73,750	74,000	2,275	2,255	2,235	2,215	2,195	2,175	2,155
74,000	74,250	2,285	2,265	2,245	2,225	2,205	2,185	2,165
74,250	74,500	2,295	2,275	2,255	2,235	2,215	2,195	2,175
74,500	74,750	2,305	2,285	2,265	2,245	2,225	2,205	2,185
74,750	75,000	2,315	2,295	2,275	2,255	2,235	2,215	2,195
75,000	75,250	2,325	2,305	2,285	2,265	2,245	2,225	2,205
75,250	75,500	2,335	2,315	2,295	2,275	2,255	2,235	2,215
75,500	75,750	2,345	2,325	2,305	2,285	2,265	2,245	2,225
75,750	76,000	2,355	2,335	2,315	2,295	2,275	2,255	2,235
76,000	76,250	2,365	2,345	2,325	2,305	2,285	2,265	2,245
76,250	76,500	2,375	2,355	2,335	2,315	2,295	2,275	2,255
76,500	76,750	2,385	2,365	2,345	2,325	2,305	2,285	2,265
76,750	77,000	2,395	2,375	2,355	2,335	2,315	2,295	2,275
77,000	77,250	2,405	2,385	2,365	2,345	2,325	2,305	2,285
77,250	77,500	2,415	2,395	2,375	2,355	2,335	2,315	2,295
77,500	77,750	2,425	2,405	2,385	2,365	2,345	2,325	2,305
77,750	78,000	2,435	2,415	2,395	2,375	2,355	2,335	2,315
78,000	78,250	2,445	2,425	2,405	2,385	2,365	2,345	2,325
78,250	78,500	2,455	2,435	2,415	2,395	2,375	2,355	2,335
78,500	78,750	2,465	2,445	2,425	2,405	2,385	2,365	2,345
78,750	79,000	2,475	2,455	2,435	2,415	2,395	2,375	2,355

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
79,000	79,250	2,485	2,465	2,445	2,425	2,405	2,385	2,365
79,250	79,500	2,495	2,475	2,455	2,435	2,415	2,395	2,375
79,500	79,750	2,505	2,485	2,465	2,445	2,425	2,405	2,385
79,750	80,000	2,515	2,495	2,475	2,455	2,435	2,415	2,395
80,000	80,250	2,525	2,505	2,485	2,465	2,445	2,425	2,405
80,250	80,500	2,535	2,515	2,495	2,475	2,455	2,435	2,415
80,500	80,750	2,545	2,525	2,505	2,485	2,465	2,445	2,425
80,750	81,000	2,555	2,535	2,515	2,495	2,475	2,455	2,435
81,000	81,250	2,565	2,545	2,525	2,505	2,485	2,465	2,445
81,250	81,500	2,575	2,555	2,535	2,515	2,495	2,475	2,455
81,500	81,750	2,585	2,565	2,545	2,525	2,505	2,485	2,465
81,750	82,000	2,595	2,575	2,555	2,535	2,515	2,495	2,475
82,000	82,250	2,605	2,585	2,565	2,545	2,525	2,505	2,485
82,250	82,500	2,615	2,595	2,575	2,555	2,535	2,515	2,495
82,500	82,750	2,625	2,605	2,585	2,565	2,545	2,525	2,505
82,750	83,000	2,635	2,615	2,595	2,575	2,555	2,535	2,515
83,000	83,250	2,645	2,625	2,605	2,585	2,565	2,545	2,525
83,250	83,500	2,655	2,635	2,615	2,595	2,575	2,555	2,535
83,500	83,750	2,665	2,645	2,625	2,605	2,585	2,565	2,545
83,750	84,000	2,675	2,655	2,635	2,615	2,595	2,575	2,555
84,000	84,250	2,685	2,665	2,645	2,625	2,605	2,585	2,565
84,250	84,500	2,695	2,675	2,655	2,635	2,615	2,595	2,575
84,500	84,750	2,705	2,685	2,665	2,645	2,625	2,605	2,585
84,750	85,000	2,715	2,695	2,675	2,655	2,635	2,615	2,595
85,000	85,250	2,725	2,705	2,685	2,665	2,645	2,625	2,605
85,250	85,500	2,735	2,715	2,695	2,675	2,655	2,635	2,615
85,500	85,750	2,745	2,725	2,705	2,685	2,665	2,645	2,625
85,750	86,000	2,755	2,735	2,715	2,695	2,675	2,655	2,635
86,000	86,250	2,765	2,745	2,725	2,705	2,685	2,665	2,645
86,250	86,500	2,775	2,755	2,735	2,715	2,695	2,675	2,655
86,500	86,750	2,785	2,765	2,745	2,725	2,705	2,685	2,665

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
86,750	87,000	2,795	2,775	2,755	2,735	2,715	2,695	2,675
87,000	87,250	2,805	2,785	2,765	2,745	2,725	2,705	2,685
87,250	87,500	2,815	2,795	2,775	2,755	2,735	2,715	2,695
87,500	87,750	2,825	2,805	2,785	2,765	2,745	2,725	2,705
87,750	88,000	2,835	2,815	2,795	2,775	2,755	2,735	2,715
88,000	88,250	2,845	2,825	2,805	2,785	2,765	2,745	2,725
88,250	88,500	2,855	2,835	2,815	2,795	2,775	2,755	2,735
88,500	88,750	2,865	2,845	2,825	2,805	2,785	2,765	2,745
88,750	89,000	2,875	2,855	2,835	2,815	2,795	2,775	2,755
89,000	89,250	2,885	2,865	2,845	2,825	2,805	2,785	2,765

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
89,250	89,500	2,895	2,875	2,855	2,835	2,815	2,795	2,775
89,500	89,750	2,905	2,885	2,865	2,845	2,825	2,805	2,785
89,750	90,000	2,915	2,895	2,875	2,855	2,835	2,815	2,795
90,000	90,250	2,925	2,905	2,885	2,865	2,845	2,825	2,805
90,250	90,500	2,935	2,915	2,895	2,875	2,855	2,835	2,815
90,500	90,750	2,945	2,925	2,905	2,885	2,865	2,845	2,825
90,750	91,000	2,955	2,935	2,915	2,895	2,875	2,855	2,835
91,000	91,250	2,965	2,945	2,925	2,905	2,885	2,865	2,845
91,250	91,500	2,975	2,955	2,935	2,915	2,895	2,875	2,855
91,500	91,750	2,985	2,965	2,945	2,925	2,905	2,885	2,865
91,750	92,000	2,995	2,975	2,955	2,935	2,915	2,895	2,875
92,000	92,250	3,005	2,985	2,965	2,945	2,925	2,905	2,885
92,250	92,500	3,015	2,995	2,975	2,955	2,935	2,915	2,895
92,500	92,750	3,025	3,005	2,985	2,965	2,945	2,925	2,905
92,750	93,000	3,035	3,015	2,995	2,975	2,955	2,935	2,915
93,000	93,250	3,045	3,025	3,005	2,985	2,965	2,945	2,925
93,250	93,500	3,055	3,035	3,015	2,995	2,975	2,955	2,935
93,500	93,750	3,065	3,045	3,025	3,005	2,985	2,965	2,945
93,750	94,000	3,075	3,055	3,035	3,015	2,995	2,975	2,955
94,000	94,250	3,085	3,065	3,045	3,025	3,005	2,985	2,965
94,250	94,500	3,095	3,075	3,055	3,035	3,015	2,995	2,975
94,500	94,750	3,105	3,085	3,065	3,045	3,025	3,005	2,985
94,750	95,000	3,115	3,095	3,075	3,055	3,035	3,015	2,995
95,000	95,250	3,125	3,105	3,085	3,065	3,045	3,025	3,005
95,250	95,500	3,135	3,115	3,095	3,075	3,055	3,035	3,015
95,500	95,750	3,145	3,125	3,105	3,085	3,065	3,045	3,025
95,750	96,000	3,155	3,135	3,115	3,095	3,075	3,055	3,035
96,000	96,250	3,165	3,145	3,125	3,105	3,085	3,065	3,045
96,250	96,500	3,175	3,155	3,135	3,115	3,095	3,075	3,055
96,500	96,750	3,185	3,165	3,145	3,125	3,105	3,085	3,065
96,750	97,000	3,195	3,175	3,155	3,135	3,115	3,095	3,075
97,000	97,250	3,205	3,185	3,165	3,145	3,125	3,105	3,085
97,250	97,500	3,215	3,195	3,175	3,155	3,135	3,115	3,095
97,500	97,750	3,225	3,205	3,185	3,165	3,145	3,125	3,105
97,750	98,000	3,235	3,215	3,195	3,175	3,155	3,135	3,115
98,000	98,250	3,245	3,225	3,205	3,185	3,165	3,145	3,125
98,250	98,500	3,255	3,235	3,215	3,195	3,175	3,155	3,135
98,500	98,750	3,265	3,245	3,225	3,205	3,185	3,165	3,145
98,750	99,000	3,275	3,255	3,235	3,215	3,195	3,175	3,155
99,000	99,250	3,285	3,265	3,245	3,225	3,205	3,185	3,165
99,250	99,500	3,295	3,275	3,255	3,235	3,215	3,195	3,175
99,500	99,750	3,305	3,285	3,265	3,245	3,225	3,205	3,185
99,750	100,000	3,315	3,295	3,275	3,255	3,235	3,215	3,195
100,000	100,250	3,328	3,308	3,288	3,268	3,248	3,228	3,208
100,250	100,500	3,343	3,323	3,303	3,283	3,263	3,243	3,223
100,500	100,750	3,358	3,338	3,318	3,298	3,278	3,258	3,238

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisiana tax is:						
100,750	101,000	3,373	3,353	3,333	3,313	3,293	3,273	3,253

Plus 6% of Tax Table Income in Excess of \$101,000

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
0	9,000	0	0	0	0	0	0	0	0
9,000	9,250	3	0	0	0	0	0	0	0
9,250	9,500	8	0	0	0	0	0	0	0
9,500	9,750	13	0	0	0	0	0	0	0
9,750	10,000	18	0	0	0	0	0	0	0
10,000	10,250	23	3	0	0	0	0	0	0
10,250	10,500	28	8	0	0	0	0	0	0
10,500	10,750	33	13	0	0	0	0	0	0
10,750	11,000	38	18	0	0	0	0	0	0
11,000	11,250	43	23	3	0	0	0	0	0
11,250	11,500	48	28	8	0	0	0	0	0
11,500	11,750	53	33	13	0	0	0	0	0
11,750	12,000	58	38	18	0	0	0	0	0
12,000	12,250	63	43	23	3	0	0	0	0
12,250	12,500	68	48	28	8	0	0	0	0
12,500	12,750	75	55	35	15	0	0	0	0
12,750	13,000	85	65	45	25	0	0	0	0
13,000	13,250	95	75	55	35	5	0	0	0
13,250	13,500	105	85	65	45	15	0	0	0
13,500	13,750	115	95	75	55	25	0	0	0
13,750	14,000	125	105	85	65	35	0	0	0
14,000	14,250	135	115	95	75	45	5	0	0
14,250	14,500	145	125	105	85	55	15	0	0
14,500	14,750	155	135	115	95	65	25	0	0
14,750	15,000	165	145	125	105	75	35	0	0
15,000	15,250	175	155	135	115	85	45	5	0
15,250	15,500	185	165	145	125	95	55	15	0
15,500	15,750	195	175	155	135	105	65	25	0
15,750	16,000	205	185	165	145	115	75	35	0
16,000	16,250	215	195	175	155	125	85	45	5
16,250	16,500	225	205	185	165	135	95	55	15
16,500	16,750	235	215	195	175	145	105	65	25
16,750	17,000	245	225	205	185	155	115	75	35
17,000	17,250	255	235	215	195	165	125	85	45
17,250	17,500	265	245	225	205	175	135	95	55
17,500	17,750	275	255	235	215	185	145	105	65
17,750	18,000	285	265	245	225	195	155	115	75

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
18,000	18,250	295	275	255	235	205	165	125	85
18,250	18,500	305	285	265	245	215	175	135	95
18,500	18,750	315	295	275	255	225	185	145	105
18,750	19,000	325	305	285	265	235	195	155	115
19,000	19,250	335	315	295	275	245	205	165	125
19,250	19,500	345	325	305	285	255	215	175	135
19,500	19,750	355	335	315	295	265	225	185	145
19,750	20,000	365	345	325	305	275	235	195	155
20,000	20,250	375	355	335	315	285	245	205	165
20,250	20,500	385	365	345	325	295	255	215	175
20,500	20,750	395	375	355	335	305	265	225	185
20,750	21,000	405	385	365	345	315	275	235	195
21,000	21,250	415	395	375	355	325	285	245	205
21,250	21,500	425	405	385	365	335	295	255	215
21,500	21,750	435	415	395	375	345	305	265	225
21,750	22,000	445	425	405	385	355	315	275	235
22,000	22,250	455	435	415	395	365	325	285	245
22,250	22,500	465	445	425	405	375	335	295	255
22,500	22,750	475	455	435	415	385	345	305	265
22,750	23,000	485	465	445	425	395	355	315	275
23,000	23,250	495	475	455	435	405	365	325	285
23,250	23,500	505	485	465	445	415	375	335	295

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
23,500	23,750	515	495	475	455	425	385	345	305
23,750	24,000	525	505	485	465	435	395	355	315
24,000	24,250	535	515	495	475	445	405	365	325
24,250	24,500	545	525	505	485	455	415	375	335
24,500	24,750	555	535	515	495	465	425	385	345
24,750	25,000	565	545	525	505	475	435	395	355
25,000	25,250	575	555	535	515	485	445	405	365
25,250	25,500	585	565	545	525	495	455	415	375
25,500	25,750	595	575	555	535	505	465	425	385
25,750	26,000	605	585	565	545	515	475	435	395
26,000	26,250	615	595	575	555	525	485	445	405
26,250	26,500	625	605	585	565	535	495	455	415
26,500	26,750	635	615	595	575	545	505	465	425
26,750	27,000	645	625	605	585	555	515	475	435
27,000	27,250	655	635	615	595	565	525	485	445
27,250	27,500	665	645	625	605	575	535	495	455
27,500	27,750	675	655	635	615	585	545	505	465
27,750	28,000	685	665	645	625	595	555	515	475
28,000	28,250	695	675	655	635	605	565	525	485

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
28,250	28,500	705	685	665	645	615	575	535	495
28,500	28,750	715	695	675	655	625	585	545	505
28,750	29,000	725	705	685	665	635	595	555	515
29,000	29,250	735	715	695	675	645	605	565	525
29,250	29,500	745	725	705	685	655	615	575	535
29,500	29,750	755	735	715	695	665	625	585	545
29,750	30,000	765	745	725	705	675	635	595	555
30,000	30,250	775	755	735	715	685	645	605	565
30,250	30,500	785	765	745	725	695	655	615	575
30,500	30,750	795	775	755	735	705	665	625	585
30,750	31,000	805	785	765	745	715	675	635	595
31,000	31,250	815	795	775	755	725	685	645	605
31,250	31,500	825	805	785	765	735	695	655	615
31,500	31,750	835	815	795	775	745	705	665	625
31,750	32,000	845	825	805	785	755	715	675	635
32,000	32,250	855	835	815	795	765	725	685	645
32,250	32,500	865	845	825	805	775	735	695	655
32,500	32,750	875	855	835	815	785	745	705	665
32,750	33,000	885	865	845	825	795	755	715	675
33,000	33,250	895	875	855	835	805	765	725	685
33,250	33,500	905	885	865	845	815	775	735	695
33,500	33,750	915	895	875	855	825	785	745	705
33,750	34,000	925	905	885	865	835	795	755	715
34,000	34,250	935	915	895	875	845	805	765	725
34,250	34,500	945	925	905	885	855	815	775	735
34,500	34,750	955	935	915	895	865	825	785	745
34,750	35,000	965	945	925	905	875	835	795	755
35,000	35,250	975	955	935	915	885	845	805	765
35,250	35,500	985	965	945	925	895	855	815	775
35,500	35,750	995	975	955	935	905	865	825	785
35,750	36,000	1,005	985	965	945	915	875	835	795
36,000	36,250	1,015	995	975	955	925	885	845	805
36,250	36,500	1,025	1,005	985	965	935	895	855	815
36,500	36,750	1,035	1,015	995	975	945	905	865	825
36,750	37,000	1,045	1,025	1,005	985	955	915	875	835
37,000	37,250	1,055	1,035	1,015	995	965	925	885	845
37,250	37,500	1,065	1,045	1,025	1,005	975	935	895	855
37,500	37,750	1,075	1,055	1,035	1,015	985	945	905	865
37,750	38,000	1,085	1,065	1,045	1,025	995	955	915	875
38,000	38,250	1,095	1,075	1,055	1,035	1,005	965	925	885

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
38,250	38,500	1,105	1,085	1,065	1,045	1,015	975	935	895
38,500	38,750	1,115	1,095	1,075	1,055	1,025	985	945	905
38,750	39,000	1,125	1,105	1,085	1,065	1,035	995	955	915
39,000	39,250	1,135	1,115	1,095	1,075	1,045	1,005	965	925
39,250	39,500	1,145	1,125	1,105	1,085	1,055	1,015	975	935
39,500	39,750	1,155	1,135	1,115	1,095	1,065	1,025	985	945
39,750	40,000	1,165	1,145	1,125	1,105	1,075	1,035	995	955
40,000	40,250	1,175	1,155	1,135	1,115	1,085	1,045	1,005	965
40,250	40,500	1,185	1,165	1,145	1,125	1,095	1,055	1,015	975
40,500	40,750	1,195	1,175	1,155	1,135	1,105	1,065	1,025	985
40,750	41,000	1,205	1,185	1,165	1,145	1,115	1,075	1,035	995
41,000	41,250	1,215	1,195	1,175	1,155	1,125	1,085	1,045	1,005
41,250	41,500	1,225	1,205	1,185	1,165	1,135	1,095	1,055	1,015
41,500	41,750	1,235	1,215	1,195	1,175	1,145	1,105	1,065	1,025
41,750	42,000	1,245	1,225	1,205	1,185	1,155	1,115	1,075	1,035
42,000	42,250	1,255	1,235	1,215	1,195	1,165	1,125	1,085	1,045
42,250	42,500	1,265	1,245	1,225	1,205	1,175	1,135	1,095	1,055
42,500	42,750	1,275	1,255	1,235	1,215	1,185	1,145	1,105	1,065
42,750	43,000	1,285	1,265	1,245	1,225	1,195	1,155	1,115	1,075
43,000	43,250	1,295	1,275	1,255	1,235	1,205	1,165	1,125	1,085
43,250	43,500	1,305	1,285	1,265	1,245	1,215	1,175	1,135	1,095
43,500	43,750	1,315	1,295	1,275	1,255	1,225	1,185	1,145	1,105
43,750	44,000	1,325	1,305	1,285	1,265	1,235	1,195	1,155	1,115
44,000	44,250	1,335	1,315	1,295	1,275	1,245	1,205	1,165	1,125
44,250	44,500	1,345	1,325	1,305	1,285	1,255	1,215	1,175	1,135
44,500	44,750	1,355	1,335	1,315	1,295	1,265	1,225	1,185	1,145
44,750	45,000	1,365	1,345	1,325	1,305	1,275	1,235	1,195	1,155
45,000	45,250	1,375	1,355	1,335	1,315	1,285	1,245	1,205	1,165
45,250	45,500	1,385	1,365	1,345	1,325	1,295	1,255	1,215	1,175
45,500	45,750	1,395	1,375	1,355	1,335	1,305	1,265	1,225	1,185
45,750	46,000	1,405	1,385	1,365	1,345	1,315	1,275	1,235	1,195
46,000	46,250	1,415	1,395	1,375	1,355	1,325	1,285	1,245	1,205
46,250	46,500	1,425	1,405	1,385	1,365	1,335	1,295	1,255	1,215
46,500	46,750	1,435	1,415	1,395	1,375	1,345	1,305	1,265	1,225
46,750	47,000	1,445	1,425	1,405	1,385	1,355	1,315	1,275	1,235
47,000	47,250	1,455	1,435	1,415	1,395	1,365	1,325	1,285	1,245
47,250	47,500	1,465	1,445	1,425	1,405	1,375	1,335	1,295	1,255
47,500	47,750	1,475	1,455	1,435	1,415	1,385	1,345	1,305	1,265
47,750	48,000	1,485	1,465	1,445	1,425	1,395	1,355	1,315	1,275
48,000	48,250	1,495	1,475	1,455	1,435	1,405	1,365	1,325	1,285
48,250	48,500	1,505	1,485	1,465	1,445	1,415	1,375	1,335	1,295
48,500	48,750	1,515	1,495	1,475	1,455	1,425	1,385	1,345	1,305
48,750	49,000	1,525	1,505	1,485	1,465	1,435	1,395	1,355	1,315
49,000	49,250	1,535	1,515	1,495	1,475	1,445	1,405	1,365	1,325
49,250	49,500	1,545	1,525	1,505	1,485	1,455	1,415	1,375	1,335
49,500	49,750	1,555	1,535	1,515	1,495	1,465	1,425	1,385	1,345

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
49,750	50,000	1,565	1,545	1,525	1,505	1,475	1,435	1,395	1,355
50,000	50,250	1,578	1,558	1,538	1,518	1,488	1,448	1,408	1,368
50,250	50,500	1,593	1,573	1,553	1,533	1,503	1,463	1,423	1,383
50,500	50,750	1,608	1,588	1,568	1,548	1,518	1,478	1,438	1,398
50,750	51,000	1,623	1,603	1,583	1,563	1,533	1,493	1,453	1,413

Plus 6% of Tax Table Income in Excess of \$51,000

B. Nonresidents and Part-Year Residents. Compute tax table income as defined in R.S. 47:293(10). Reduce the tax table income by the total amount of personal exemptions and deductions allowed for in R.S. 47:294, and increase the tax table income by the proportionate share of those personal exemptions and deductions as provided by R.S. 47:293(10). The resulting amount is considered taxable income. The tax due for nonresidents and part-year residents shall be determined using one of the following tables depending on your filing status:

1. Married Individuals Filing Joint Returns and Qualified Surviving Spouses

If taxable income is: Not over \$25,000	The tax is: 2% of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$25,000 but not over \$100,000	\$500 plus 4% of the excess over \$25,000. This amount is to be reduced by 2% of the first \$25,000 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$25,000.
Over \$100,000	\$3,500 plus 6% of the excess over \$100,000. This amount is to be reduced by 2% of the first \$25,000 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$25,000 but not over \$100,000 and 6% of the proportionate share of personal exemptions and deductions over \$100,000.

2. Single Individuals and Married Individuals Filing Separate Returns

If taxable income is: Not over \$12,500	The tax is: 2% of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$12,500 but not over \$50,000	\$250 plus 4% of the excess over \$12,500. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500.

Over \$50,000
\$1,750 plus 6% of the excess over \$50,000. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500 but not over \$50,000 and 6% of the proportionate share of personal exemptions and deductions over \$50,000.

3. Head of Households

If taxable income is: Not over \$12,500	The tax is: 2% of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$12,500 but not over \$50,000	\$250 plus 4% of the excess over \$12,500. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500.
Over \$50,000	\$1,750 plus 6% of the excess over \$50,000. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500 but not over \$50,000 and 6% of the proportionate share of personal exemptions and deductions over \$50,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 29:1502 (August 2003), amended LR 35:2821 (December 2009).

Cynthia Bridges
Secretary

0912#059

RULE

**Department of Social Services
Office of Family Support**

**LA 4 Public Pre-Kindergarten Program
(LAC 67:III.5585)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, Temporary Assistance for Needy Families (TANF) Initiatives, by adopting Section 5585, LA 4 Public Pre-Kindergarten Program.

The LA 4 Public Pre-Kindergarten Program Initiative will further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana by providing high quality early childhood education to at risk 4-year-olds. This program has a long term goal of placing at risk four year olds in learning environments at the pre-school level that will foster an interest in learning, increase literacy levels and increase the likelihood of developing responsible behavior.

In order to provide early childhood education to at risk 4-year-olds, funding will be provided through this new initiative. This rule was effective July 1, 2009, by a Declaration of Emergency published in the July 2009 *Louisiana Register*.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

**Subpart 15. Temporary Assistance for Needy Families
(TANF) Initiatives**

Chapter 55 TANF Initiatives

§5585 LA 4 Public Pre-Kindergarten Program

A. Effective July 1, 2009, the Office of Family Support shall enter into a contract with the Department of Education for the LA 4 Public Pre-Kindergarten Program.

B. Services include providing high quality early childhood education to at risk 4-year-olds in participating public school districts as well as charter schools.

C. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance

**§1301. Minimum Design Guidelines for
Rural Arterial Roads**

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
1	Design Speed (mph)	50 ¹	60 ²	70
2	Number of Lanes (minimum) ³	2	2	4
3	Width of Travel Lanes (ft)	11-12 ⁴	12	12
4	Width of Shoulders (minimum)(ft)			
	(a) Two Lane	8 ⁵	8 ⁵	N/A
	(b) Divided facilities			
	(1) Inside ⁸	4	4	4 ⁶
	(2) Outside	8 ⁵	8 ⁵	8-10 ⁷
5	Shoulder Type	Aggregate (2' min paved)	Aggregate (2' min paved)	Aggregate ⁸ (2' min paved)

of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels and increase the likelihood of developing responsible behavior.

D. Eligibility for services is limited to at risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1 of the 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support LR 35:2840 (December 2009).

Kristy H. Nichols
Secretary

0912#087

RULE

**Department of Transportation and Development
Office of Highways/Engineering**

**Design Guidelines for Political Subdivisions
(LAC 70:I.Chapter 13)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development hereby amends Chapter 13 of Title 70 entitled "Design Guidelines for Freeways, Arterial, Collector and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System," in accordance with R.S. 48:35(C).

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 13. Design Guidelines for Freeways, Arterial, Collector and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
6	Parking Lane Width (ft)	N/A	N/A	N/A
7	Width of Median on Divided Facilities (ft)			
	(a) Depressed	42-60	42-60	60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
8	Fore slope (vertical-horizonal)	1:6	1:6	1:6
9	Back slope (vertical-horizonal)	1:4	1:4	1:4
10	Pavement Cross-slope (%)	2.5	2.5	2.5
11	Minimum Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) ⁹	10	10	10
13	Minimum Radius (ft) ¹⁰ (with full superelevation)	700	1,100	1,700
14	Maximum Grade (%) ¹¹	4	3	3
15	Minimum Vertical Clearance (ft) ¹²	16	16	16
16	Minimum Clear Zone(ft)(from edge of through travel lane)	20	30 ¹³	34
17	Bridge Design Live Load ¹⁴	AASHTO	AASHTO	AASHTO
18	Width of Bridges (min) (face to face of bridge rail at gutter line) (ft)	Roadway width	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004) repromulgated LR 30:2332 (October 2004), amended LR 35:2840 (December 2009).

§1303. Footnotes for Rural Arterial Design Guidelines

A. Footnote for Item 1, RA-1 Classification. The design speed may not be less than the current posted speed of the overall route.

B. Footnote for Item 1, RA-2 Classification. Consider using RA-3 criteria (except Item No. 2) for roadways that will be widened in the future.

C. Footnote for Item 2. Consider increasing to a 4-lane facility if design volume is greater than 6,000 vehicles per day and six lanes if design volume is greater than 25,000 vehicles per day. If more than two lanes are to be provided, outside shoulders should be paved.

D. Footnote for Item 3, RA-1 Classification. Twelve feet required when design ADT is 1,500 or greater.

E. Footnote for Items 4(a) and 4(b)(2), RA-1 and RA-2 Classifications. Six foot shoulders are allowed if design volume is between 400 to 2,000 vehicles per day. Four foot shoulders are allowed if design volume is less than 400 vehicles per day.

F. Footnote for Item 4(b)(1), RA-3 Classification. Eight to ten feet to be provided on six lane facilities.

G. Footnote for Item 4(b)(2), RA-3 Classification. Consider using 10 foot outside shoulders where trucks are

greater than 10 percent or if large agricultural vehicles use the roadway.

H. Footnote for Item 4(b)(1) and for Item 5, RA-3 Classification. For ADT 5,000 or greater, the full shoulder width shall be paved.

I. Footnote for Item 12. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. Footnote for Item 13. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Footnote for Item 14. Grades 1 percent higher are permissible in rolling terrain.

L. Footnote for Item 15. An additional 6 inches should be added for additional future surfacing.

M. Footnote for Item 16, RA-2 Classification. On multilane facilities, use 32 feet.

N. Footnote for Item 17. LRFD for bridge design.

O. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004), repromulgated LR 30:2332 (October 2004), amended LR 35:2841 (December 2009).

§1305. Minimum Design Guidelines for Freeways

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 ¹
1	Design Speed (mph)	50	60	70
2	Level of Service	C ³	C ³	B ²
3	Number of Lanes (minimum)	4	4	4
4	Width of Travel Lanes (ft)	12	12	12

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 ¹
5	Width of Shoulders (ft)			
	(a) Inside ⁴	6	6	6
	(b) Outside ⁵	10	10	10
6	Shoulder Type	Paved	Paved	Paved
7	Width of Median (minimum) (ft)			
	a) Depressed	50	68 (min)–100 (des)	72 (min)–100 (des)
	b) Continuous barrier (4 lane) ⁶	15	15	15
	Continuous barrier (6 lane) ⁶	27	27	27
8	Fore Slope (vertical – horizontal)	1:4 to 1:6	1:6	1:6
9	Back Slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross Slope (%)	2.5	2.5	2.5
11	Minimum Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) ⁷	10	10	10
13	Minimum Radius (ft) ⁸ (with 10% superelevation)	700	1,100	1,700
14	Maximum Grade (%) ⁹	4	3	3
15	Minimum Vertical Clearance (ft) ¹⁰	16	16	16
16	Width of Right-of-Way (ft)			
	(a) Depressed median	As Needed	As Needed	Varies ¹¹
	(b) Median barrier	As Needed	As Needed	As Needed
	(c) Minimum from edge of bridge structure ¹²	15–20	15–20	15–20
17	Bridge Design Live Load ¹³	AASHTO	AASHTO	AASHTO
18	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	Roadway Width	Roadway Width	Roadway Width
19	Minimum Clear Zone(from edge of through travel lane)(ft)			
	(a) 1:4 Fore slope	30	N/A	N/A
	(b) 1:6 Fore slope	22	32	34

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004), repromulgated LR 30:2333 (October 2004), amended LR 35:2841 (December 2009).

§1307. Footnotes for Freeway Design Guidelines

A. Footnote for F-3 Classification. These guidelines may be used in urban areas.

B. Footnote for Item 2, F-3 Classification. Level of Service C can be used in urban areas.

C. Footnote for Item 2, F-1 and F-2 Classifications. Level of Service D can be used in heavily developed urban areas.

D. Footnote for Item 5(a). Four feet to be paved, 10 feet to be paved on 6 lane facilities, 12 feet to be paved on 6 lane facilities with truck DDHV greater than 250.

E. Footnote for Item 5(b). Twelve feet paved when truck DDHV is greater than 250.

F. Footnote for Item 7(b). For larger medians two barriers may be required. The maximum offset of 15 feet from barrier to edge of travel lane shall not be exceeded.

G. Footnote for Item 12. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the $e_{max} = 10\%$ table.

H. Footnote for Item 13. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

I. Footnote for Item 14. Grades 1 percent higher may be used in urban areas.

J. Footnote for Item 15. An additional 6 inches should be added for additional future surfacing. Seventeen feet is required for trusses and pedestrian overpasses.

K. Footnote for Item 16(a), F-3 Classification. As needed for urban projects: 300 feet to 330 feet for rural projects depending on median width.

L. Footnote for Item 16(c). Twenty-five feet shall generally be provided in accordance with EDSM II.1.1.1.

M. Footnote for Item 17. LRFD for bridge design.

N. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004), repromulgated LR 30:2333 (October 2004), amended LR 35:2842 (December 2009).

§1309. Minimum Design Guidelines for Local Roads and Streets

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
1	Design Speed (mph) ¹	30	40	50	20	30
2	Average Daily Traffic	0–250	250–400	Over 400	N/A	N/A
3	Typical Number of Lanes	2	2	2	2	2
4	Minimum Width of Travel Lanes (ft)	9	9	11–12 ²	10–11 ³	10–11 ³
5	Minimum Width of Shoulders (ft) ⁴	2	2	5–8 ⁵	When used ⁶	When used ⁶
6	Shoulder Type	Aggregate	Aggregate	Aggregate	Paved	Paved
7	Minimum Width of Parking Lanes (where used) (ft)	N/A	N/A	N/A	7—Residential 8—Industrial	7—Residential 8—Industrial
8	Minimum Width of Sidewalk (where used) (ft)					
	(a) When offset from curb	N/A	N/A	N/A	4	4
	(b) When adjacent to curb	N/A	N/A	N/A	6	6
9	Fore Slope (vertical–horizontal)	1:3 ⁷	1:3 ⁷	1:4	1:3	1:3
10	Back Slope (vertical–horizontal)	1:2	1:2	1:3	1:2	1:2
11	Pavement Cross Slope (%)	2.5	2.5	2.5	2.5	2.5
12	Minimum Stopping Sight Distance (ft)	200	305	425	115	200
13	Maximum Superelevation (%)	10 ⁸	10 ⁸	10 ⁸	4	4
14	Minimum Radius (ft) ^{9, 10}					
	(a) With normal crown (-2.5% cross slope)	7,585	11,625	16,700	100	325
	(b) With 2.5% superelevation	1,930	3,250	5,000	85	250
	(c) With full superelevation	250	450	700	80	235
15	Maximum Grade (%) ¹¹	7	7	6	10	9
16	Minimum Vertical Clearance (ft)	15	15	15	15	15
17	Minimum Clear Zone(ft)					
	(a) From edge of through travel lane	10 ⁷	10 ⁷	Varies ¹²	7—Shoulder facilities	10—Shoulder facilities
	(b) From back of curb (when curb is used)	N/A	N/A	N/A	1 (min)–6 (des)	1 (min)–6 (des)
18	Bridge Design Live Load ¹³	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
19	Minimum Width of Bridges (face to face of bridge rail at gutter line)	Traveled way plus 4'	Traveled way plus 4'	Traveled ¹⁴ way plus 6'	Traveled ^{15, 16} way plus 8'	Traveled ^{15, 16} way plus 8'
20	Bridge End Treatment	Yes	Yes	Yes	¹⁶	¹⁶

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004), repromulgated LR 30:2334 (October 2004), amended LR 35:2843 (December 2009).

§1311. Footnotes for Local Road and Street Design Guidelines

A. Footnote for Item 1. The design speed may not be less than the current posted speed of the overall route.

B. Footnote for Item 4, RL-3 Classification. For ADT greater than 2,000, use 12-foot lane widths.

C. Footnote for Item 4, UL-1 and UL-2 Classifications. Lane widths in residential areas may be reduced to 9 feet if necessary. Twelve foot lane widths are preferred in industrial areas.

D. Footnote for Item 5. Where bicycle activity is prevalent, a paved 4-foot shoulder should be provided.

E. Footnote for Item 5, RL-3 Classification. For ADT less than 1,500, the minimum shoulder width may be reduced to 4 feet if necessary. For ADT 1,500 to 2,000, use 6-foot shoulders. For ADT over 2,000, use 8-foot shoulders.

F. Footnote for Item 5, UL-1 and UL-2 Classifications. Select the shoulder width that corresponds to the ADT shown in the rural local road guidelines.

G. Footnote for Items 9 and 17(a), RL-1 and RL-2 Classifications. The value shown should be provided on new roadways. A lesser value may be used on existing roads depending on soil stability, right-of-way constraints, the safety record of the road, and the size vehicles using the road. Guidance is available in the publication entitled "AASHTO Standards for Geometric Design of Very Low Volume Local Roads (ADT < 400)".

H. Footnote for Item 13, RL-1, RL-2 and RL-3 Classifications. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the $e_{max} = 10\%$ table.

I. Footnote for Item 14. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

J. Footnote for Item 14. On roadways with an ADT < 400, a sharper radius may be used on fully superelevated roadways if necessary. For specific values refer to the

publication entitled 'AASHTO guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)'. Different radii apply at divisional islands.

K. Footnote for Item 15. Grades 2 percent higher may be used in rural rolling terrain.

L. Footnote for Item 17(a), RL-3 Classification. Varies from 14 feet to 28 feet. Refer to the Roadside Design Guide for the applicable value. For spot replacement projects refer to the applicable part of footnote G for Items 9 and 17(a).

M. Footnote for Item 18. LRFD for bridge design.

N. Footnote for Item 19, RL-3 Classification. For ADT greater than 2,000, use roadway width.

O. Footnote for Item 19, UL-1 and UL-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

P. Footnote for Items 19 and 20, UL-1 and UL-2 Classifications. When shoulders are provided, the minimum bridge width shall be the larger of that shown or the roadway width.

Q. General Note. These guidelines shall not apply to:

1. dead end roads (open at one end only);
2. roads that are dependent on dead end roads for access.

R. Urban guidelines may be applied to any street for which curb is to be used and the posted speed is less than 50 mph, or any street for which a posted speed of 30 mph or less would be appropriate.

S. General Note. On spot replacement projects the existing geometry and superelevation may remain providing there are no safety problems.

T. General Note. The appropriate local governing body is authorized to make design exceptions for specific items listed in these guidelines, with proper engineering justification.

U. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1313. Minimum Design Guidelines for Rural Collector Roads

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
1	Average Daily Traffic ¹	Under 400	400–2000	Over 2000
2	Design Speed (mph)	40–60 ²	50–60 ²	60
3	Number of Lanes	2	2	2–4 ³
4	Width of Travel Lanes (ft)	11	11–12 ⁴	12
5	Width of Shoulders (ft)			
	(a) Inside on multilane Facilities	N/A	N/A	4
	(b) Outside	2 ⁵	4–5 ⁶	8
6	Shoulder Type	Paved	Aggregate (2' min paved)	Aggregate (2' min paved) ⁷
7	Width of Parking Lanes (ft)	N/A	N/A	N/A
8	Width of Median on multilane facilities (ft)			
	(a) Depressed	N/A	N/A	42–60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (ft)			
	(a) When offset from curb	N/A	N/A	N/A
	(b) When adjacent to curb	N/A	N/A	N/A
10	Fore Slope (vertical–horizontal)	1:4	1:4	1:6
11	Back Slope (vertical–horizontal)	1:4 ⁸	1:4	1:4
12	Pavement Cross Slope (%)	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	305(40mph) 425(50mph) 570(60mph)	425 (50 mph) 570 (60 mph)	570
14	Maximum Superelevation (%) ⁹	10	10	10
15	Minimum Radius (ft) ¹⁰ (with full superelevation)	450 ¹¹	700 ¹²	1,100
16	Maximum Grade (%)	7 (40 mph) 6 (50 mph) 5 (60 mph)	6 (50 mph) 5 (60 mph)	5
17	Minimum Vertical Clearance (ft) ¹³	15	15	15

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
18	Minimum Clear Zone (ft) (from edge of through travel lane)	10, 14, 24 ¹⁴	26 (50 mph) 32 (60 mph)	30
19	Bridge Design Live Load ¹⁵	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	30	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004), repromulgated LR 30:2335 (October 2004), amended LR 35:2844 (December 2009).

§1315. Footnotes for Rural Collector Design Guidelines

A. Footnote for Item 1. Current traffic may be used to determine the appropriate classification.

B. Footnote for Item 2, RC-1 and RC-2 Classifications. The design speed may not be less than the current posted speed of the overall route.

C. Footnote for Item 3, RC-3 Classification. For rolling terrain, limited passing sight distance and high percentage of trucks, further analysis should be made to determine if additional lanes are required when ADT is above 7,000.

D. Footnote for Item 4, RC-2 Classification. For design speeds greater than 50 mph and ADT greater than 1,500 use 12-foot lanes.

E. Footnote for Item 5(b), RC-1 Classification. Where bicycle activity is observed, a 4-foot shoulder should be provided.

F. Footnote for Item 5(b), RC-2 Classification. For ADT greater than 1,500 use 6 foot shoulders.

G. Footnote for Item 6, RC-3 Classification. For ADT of 5,000 or greater, a minimum of 4 foot must be paved.

H. Footnote for Item 11, RC-1 Classification. 1:3 back slopes are allowed where right-of-way restrictions dictate.

I. Footnote for Item 14. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10% table.

J. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Footnote for Item 15, RC-1 Classification. Radius based on 40 mph. Radii for 50 mph and 60 mph are shown under the RC-2 and RC-3 classifications respectively.

L. Footnote for Item 15, RC-2 Classification. Radius based on 50 mph. The radius for 60 mph is shown under the RC-3 classification.

M. Footnote for Item 17. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. Footnote for Item 18, RC-1 Classification. The lower value is based on a 40 mph design speed, the middle value for 50 mph and the upper value for 60 mph.

O. Footnote for Item 19. LRFD for bridge design.

P. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1317. Minimum Design Guidelines for Suburban Arterial Roads and Streets

Item No.	Item	Suburban ¹			
		SA-1	SA-2		
1	Design Speed (mph)	50	55		
2	Level of Service	C	C		
3	Number of Lanes	2 (min)-4 (typ)	2 (min)-4 (typ)		
4	Width of Travel Lanes(ft)	12	12		
5	Width of Shoulders (minimum) (ft) ²				
	(a) Inside on multilane facilities	4	4		
	(b) Outside	8	8		
6	Shoulder Type	Paved	Paved		
7	Parking Lane Width (ft)	N/A	N/A		
8	Width of Median on Multilane Facilities (ft)				
	(a) Depressed	30-42	42		
	(b) Raised	30	30		
	(c) Two way left turn lane	N/A	N/A		
9	Width of Sidewalk (minimum) (where used) (ft) ³				
	(a) When offset from curb	4	4		
	(b) When adjacent to curb	N/A	N/A		

Item No.	Item					Suburban ¹	
						SA-1	SA-2
10	Fore slope (vertical – horizontal)					1:4 to 1:6	1:6
11	Back slope (vertical – horizontal)					1:3	1:4
12	Pavement Cross-slope (%)					2.5	2.5
13	Minimum Stopping Sight Distance (ft)					425	495
14	Maximum Superelevation(%)					4	6
15	Minimum Radius (ft) ^{4,5}						
	(a) With normal crown (-2.5% cross-slope)					16,700	19,700
	(b) With 2.5% superelevation					3,500	5,250
	(c) With full superelevation					1,000	1,100
16	Maximum Grade (%)					4 ⁶	4
17	Minimum Vertical Clearance (ft) ⁷					16	16
18	Minimum Clear Zone(ft)						
	(a) From edge of through travel lane					20 – 28 ⁸	24
	(b) Outside from back of curb (when curb is used)					10 (1:6) 18 (1:4)	14
	(c) Median from back of curb (when curb is used)					12	18
19	Bridge Design Live Load ⁹					AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line) ¹⁰						
	(a) Curbed facilities (without sidewalks)					Roadway width	Roadway width
	(b) Shoulder facilities					Roadway width	Roadway width
21	Guardrail Required at Bridge Ends					Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:810 (April 2004), repromulgated LR 30:2336 (October 2004), amended LR 35:2845 (December 2009).

§1319. Footnotes for Suburban Arterial Design Guidelines

A. Footnote for SA-1 and SA-2 Classifications. These guidelines may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The classification selected should be based on the posted speed.

B. Footnote for Item 5. If curb is used, it shall be placed at the edge of shoulder on two lane facilities and 1 foot beyond the edge of the shoulders on multilane facilities. However, see EDSM II.2.1.7. Curb will not be placed in front of guardrail.

C. Footnote for Item 9. Sidewalks must be separated from the shoulder and should be placed as near the right of way line as possible. They should desirably be placed outside the minimum clear zone shown in item 18.

D. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

E. Footnote for Item 15. Different radii apply at divisional islands. See Footnote G for "Minimum Design Guidelines for Urban Arterial Roads and Streets."

F. Footnote for Item 16, SA-1 Classification. Grades 1 percent higher are permissible in rolling terrain.

G. Footnote for Item 17. An additional 6 inches should be added for additional future surfacing.

H. Footnote for Item 18(a), SA-1 Classification. Use the larger value when 1:4 fore slopes are used.

I. Footnote for Item 19. LRFD for bridge design.

J. Footnote for Item 20. For roadways with shoulders and curbs, consider widening each bridge 8 feet to allow for a future lane and 4 foot offsets to bridge rail.

K. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004), repromulgated LR 30:2337 (October 2004), amended LR 35:2846 (December 2009).

§1321. Minimum Design Guidelines for Urban and Suburban Collector Roads and Streets

Item No.	Item	Urban		Suburban ¹		
		UC-1	UC-2	SC-1	SC-2	SC-3
1	Average Daily Traffic	N/A	N/A	N/A	N/A	N/A
2	Design Speed (mph)	30-40	45	40	45	50
3	Number of Lanes (minimum)	2-4	2-4	2-4	2-4	2-4
4	Width of Travel Lanes (ft)	11-12	12 ²	11	11	11-12 ²

Item No.	Item	Urban		Suburban ¹		
		UC-1	UC-2	SC-1	SC-2	SC-3
5	Width of Shoulders (ft)					
	(a) Inside on multilane facilities	N/A	N/A	N/A	N/A	4 ³
	(b) Outside	8 ^{2,4}	8 ^{2,4}	4-5 ⁴	4-5 ⁴	6, 8 ⁵
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Width of Parking Lanes (where used) (ft)	7-10 ⁶	11	7-10 ⁶	11	N/A
8	Width of Median on multilane facilities (ft)					
	(a) Depressed	N/A	N/A	N/A	N/A	30
	(b) Raised	4 (min)-30 (des)	4 (min)-30 (des)	4 (min)-30 (des)	4 (min)-30 (des)	26
	(c) Two way left turn lane	11-14 typ. ⁷	11-14 typ. ⁷	11-14 typ. ⁷	11-14 typ. ⁷	N/A
9	Width of Sidewalk (minimum) (where used) (ft) ⁸					
	(a) When offset from curb	4	4	4	4	4
	(b) When adjacent to curb	6	6	6	6	N/A
10	Fore Slope (vertical – horizontal)	1:3-1:4 ⁹	1:3-1:4 ⁹	1:4	1:4	1:4
11	Back Slope (vertical – horizontal)	1:3 ¹⁰	1:3	1:3	1:3	1:3
12	Pavement Cross Slope (%)	2.5	2.5	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	200 (30mph) 305 (40mph)	360	305	360	425
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) ^{11,12}					
	(a) With normal crown (-2.5% cross slope)	325(30mph) 700(40mph)	1,000	700	1,000	16,700
	(b) With 2.5% superelevation	250(30mph) 550(40mph)	750	550	750	4,400
	(c) With full superelevation	235(30mph) 500(40mph)	700	500	700	900
16	Maximum Grade (%)	9	8	7	6	6
17	Minimum Vertical Clearance (ft) ¹³	15	15	15	15	15
18	Minimum Clear Zone(ft)					
	(a) From edge of through travel lane	10	10	10	10	26 – 28 ¹⁴
	(b) Outside from back of curb (when curb is used)	1 (min)—6 (des)	6 (min)—8 (des)	1 (min)—6 (des)	6 (min)—8 (des)	17 – 19 ¹⁵
	(c) Median from back of curb (when curb is used)	1 (min)—6 (des)	1 (min)—8 des)	1 (min) – 6 (des)	1 (min)—8(des)	13
19	Bridge Design Live Load ¹⁶	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled ¹⁷ way plus 8'	Traveled ¹⁷ way plus 8'	Traveled ¹⁷ way plus 8'	Traveled ¹⁷ way plus 8'	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	¹⁷	¹⁷	¹⁷	¹⁷	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004), repromulgated LR 30:2337 (October 2004), amended LR 35:2846 (December 2009).

§1323. Footnotes for Urban and Suburban Collector Design Guidelines

A. Footnote for SC-1, SC-2 and SC-3 Classifications. These guidelines may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The classification selected should be based on the posted speed.

B. Footnote for Item 4, UC-2 and SC-3 Classifications and for Item 5(b), UC-1 and UC-2 Classifications. For ADT less than 2,000 refer to Exhibit 6-5 on page 425 in the "2004 AASHTO Policy on Geometric Design of Highways and Streets."

C. Footnote for Item 5(a), SC-3 Classification. Applicable to depressed medians only.

D. Footnote for Item 5(b), UC-1, UC-2, SC-1 and SC-2 Classifications. Curb may be used instead of shoulder.

Where bicycle activity is observed, a bike lane should be considered.

E. Footnote for Item 5(b), SC-3 Classification. If curb will not be used, shoulder widths may be reduced, see Footnote B (for Item 4). When curb is used on multilane facilities, it shall be placed at the edge of shoulder. When curb is used on 2-lane facilities, 8 foot shoulders will be required if a future center turn lane will be added. Curb will not be placed in front of guardrail.

F. Footnote for Item 7, UC-1 and SC-1 Classifications. Seven and 8-foot widths are limited to residential areas for 30 and 40 mph respectively.

G. Footnote for Item 8(c), UC-1, UC-2, SC-1 and SC-2 Classifications. Cannot be used on multilane roadways (with four or more through lanes) without Chief Engineer's approval.

H. Footnote for Item 9. If shoulders are used, sidewalks should be separated from shoulder.

I. Footnote for Item 10, UC-1 and UC-2 Classifications. Where shoulders are used, 1:4 minimum fore slopes are required through the limits of minimum clear zone.

J. Footnote for Item 11, UC-1 Classification. 1:2 back slopes are allowed where right of way restrictions dictate.

K. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

L. Footnote for Item 15. Different radii apply at divisional islands. See Footnote G for "Minimum Design Guidelines for Urban Arterial Roads and Streets."

M. Footnote for Item 17. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. Footnote for Item 18(a), SC-3 Classification. The higher value is applicable to roadways with an ADT greater than 6,000.

O. Footnote for Item 18(b), SC-3 Classification. These values apply to roadways with 8-foot shoulders. For outside

shoulders less than 8 feet, further increase should be proportional to the reduced shoulder width.

P. Footnote for Item 19. LRFD for bridge design.

Q. Footnote for Items 20(a) and 21, UC-1, UC-2, SC-1 and SC-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

R. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1325. Minimum Design Guidelines for Urban Arterial Roads and Streets

Item No.	Item	Urban				
		UA-1	UA-2	UA-3	UA-4	UA-5
1	Design Speed (mph)	40	45	50	55	60
2	Level of Service ¹	C	C	C	C	C
3	Number of Lanes	2 (min)– 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)
4	Width of Travel Lanes(ft)	11	11–12	12	12	12
5	Width of Shoulders (minimum) (ft) ²					
	(a) Inside on multilane facilities	N/A	N/A	4	4	4
	(b) Outside	8	8	8	8	8
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Parking Lane Width (ft)	10–12	10–12	N/A	N/A	N/A
8	Width of Median on Multilane Facilities (ft)					
	(a) Depressed	N/A	N/A	30	34–42	42
	(b) Raised	6 ³ –30	6 ³ –30	30	30	30
	(c) Two way left turn lane	11–14 typ. ⁴	11 – 14 typ. ⁴	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft) ⁵					
	(a) When offset from curb	4	4	4	4	4
	(b) When adjacent to curb	6	6	N/A	N/A	N/A
10	Fore slope (vertical – horizontal)	1:3 (min) 1:4 (des)	1:3 (min) 1:4 (des)	1:4	1:6	1:6
11	Back slope (vertical–horizontal)	1:3	1:3	1:3	1:4	1:4
12	Pavement Cross-slope (%)	2.5	2.5	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	305	360	425	495	570
14	Maximum Superelevation (%)	4	4	4	6	6
15	Minimum Radius (ft) ^{6,7}					
	(a) With normal crown (-2.5% cross-slope)	700	1,000	16,700	19,700	22,880
	(b) With 2.5% superelevation	550	750	3,500	5,250	6,280
	(c) With full superelevation	500	700	1,000	1,100	1,400
16	Maximum Grade (%)	7	6	6	5	5
17	Minimum Vertical Clearance (ft) ⁸	16	16	16	16	16
18	Minimum Clear Zone (ft)					
	(a) From edge of through travel lane	18 ⁹	24 ⁹	28 ¹⁰	22	30
	(b) Outside from back of curb (when curb is used)	6 (min)– 16 (des) ¹¹	6 (min)– 22 (des) ¹¹	19 ¹⁰	13	21
	(c) Median from back of curb ¹² (when curb is used)	4 (min)– 12 (des)	4 (min)– 18 (des)	8 (min)– 17 (des)	8 (min)– 17 (des)	8 (min)– 25 (des)
19	Bridge Design Live Load ¹³	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line)					

Item No.	Item	Urban			UA-4	UA-5
		UA-1	UA-2	UA-3		
	(a) Curbed facilities (without sidewalks)	Traveled ¹⁴ way plus 8'	Traveled ¹⁴ way plus 8'	Roadway width	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway Width	Roadway Width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	¹⁴	¹⁴	Yes	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 35:2848 (December 2009).

§1327. Footnotes for Urban Arterial Design Guidelines

A. Footnote for Item 2. Level of service D allowable in heavily developed urban areas.

B. Footnote for Item 5. Curb may be used in place of shoulders on UA-1 and UA-2 facilities. If used on UA-3, UA-4 or UA-5 facilities, curb should be placed at the edge of shoulder. For design speeds greater than 45 mph, curb will not be placed in front of guardrail.

C. Footnote for Item 8(b), UA-1 and UA-2 Classifications. With Chief Engineer's approval, curb offsets may be eliminated and the minimum median width can be reduced to 4 feet. On principal arterials, particularly at intersections, the upper limit should be considered.

D. Footnote for Item 8(c), UA-1 and UA-2 Classifications. Cannot be used on multilane roadways (with four or more through lanes) without the Chief Engineer's approval.

E. Footnote for Item 9. Sidewalks must be separated from the shoulder and should be placed as near the right of way line as possible. On high speed facilities, they should preferably be placed outside the minimum clear zone shown in Item 18.

F. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

G. Footnote for Item 15. The following radii apply at divisional islands. The radius selected must match the design speed of the road. These radii also apply to the other guidelines where divisional islands are mentioned.

Design Speed	Radius (Rounded)	Degree of Curve
20	1,450'	4°
25	1,650'	3° 30'
30	1,950'	3°
35	2,300'	2° 30'
40	2,900'	2°
45	3,850'	1° 30'
50	5,750'	1°
55 and 60	11,500'	0° 30'

H. Footnote for Item 17. An additional 6 inches should be added for additional future surfacing.

I. Footnote for Item 18(a), UA-1 and UA-2 Classifications. Applies to facilities with shoulders. Refer to the Roadside Design Guide when 1:3 fore slopes are used or for slopes flatter than 1:4.

J. Footnote for Items 18(a) and 18(b), UA-3 Classification. The distance may be reduced by 6 feet if 1:6 slopes are used. For outside shoulders wider than 8 feet,

further reduction should be proportional to the added shoulder width.

K. Footnote for Item 18(b), UA-1 and UA-2 Classifications. If outside shoulders and curb are used, refer to the Roadside Design Guide.

L. Footnote for Item 18(c). Where left turn lanes are provided or where the median is less than 6 feet in width, the minimum clearance will be 1.5 feet from back of curb. For median slopes steeper than 1:6, refer to the Roadside Design Guide for the desirable clear zone.

M. Footnote for Item 19. LRFD for bridge design.

N. Footnote for Items 20(a) and 21, UA-1 and UA-2 Classifications. Refer to EDMS II.3.1.4 when sidewalks will be provided and for guardrail requirements.

O. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering LR 35:2849 (December 2009).

William D. Ankner, Ph.D.
Secretary

0912#062

RULE

**Office of Transportation and Development
Office of Public Works**

Statewide Flood Control Program
(LAC 56:III.Chapter 3)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development hereby amends Chapter 3 of Part III of Title 56 entitled "Statewide Flood Control Program", in accordance with the provisions of R.S. 38:91, et seq. The existing Subchapters B and C are repealed in their entirety and new Subchapters B and C are inserted in lieu thereof.

Title 56

PUBLIC WORKS

**Part III. Flood Control and Water Management
Chapter 3. Statewide Flood Control Program
Subchapter A. Procedures for Implementing Statewide Flood Control Program**

§301. Sequence

A. This Section describes the sequence of events involved in implementing the Statewide Flood Control Program. The sequence begins and ends each year during the

Regular Session of the Legislature. Specific procedures are described briefly in this Section and are presented more fully in the pre-application, application, and evaluation of proposed projects and distribution of funds sections of this document.

1. Pre-Application and Resolution (April 1-May 1). Sponsoring authorities are to complete the pre-application, and must submit their completed pre-applications and resolutions to OPW not later than 4 p.m. on May 1. Pre-applications received after May 1 will not be eligible for the program in the current year. Pre-applications must include documentation of the flooding problem in order to be considered.

2. Evaluation Committee Review of Pre-Applications (May 1-June 1)

a. Pre-applications will be reviewed and screened by the Evaluation Committee. The reasons for the review are to determine whether there is documented evidence of flood damages; whether the sponsoring authority is requesting OPW assistance in preparing the full application; whether the proposed solution (if such a solution has been developed at this time) is eligible for funding under this program; and whether the sponsoring authority is willing to assume responsibility for its share of the cost, including new rights-of-way, operation and maintenance costs, and other obligations.

b. All pre-applications that are determined to be ineligible by the Evaluation Committee will be returned with appropriate comments by June 1 or as soon as possible. All eligible pre-applications will remain on file until a formal application is submitted or for a period of four subsequent funding years. The pre-application evaluation criteria for OPW assistance are described in the Pre-Application Section.

c. Pre-applications that have been determined to be eligible and that may move on to the application stage include:

- i. pre-applications submitted by sponsoring authorities with a population of more than 50,000;
- ii. pre-applications from sponsoring authorities to receive assistance from OPW in the application stage;
- iii. pre-applications from sponsoring authorities eligible for assistance from OPW in the application stage that cannot be handled by OPW in time for the current funding year that chose to prepare their own applications.

d. Pre-applications in the third group may be processed in the application stage by OPW in time for the next year's funding. Applications on which OPW initiates work will receive increased priority for assistance in application preparation in the following funding years. The sponsoring authorities need not wait for OPW assistance. However, they may prepare and submit their own applications.

e. At the end of the pre-application review period, applicants will be notified of the status of their pre-applications. The sponsoring authorities seeking OPW assistance in preparing an application will be informed by letter whether they:

- i. will receive OPW assistance in time for the current funding cycle; or
- ii. will not receive assistance at this time and must compete for assistance again the following year.

f. Authorities completing their own applications may automatically move into the application stage unless the proposed solution is not eligible as a project under the program. If the proposed solution is not consistent with the program's objectives, the Evaluation Committee may suggest alternative solutions which must be addressed in order for the application to be eligible.

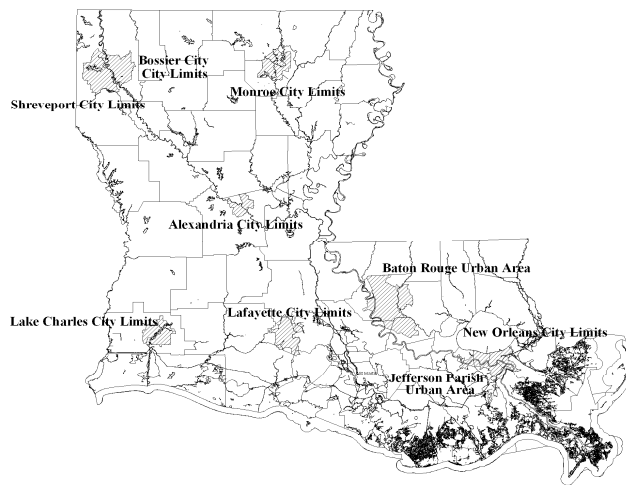
3. Application Preparation (June 1-October 1)

a. Applications may be submitted anytime between June 1 and October 1, but must be received by OPW no later than 4 p.m. October 1, in order to be considered for funding during the upcoming legislative session. Applications received after this deadline will not be eligible for the current year's program. Applications for which pre-applications were received and approved from the previous year(s) may also be accepted during this period, provided all other procedures and deadlines have been met and four years have not elapsed since the pre-application submittal.

b. On request, OPW will prepare applications for eligible sponsoring authorities to the extent possible. All applications must adhere to the methodologies described in the instructions contained in the SWFC Procedures Manual.

4. Evaluation Committee Review of Applications (October 1-April 1)

a. During this six month period, the Evaluation Committee will review and evaluate all completed applications in order to make recommendations to the Joint Legislative Committee on Transportation, Highways, and Public Works for funding. Applications will be divided into urban and rural categories. Applications for projects in the nine major urban areas comprise the urban category, as shown in the Figure 1, and compete against all other urban projects for funding. All other applications will be grouped by funding district as shown in Figure 2. Rural projects are subdivided into two categories, rural-developed and rural-undeveloped. Rural-undeveloped projects compete only against other rural-undeveloped projects in the same funding district and likewise for rural-developed projects. Proposed projects will be evaluated and ranked based on criteria established by the Evaluation Committee.



**Figure 1. Statewide Flood Control Program
Nine Urban Areas Funding Group**

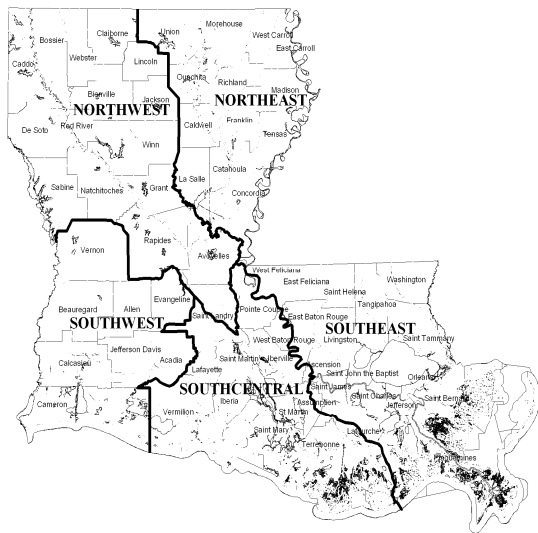


Figure 2. Statewide Flood Control Program Five Funding Districts for Rural Projects

b. Projects recommended to the Joint Legislative Committee will include a mix of those occurring in rural-undeveloped and rural-developed areas within each funding district as well as those for urban areas of the state. The method for allocating funding percentages within each district and the method for allocating total program funds to the various districts are presented in Subchapter D, Evaluation of Proposed Projects and Distribution of Funds.

5. Public Hearings (February-March). As part of the application evaluation process, the Joint Legislative Committee will hold public hearings in locations convenient to each funding district. The purpose of the hearings will be to receive comments from the public on the preliminary recommendations of the Evaluation Committee. After the hearings, the Evaluation Committee will incorporate public comments into its evaluation, complete the project evaluations, complete the project evaluations, and submit a priority ordered list of projects to the Joint Legislative Committee.

6. Legislative Process (March-Regular Session). From the list of projects recommended by the Evaluation Committee, the Joint Legislative Committee will recommend to the legislature a construction program to be funded during the regular session. Projects recommended by the Evaluation Committee but not funded will remain active and will automatically be included in the recommended projects for the next year and receive additional points in the evaluation scoring procedure. Applications for projects that are not recommended will be returned to the sponsoring authorities with reasons for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:561 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2849 (December 2009).

Subchapter B. Pre-Application Evaluation Procedures

§303. Pre-Application Review and Evaluation Procedure

A. The Evaluation Committee will be responsible for the review and evaluation of pre-applications. The reasons for reviewing and evaluating the pre-applications are to determine the following:

1. whether there is documented evidence of flood damages;
2. whether the sponsoring authority is requesting OPW assistance in preparing the full application;
3. whether the proposed solution (if one has been developed) appears to be eligible for funding under this program;
4. whether the sponsoring authority is willing to assume responsibility for its share of the cost.

B. If the applicant fails to adequately document that flood damages have occurred, the Evaluation Committee will not evaluate the pre-application and will notify the sponsoring authority accordingly. Because of time and manpower constraints, OPW will not be able to provide immediate assistance to all sponsoring authorities requesting assistance in the application stage.

C. Consideration will be given to the following:

1. time elapsed since the initial request was made;
2. local support;
3. existence of applicable surveying and engineering information within the OPW files, and the degree to which this information can be used; and
4. severity of flooding problems documented.

D. Points will be awarded to sponsoring authorities seeking OPW assistance in preparing applications for the above items in the following manner.

1. Time Elapsed—Add 1.0 point for each year up to four years since the initial request was made.
2. Local Support—Add up to 1.0 point for letters from the entire respective legislative delegation on file.
3. Existence of Information—Add 1.0 point if vertical control has been established over the project area; 1.0 more point if no additional cross sections need to be taken; and add 1.0 more point if engineering calculations and the design are complete.
4. Severity of Problem—Add the appropriate number of points based on the following document information.

Value	Occurrence	Points
0.1 point for each building damages	x	Number of occurrences in past 10 Years =
0.1 point for each 300 acres flooded		
0.1 point for each landowner affected		
2.0 points for loss of life		

NOTE: Priorities will be established for each funding district effective June 1 of each year. The Office of Public Works will identify pre-applications for which it will try to complete applications during June 1 through October 1 application preparation period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:562 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2851 (December 2009).

§305. Instructions for Preparing Attachments

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:564 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 35:2852 (December 2009).

§307. Application

AUTHORITY NOTE: promulgated in accordance with R.S. 38:90 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:565 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 35:2852 (December 2009).

§309. Format for Application

AUTHORITY NOTE: promulgated in accordance with R.S. 38:90 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:565 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 35:2852 (December 2009).

§311. General Instructions for Completing Application

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:565 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 35:2852 (December 2009).

§313. Pertinent Information for Completing

Application

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:571 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 35:2852 (December 2009).

Subchapter C. Evaluation of Proposed Projects and Distribution of Funds

§315. Project Evaluation Procedure

A. The Evaluation Committee will compile a priority ranked list for the projects in rural-developed and rural-undeveloped areas within each district and projects within urban areas each funding year. For evaluation purposes, the project classifications concern the characteristics of the benefitted area, not the design criteria or the contributing drainage area. The three project classifications are urban, rural-undeveloped and rural-developed. The urban category includes projects located in Shreveport, Bossier City, Monroe, Alexandria, Lake Charles, Lafayette, Baton Rouge, and its contiguous urbanized areas, New Orleans, and the urbanized portions of Jefferson Parish as shown in Figure 1 above. Rural-undeveloped projects are those located in areas with a structure density of 128 or less structures per square mile while rural-developed projects are located in areas with more than 128 structures per square mile. The evaluation will be based on a combination of rating procedures described hereinafter.

B. The priority ranking of each project will be based on the sum of the scores of Parts A and B of the Application

Evaluation Forms. Using the combined scores, the Evaluation Committee will produce a program priority list. The priority list will be forwarded to the Joint Legislative Committee on Transportation, Highways and Public Works.

C. Procedure for Application Evaluation Form—Part A

1. The Evaluation Committee will review each application and score it according to the following categories and maximum points.

- a. Documentation of Flood Problem—20 maximum points
- b. Local Support - —5 maximum points
- c. Technical Feasibility—45 maximum points
- d. Prevention of Loss of Life and Improved Public Safety—5 maximum points
- e. Environmental Effects and Impact on Development—15 maximum points
- f. Projects Recommended but not Funded—10 maximum points

2. The following guidelines will be used by the Evaluation Committee to rate applications to the Statewide Flood Control Program. This scoring procedure pertains to projects which meet the legislative intent of the program. Projects which are engineeringly unsound, cause unreasonable flooding in other areas, cause unacceptable or unmitigable environmental damages or otherwise do not meet the objectives of the program will not be scored.

a. Documentation of Flood Problem (20 point maximum). This category takes into consideration the adequacy of documentation which demonstrates the existence and severity of flood damages.

b. Local Support (5 point maximum). This category takes into consideration the following:

i. letters of support on file from the respective legislative delegation;

ii. no letters of objection from public officials, neighboring authorities, citizens groups, etc;

iii. multiple sponsorship.

c. Technical Feasibility (45 point maximum). This category takes into consideration the following:

i. completeness of project design;

ii. due consideration of alternatives (structural and nonstructural);

iii. compatibility of the project to other federal, state, and local projects;

iv. impact on flooding in areas upstream, downstream, and adjacent to the benefitted area.

d. Prevention of Loss of Life (5 point maximum). This category takes into consideration the following:

i. historical losses of life that may have been prevented by the project;

ii. the degree of success of the project at maintaining access to vital services (e.g., hospitals) and protection of evacuation routes.

e. Environmental Effects and Impact on Development (15 point maximum). This category takes into consideration the following:

i. no letters of objection from public agencies;

ii. no impact on special historical, archeological, geological features, or environmentally sensitive areas;

iii. not in a wetlands area;

iv. effectiveness of the project in relation to encroachment into flood prone area (i.e., 100-year flood plain).

f. Projects Recommended But Not Funded (10 point maximum). Add points for each year (up to a four year maximum) that the proposed project has been on the list of recommended projects but has not received funding.

D. Procedure for Application Evaluation Form—Part B

1. Ratings are computed on the basis of potential damage reductions associated with the design flood and do not include efforts to annualize benefits and costs. The same formula is to be used for rural-developed, rural-undeveloped projects, and urban projects, and appears below.

$$\text{Part B Score} = \frac{\text{Total Damages}^*}{\text{Total Construction Cost}} \times \frac{90}{90 - (\text{PLM } 10)}$$

where PLM = percent local match

*Total damages are any damages from the design storm which will be prevented by the flood control project including: agricultural crop and land damages; agricultural building damages; damages to residential, commercial, public, and other buildings; damages to roads; damages to buildings; and damages to industries.

2. In the Part B scoring process, projects, projects are separated into their appropriate categories (i.e., rural-undeveloped, rural-developed, and urban).

E. Example of Evaluations. The Evaluation Committee will calculate the scores from Parts A and B to derive the total score for each project. The priority ranking will be determined by adding the total scores from Parts A and B for each project. In the following example hypothetical information is used to compare three projects.

1. Part A. The three projects are first scored using the Application Evaluation Form—Part A. Results for the three projects are summarized in the following table. Projects are given both a raw score and a final score. The project with the highest raw score is awarded 100 points and competing projects are awarded points based on the ratio of their raw scores to the raw score of the highest scored project multiplied by 100.

2. Part B

a. The following tables demonstrate the Part B evaluation procedure for the same three projects (assumed to be in the rural-developed category). The benefits data presented in the first table would be taken from the applications.

b. The damage reductions and cost data for each category shown in the following table are used to compute the raw scores shown in the table for Part B scoring. The Part B scores will then be used to obtain a final score.

Tabulation of Project Points Credited for Part A				
Category	Maximum Points	Project Points Credited		
		Flat River	Danville	Sunnydale
Documentation of Flood Problem	20	12	17	13
Local Support	5	4	5	4
Technical Feasibility	45	36	40	27
Prevention of Loss of Life and Improved Public Safety	5	3	3	2
Environmental Effects and Impact on Development	15	1	3	2

Tabulation of Project Points Credited for Part A				
Category	Maximum Points	Project Points Credited		
		Flat River	Danville	Sunnydale
Projects Recommended but not Funded	10	2.5	0	0
RAW SCORE	100	58.5	68	48
FINAL SCORE*		86	100	71

*The project with the highest raw score receives 100 points. The other projects receive a percentage of 100 based on their raw score relative to the project with the highest raw score.

Tabulation of Costs And Benefits			
Category	Project Damage Reduction (Dollars)		
	Flat River	Danville	Sunnydale
Agricultural Acres	118,746	600,000	40,000
Residences	4,797,000	1,000,000	350,000
C and I Buildings	—	50,000	1,100,000
Other Buildings	—	100,000	700,000
Farm Structures	—	200,000	100,000
TOTAL DAMAGE REDUCTION	4,915,746	1,950,000	2,290,000
CONSTRUCTION COST	1,300,000	550,000	700,000

Part B Scoring			
Scoring Category	Flat River	Danville	Sunnydale
Raw Score			
Total Damages =	\$4,915,746	\$1,950,000	\$2,290,000
Construction Cost	\$1,300,000	\$550,000	\$700,000
or	3.78	3.55	3.27
Additional Funding Adjustment =			
$\frac{90}{90 - (\text{PLM } 10)}$	$\frac{90}{90(40 - 10)}$	$\frac{90}{90(10 - 10)}$	$\frac{90}{90 - (10 - 1.0)}$
or	1.50	1.00	1.00
Adjusted Score = Raw Score x Additional Funding Adjustment	5.67	3.55	3.27

*In this case Flat River contributed greater than the minimum local match and therefore receives a higher score.

3. Priority Score

a. The point totals parts A and B are multiplied in the following table to establish scores for the priority ranking of projects to be recommended for funding.

Final Priority Scores			
Form	Project		
	Flat River	Danville	Sunnydale
Part A	86	100	71
Part B	5.67	3.55	3.27
Total	488	355	232
Rank	1	2	3

b. If these three applications were in the same district and they were all in the rural developed category (as previously stated), the Evaluation Committee would recommend them for funding in the following order:

- i. Flat River;
- ii. Danville; and
- iii. Sunnydale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:574 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2852 (December 2009).

§317. Project Application Review and Public Hearings

A. The Flood Control Project Evaluation Committee will review applications between October 1 and the following April 1. During the review period, public hearings will be conducted in locations convenient to each Statewide Flood Control Program funding district by the Joint Legislative Committee on Transportation, Highways, and Public Works to solicit comments on the projects being considered for funding.

B. During this time, the Evaluation Committee will also receive from the Joint Legislative Committee on Transportation, Highways, and Public Works a projected funding level for the construction program of the coming year.

C. Based on the information gathered at the public hearings and the application evaluations, the Evaluation Committee will submit a list of recommended projects to the Joint Legislative Committee, on the basis of the distribution of funds described below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:577 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2854 (December 2009).

§319. Distribution of Funds

A. The distribution of program funds is based on a two-tiered system including:

1.a. the nine major urban areas in Louisiana as shown in Figure 1 (§301); and

b. the five funding districts shown in Figure 2 (§303);

2. 45 percent of total program funds is allocated to project areas within the nine designated urban areas. Projects within urban area must compete for funding with projects from all urban areas. However, no more than 20 percent of the total amount of funds available to finance projects in Louisiana's urban areas may be allocated to any signal urban area. The urban areas included are Shreveport, Bossier City, Monroe, Alexandria, Lake Charles, Lafayette, New Orleans, Baton Rouge and its contiguous urbanized area, and the urbanized portion of Jefferson Parish. The boundaries of the city limits and urbanized areas are consistent with the U.S. Census Bureau's urban designation;

3. 55 percent of total program funds is allocated to rural projects in the five funding districts. There are two categories of rural projects for funding distribution, rural-undeveloped and rural-developed. The formula for distributing funds among the five districts is as follows:

$$\text{District's Percent of Available Funding} = [0.50 \times (\text{District's Percent of State's total Area})] + [0.50 \times (\text{District's Percent of State's Total Flood Plain Area})]$$

4. The following table presents the funding allocation percentage for each of the five districts.

Funding District	Percent of State Total		
	Land Area	Floodplain	Funding Allocation
Northwest	28.3	17.9	23.1
Northeast	18.4	14.9	16.7
Southwest	17.4	13.6	15.5

Funding District	Percent of State Total		
	Land Area	Floodplain	Funding Allocation
Southeast	19.3	25.9	22.6
South Central	16.6	27.7	22.1
State Total	100.0	100.0	100.0

B. An important feature of the program is the separation of funds into rural-undeveloped and rural-developed categories within each funding district. The Evaluation Committee determines which category will be used for a project during the application review. The method for making the determination is based on structure density in the benefitted area. Benefitted areas with structure densities of more than 128 structures per square mile which are not one of the nine designated urban areas are considered rural-developed. Benefitted areas with structure densities of 128 or less structures per square mile are considered rural-undeveloped.

C.1. District funds are divided between the two rural categories. The separation of funds is based on the amount of agricultural land and developed land (excluding the nine urban areas) within each district in relation to the amount within the entire state. The formulas for making the primary separation between rural-developed and rural-undeveloped areas are:

$$\begin{aligned} \text{Percent of District Funds Designated Rural-Undeveloped} &= (\text{District's Percent of Total State Agricultural Area}) - \\ &[(\text{District's Percent of Total State Agricultural Area}) + \\ &(\text{District's Percent of Total State Developed Area})] \text{ and} \\ \text{Percent of District Funds Designated Rural-Developed} &= (\text{District's Percent of Total State Developed Area}) \div \\ &[(\text{District's Percent of Total State Agricultural Area}) + \\ &(\text{District's Percent of Total State Developed Area})] \end{aligned}$$

2. The two formulas account for 100 percent of the district funding total in all cases. The recommended funding ratios for the two rural categories are presented in Table 5 of this Section.

D. The Evaluation Committee will make its recommendations for projects within the limitations of the funding projections for the coming year and in accordance with the distributions presented in Tables 1 and 2 of this Chapter. Table 3 of this Chapter presents the funding distribution for a hypothetical \$50 million construction program allocation.

Funding District	Percentage of District Funds	
	Rural-Undeveloped	Rural-Developed
Northwest	52	48
Northeast	73	27
Southwest	55	45
Southeast	29	71
South Central	42	58

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:577 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2854 (December 2009).

§321. Redistribution Procedure

A. In the event that there are an insufficient number of approved projects in a funding district for a particular category (e.g., rural-undeveloped), then those funds would be allocated to fund projects in the other rural category (in this example, rural-developed) within the same district. If there are insufficient approved projects in both rural categories for a particular district to utilize the funding allocation in a particular year, then the excess funds shall be allocated to fund rural projects in the other funding districts which have been approved but not funded.

B. All excess funds shall be redistributed to other districts on a pro rata basis based on each funding district's percentage of rural project funds (Table 4 of this Chapter). The first priority will be to use unrequested rural-undeveloped project funds to fund approved rural-undeveloped projects in other districts. In the event that funds are still remaining, rural-undeveloped funds may then be used to fund rural-developed projects in other funding districts. Similar, unrequested rural-developed project funds shall be redistributed to other districts after satisfying all approved rural-developed projects and before becoming available to fund approved rural-undeveloped projects in other districts.

C. If funds allocated to the five funding districts are remaining after all approved rural projects have been funded, any remaining funds may then be used to fund approved but unfunded projects in urban areas. Similarly, any funds remaining after all approved urban projects have been funded may then be used to finance rural projects in the funding districts and shall be allocated in the same fashion as any funds initially allocated to these districts.

D. It is the intention of this program that redistributed funds be sufficient to complete a project. If funds available for redistribution are insufficient to complete a project, such funds shall then be carried forward to supplement the funding base for the next year's program.

E. In the event that funds become available due to the expiration of the four-year period allowed sponsoring authorities to generate local matching funds, those funds previously set aside will be redistributed in the same manner as described above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:578 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2855 (December 2009).

§323. Legislative Process

A. The Joint Legislative Committee on Transportation, Highways and Public Works will submit to the legislature a construction program. As specified by Act 351 of 1982, the legislature may delete any project that it believes was not selected in accordance with the guidelines of the Act. The legislature may not make any additions or substitutions to the construction program.

B. Projects recommended by the Evaluation Committee but not funded by the legislature will remain on the Evaluation Committee's recommendation list for a period of up to four years. These projects must compete with all other remaining projects from previous funding years (up to four years) and new projects in subsequent funding years.

However, projects recommended but not funded will be awarded 3.3 points (10 points maximum) for each year since the first filing of the project application.

Table 3 Example of Distribution of Funds for Hypothetical \$50 Million Construction Program				
			Targeted Funding Range (\$ Million)	
District	Total (\$ Million)	District Total (\$ Million)	Rural- Undeveloped	Rural- Developed
Urban Areas	22.50	--	--	--
Funding Districts	27.50	--	--	--
Northwest		6.35	3.30	3.05
Northeast		4.60	3.34	1.26
Southwest		4.25	2.34	1.91
Southeast		6.20	1.80	4.40
South Central		6.10	2.56	3.54
Total	50.00	27.50	13.34	14.16

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:578 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2855 (December 2009).

§325. Construction and Operation

A. Each sponsoring authority designated as a recipient of program funds must enter into an agreement with the Department of Transportation and Development, Office of Public Works, prior to the initiation of construction of a project and awarding of funds. This agreement stipulates what must be followed during all construction phases of the project, operation and maintenance, as well as the sponsoring authorities' obligations under R.S. 38:91. Policies and procedures that must be adhered to are detailed in the *Statewide Flood Control Program Procedural Manual for Funded Projects* made available to all sponsoring authorities designated to receive program funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:91 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:579 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2855 (December 2009).

William D. Ankner, Ph.D.
Secretary

0912#061

RULE

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Supervising Professional, Professional Conduct and
Continuing Professional Development (CPD)
(LAC 46:LXI.2305, 2505 and 3117)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is

hereby given that the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendments are primarily technical housekeeping revisions of existing board rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 23. Firms

§2305. Supervising Professional

A.1. In the case of firms providing or offering to provide professional services in the state of Louisiana, all such professional services shall be executed under the responsible charge of one or more licensed professionals, and designated by the firm as supervising professionals. Such licensed professionals shall be active employees of the firm:

a. whose primary employment is with the firm on a full-time basis; or

b. whose secondary employment is with the firm, provided the firm is totally owned by one or more of the supervising professionals whose license is used to qualify the firm for licensure.

A.2. - C. ...

D. It is the intent of these rules to guarantee that all professional services provided by a licensed firm are performed under the responsible charge of or by a licensed professional. To this end, the board may also require a licensed firm to identify those licensed professionals who will be providing professional services. In addition, the board may require the individual licensees identified by the licensed firm as the supervising professionals to acknowledge this responsibility, and assume the responsibility of informing the board in the event of a change of employment. No licensed professional shall be designated as a supervising professional by more than one firm, except in the case of secondary employment by a firm which is totally owned by one or more of the supervising professionals whose license is used to qualify the firm for licensure. A failure to comply with any of the provisions of this rule may subject both the licensed firm and the licensed professional to disciplinary action by the board.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:2856 (December 2009).

Chapter 25. Professional Conduct

§2505. Services

A. - E. ...

F. Firms may offer and/or provide a combination of engineering and construction services in connection with a design-build project without obtaining a firm license from the board, provided that:

1. prior to the execution of the contract for the project, the firm obtains an authorization certificate from the board

by filing, on a form approved by the board, a written disclosure on which it shall designate a professional engineer (professional of record) licensed in this state to be in responsible charge of all engineering services offered and/or provided by the firm for such project;

2. - 4.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:1620 (September 2006), LR 33:2789 (December 2007), LR 35:2856 (December 2009).

Chapter 31. Continuing Professional Development (CPD)

§3117. Audit and Review of Records

A. ...

B. Additionally, the board will conduct random audits in connection with biennial renewals of up to 30 percent of all board licensees. A license will not be renewed and will be deemed to have expired, unless the licensee provides proof of compliance with all CPD requirements and there are no discrepancies or deficiencies discovered.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 35:2856 (December 2009).

Donna D. Sentell
Executive Secretary

0912#029

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season—Kisatchie National Forest
(LAC 76:XIX.103)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§103. Resident Game Birds and Animals

A. - G.4. ...

H. The hunting season for Kisatchie National Forest (KNF) during the 2009-2010 hunting season shall be as follows:

1. All Seasons for KNF are for 2009-10 only. Bag Limit=1 deer of the appropriate sex per day up to the statewide seasonal limit of three antlered and three antlerless

deer. All deer must be tagged as required by LDWF regulations. Hunting stand, blind, tripod, etc. regulations applicable to LDWF WMAs are in effect on KNF (refer to "Methods of Taking Game" section of 2009-2010 LDWF Wildlife Management Area Regulations).

2. Motorized travel off designated roads and trails and outside designated areas is prohibited on the entire KNF. Motor Vehicle Use Maps (MVUM) showing designated roads and trails and associated vehicles and travel seasons are available in all Forest Service offices and on the Kisatchie Web site www.fs.fed.us/r8/kisatchie. ATV travel is allowed between 1 hour before sunrise and 1 hour after sunset; nighttime ATV travel is prohibited. Game retrieval with an ATV is only allowed within designated 300-foot corridors within the National Wildlife Management Preserves (see MVUM). Camping corridors for highway-legal vehicles to drive within 100 feet of the road and camp are designated on the Caney District and in the National Red Dirt Wildlife Management Preserve.

3. Catahoula Ranger District (Grant and Rapides Parishes), Winn Ranger District (Winn, Grant & Natchitoches Parishes), Kisatchie Ranger District (Natchitoches Parish), Evangeline Unit of the Calcasieu Ranger District (Rapides Parish):

a. Deer hunting with dogs on the Catahoula Ranger District shall occur only north of La. 8, excluding the National Catahoula Wildlife Management Preserve. Deer hunting with dogs on the Evangeline Unit shall occur only in the portion of the unit located south of La. 121 from near McNutt southwesterly to Spring Creek, east of Spring Creek southeasterly to US 165, except dogs may be used in Palustris Experimental Forest. National Forest lands within the Evangeline Unit, Calcasieu Ranger District, described in still hunt only area shall be still hunt only;

- b. Deer:
- i. Oct. 24-25, either-sex, primitive firearms, still hunt only;
 - ii. Oct. 31-Nov. 1, either-sex, still hunt only;
 - iii. Nov. 2, bucks only, still hunt only;
 - iv. Nov. 7-8, 14-15, 21-26, bucks only, still hunt only;
 - v. Nov. 27, either-sex, still hunt only;
 - vi. Nov. 28-29, bucks only, still hunt only;
 - vii. Dec. 5-6, 12-13, buck only, still hunt only;
 - viii. Dec. 19-24, 26-27, bucks only, with or without dogs;
 - ix. Jan. 1-3, bucks only, still hunt only;
 - x. Jan. 8-10, bucks only, still hunt only.

4. Vernon Unit of the Calcasieu Ranger District (Vernon Parish, excluding Fort Polk WMA):

- a. Oct. 24-25, either-sex, primitive firearms, still hunt only;
- b. Oct. 31-Nov. 1, either-sex, still hunt only;
- c. Nov. 2, bucks only, still hunt only;
- d. Nov. 7-8, 14-15, 21-26, bucks only, still hunt only;
- e. Nov. 27-29 either-sex, still hunt only;
- f. Dec. 5-6, 12-13, 19-24, 26-31, bucks only, still hunt only;
- g. Jan. 1-3, bucks only, still hunt only;
- h. Jan. 8-10, bucks only, still hunt only.

5. Caney Ranger District (Webster and Claiborne Parishes):

a. Deer—Same as outside including Youth Hunt (Area 2) except still hunt only. Either-sex entire season.

6. Other seasons on KNF:

a. Archery: Vernon Unit, Calcasieu Ranger District: Sept. 19-Jan. 15. Remainder of KNF: Oct. 1-Jan. 31. Either-sex deer may be taken at any time by archers during archery season except when bucks-only firearms seasons are in progress on KNF (archers must hunt only bucks during bucks-only firearm seasons);

b. All Other Small Game: Same as outside except closed to squirrel hunting during the spring season and waterfowl hunting ceases at 2 p.m.;

c. Unmarked Hogs, Coyotes, Armadillos and Beavers: May be taken incidentally on any KNF hunt by properly licensed hunters with weapons legal for that hunt until the daily or seasonal bag limit of game is taken. The placing of seed, corn, wheat, salt, or other feed to constitute a lure or enticement for any species, including hogs, is prohibited on KNF. Hunting over such feed is prohibited on KNF. Moving deer or hogs with organized drivers and standers, drivers, or making use of noise or noise-making devices is prohibited;

d. Raccoons and opossums: May be hunted during daylight or nighttime from Oct. 1-Feb. 28 only. A licensed hunter may take raccoon or opossum, one per person per day, except during the trapping season when there shall be no limit. Night-time chase only: May 1-Sept. 30, Tuesdays and Thursdays only. No firearms allowed. Nighttime ATV travel is prohibited;

e. Crows, blackbirds, grackles, and cowbirds: May be taken September 1-January 1 only.

7. All hunters (including archers and small game hunters; excluding waterfowl and dove hunters) must display 400 square inches of hunter orange and wear a hunter orange cap during any firearm season for deer. Deer hunters hunting from concealed ground blinds during firearms season must display a minimum of 400 square inches of hunter orange above or around their blinds which is visible from 360 degrees. Rabbit, quail, and woodcock hunters must wear a hunter orange vest or cap outside the firearm seasons for deer. All persons afield during hunting seasons are encouraged to wear hunter orange. Hunting in or within 150 yards of a developed recreation site, campsite, any residence, or any building is prohibited.

8. Hunting-dog training from Mar. 1-Sept. 30 is allowed only in the following circumstances: dogs are within voice-command distance of handler; dogs are participating in night-time raccoon chases mentioned above; dogs are participating in licensed events conducted by nationally-recognized kennel clubs (KNF permit required—contact Forest Supervisor's office); dogs are under close control of hikers; and any dog on a leash. The training of deer dogs is prohibited year-round. No firearms allowed while training dogs.

9. National Catahoula Wildlife Management Preserve and National Red Dirt Wildlife Management Preserve. Owner—U.S. Forest Service: Catahoula Preserve—36,000 Acres in Grant and Winn Parishes; Red Dirt Preserve—38,000 Acres in Natchitoches Parish. Season

Permit required from Forest Supervisor's office, Winn, Catahoula or Kisatchie Ranger District offices or www.fs.fed.us/r8kisatchie/hunting/index.html for all hunting. Additionally, weekend permits, available at the check stations, are required for deer gun hunts.

a. Deer:

i. Oct. 17-18, special youth hunt, either-sex, still hunt only. Weekend permit required. Youths between the ages of 8-17 inclusive only. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Also, special season for physically-challenged hunters with a LDWF Physically Challenged Hunt Permit, either-sex, still hunt only. Weekend permit required;

ii. Oct. 24-25, primitive firearms, either-sex, still hunt only, weekend permit;

iii. Oct. 31-Nov.1, either-sex, still hunt only, weekend permit;

iv. Nov. 27, either-sex, still hunt only, weekend permit;

v. Nov. 28-29, bucks only, still hunt only, weekend permit.

b. Rabbit: Same as outside except beagles allowed for rabbit Jan. 9-Feb. 28 only. Only beagle hounds which do not exceed 15 inches at the front shoulder and which have recognizable characteristics of the breed may be used on the Wildlife Management Preserve.

c. Squirrel: Same as outside except squirrel hunting with dogs allowed Jan. 9-Feb. 28 only. Hunting parties may not include more than one dog. Closed to squirrel hunting during the spring season.

d. Raccoon (Nighttime): Dogs allowed Jan.9-Feb. 28 only.

e. All Other Game: Consult KNF's Catahoula and Red Dirt Preserve Regulations issued by KNF. To obtain permits and information, visit website listed above or contact: KNF Forest Supervisor's Office, 2500 Shreveport Hwy., Pineville, LA 71360, telephone (318) 473-7160. Office hours 8 a.m. to 4:30 p.m.

I. The aforementioned season dates, bag limits and shooting hours shall supplant and supersede those season dates, bag limits and shooting hours for Kisatchie National Forest previously adopted and which will be published in the July 20, 2009 *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254

(July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1280 (July 2009), LR 35:2856 (December 2009).

Robert J. Samanie, III
Chairman

0912#005

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Wildlife Violator Compact
(LAC 76:I.309)**

The Wildlife and Fisheries Commission does hereby enact Rules governing the Wildlife Violator Compact with the Department of Wildlife and Fisheries.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies

Thereunder

Chapter 3. Special Powers and Duties

Subchapter B. Enforcement

§309. Wildlife Violator Compact

A. Definitions

1. As used in this compact, unless the context requires otherwise:

Citation—any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

Collateral—any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

Compliance—with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

Conviction—a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, and such conviction shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere and the imposition of a deferred or suspended sentence by the court.

Court—a court of law, including magistrate's court and the justice of the peace court.

Home State—the state of primary residence of a person.

Issuing State—the participating state which issues a wildlife citation to the violator.

License—any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

Licensing Authority—the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

Participating State—any state which enacts legislation to become a member of this wildlife compact.

Personal Recognizance—an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

State—any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

Suspension—any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

Terms of the Citation—those conditions and options expressly stated upon the citation.

Wildlife—all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

Wildlife Law—any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

Wildlife Officer—any individual authorized by a participating state to issue a citation for a wildlife violation.

Wildlife Violation—any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

B. Procedures for Issuing State

1. When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in paragraph 2 of this subsection, if the officer receives the recognizance of such person that he will comply with the terms of the citation.

2. Personal recognizance is acceptable:

a. if not prohibited by local law, issuing agency policy, procedure or regulation, or by the compact manual; and

b. if the violator provides adequate proof of identification to the wildlife officer.

3. Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in

accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

4. Upon receipt of the report of conviction or noncompliance pursuant to paragraph 3 of this subsection, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

C. Procedure for Home State

1. Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. All member states may honor a suspension based on failure to comply. Due process safeguards will be accorded.

2. Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

3. The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

D. Reciprocal Recognition of Suspension

1. All participating states shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

2. Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

E. Applicability of Other Laws

1. Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:69.21-R.S. 56:69.31.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 35:2858 (December 2009).

Robert J. Barham
Secretary

0912#004

Notices of Intent

NOTICE OF INTENT

Department of Culture and Recreation Office of Cultural Development

Cultural Districts (LAC 25:I:1103-1119)

The Louisiana Department of Culture, Recreation and Tourism, Office of Cultural Development, in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby provides notice of its intent to amend LAC 25:I:1103-1119 pertaining to the administration of the Cultural Districts program. The proposed amendments clarify program definitions, effective dates, application and reporting requirements, and make technical corrections.

Title 25

CULTURAL RESOURCES

Part I. Office of Cultural Development

Chapter 11. Cultural Districts

§1103. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Assistant Secretary—the Assistant Secretary of the Office of Cultural Development, Department of Culture, Recreation and Tourism.

Cultural Products District or *Cultural District*—an area designated by a local governing authority and certified by the Department of Culture, Recreation and Tourism in accordance with the statutory and regulatory procedures, standards, and criteria pertaining to such districts, which district shall be created for the purpose of revitalizing a community by creating a hub of cultural activity.

* * *

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008), amended LR 36:

§1105. Application

A. - B. ...

C. If the department, acting through the assistant secretary, deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the deficiencies and/or information required to complete the application.

1. If the local governing authority is notified of a deficiency in the application or additional information is requested, the local governing authority shall remedy the deficiency or provide the requested information by the date specified in the notice of deficiency.

2. If the local governing authority does not remedy the deficiency or provide the requested information by the date specified in the notice of deficiency, the application will be deemed incomplete and will not be reviewed further.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008), amended LR 36:

§1107. Criteria

A. The assistant secretary shall evaluate the proposed cultural district to determine whether it meets the mandatory criteria set forth in R.S. 47:305.57.

B. - B.12. ...

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008), amended LR 36:

§1109. Determination and Appeals

A. ...

B. The effective date of the certification shall be the date specified in the final written notice of approval.

C. Within 30 days of the local governing authority's receipt of the decision of the department, the local governing authority may submit a request for administrative review to the secretary. A request for administrative review shall include the following:

1. identification of the decision to which the request pertains;
2. a statement of the decision sought;
3. a statement of the facts and reasons upon which such relief is requested; and
4. the name and address to which the department will send all communications regarding the request.

D. The effective date for determining whether qualifying rehabilitation expenses may be eligible for historic tax credits shall be governed by the federal, state laws, rules and polices of the historic tax credit programs administered by the Division of Historic Preservation.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:600 (April 2008), amended LR 36:

§1111. Reporting Requirements

A. By January 31 of each year, the local governing authority shall prepare and submit to the department an annual report on the impact of the certified cultural district with regard to the purposes of the creation of a cultural district. This reporting requirement begins at least one full year after certification.

B. - D. ...

E. The report shall include information that describes the impact of the tax exemption programs, the tax credit programs, and any other factors that describe the impact of the cultural district on the community, which information shall include but is not limited to:

1. - 6. ...

7. the amount of sales tax exemptions claimed for sales of original, one of a kind works of art; and

8. any other evidence of the level of cultural activity in the district, including the number of cultural events and attendance at each.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:600 (April 2008), amended LR 36:

§1113. Sales Tax Exemption

A. Effective on the first day of the month following certification of the cultural district, sales and use taxes imposed by the state of Louisiana or any of its political subdivisions shall not apply to the sale of original, one-of-a-kind works of art from an established location within the boundaries of a cultural district.

B. An established location shall be any location within the boundaries of the cultural district, and may include, at the discretion of the local governing authority, events and activities authorized by the local governing authority held in temporary locations such as markets, fairs, and festivals.

C. - D.2. ...

E. The certificates and documents described above shall be retained by the vendor for purposes of audit. Vendors may provide to the purchaser documentation in the form of an exemption certificate certifying the purchase of an original, one-of-a-kind work of art.

F. Vendors shall retain copies of said certificates and documents for inspection by the Department of Revenue and local taxing authorities, and may submit copies of said certificates and documentation to the local governing authority and the department on an annual basis, by January 1, for the activity of the preceding year.

G. - I.1.e. ...

2. Examples of eligible media and products include:

a. visual arts and crafts, including but not limited to drawing, painting, sculpture, clay, ceramics, fiber, glass, leather, metal, paper, wood, or mixed media, installation art, light sculpture, digital sculpture, and wearable art; and

b. limited, numbered editions (up to 100) of lithographs, photography, silk screen, intaglios, etchings, and graphic design.

I.3. - J. ...

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:600 (April 2008), amended LR 36:

§1115. Boundaries

A. ...

B. Applications shall be submitted in accordance with the timetable and in the format provided by the department, and shall include:

B.1. - E. ...

F. The effective date of the approved boundary change shall be the date specified in the final approval from the department.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:601 (April 2008), amended LR 36:

§1117. Termination by Local Governing Authority

A. - B. ...

C. The notice shall include:

1. - 2. ...

3. the name and contact information for the individual to whom the public may submit comments to support or oppose the termination;

4. - 5. ...

D. The effective date of the termination shall be the date specified in the written notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:601 (April 2008), amended LR 36:

§1119. Termination by the State

A. The department may initiate procedures to revoke certification of a cultural district under the following circumstances:

1. - 4. ...

5. the local governing authority fails to implement the tax incentives as prescribed in applicable laws and administrative rules.

B. - B.4. ...

5. The effective date of the revocation shall be the date specified in the written notice of intent.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:601 (April 2008), amended LR 36:

Family Impact Statement

The proposed Rule has no known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically is 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.

Public Comments

All interested persons are invited to submit written comments on the proposed rule to Gaye Hamilton, Office of Cultural Development, P.O. Box 44247, Baton Rouge, LA 70804. Such comments must be received no later than Tuesday, January 20, 2009 at 4:00 p.m.

Pam Breau
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Cultural Districts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No significant impact on state or local governmental expenditures is anticipated. The proposed amendments clarify or codify current application and reporting requirements and definitions; adjust the provisions for the effective dates of

administrative actions, and make technical corrections and edits.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on state or local governmental revenue collections is anticipated. There may be minor changes on sales tax receipts based on local governing authorities' decisions to exempt from sales tax the sales of original works of art sold from temporary locations within a cultural district.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant impact on costs and/or economic benefits on directly affected persons or non-governmental groups is anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is anticipated.

Pam Breaux
Secretary of DCRT
0911#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Veteran Initiative (LAC 19:IX.Chapters 1 and 3)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931, the Department of Economic Development, Office of the Secretary hereby gives notice of intent to adopt the following Rules. The purpose of the Rules is to establish program policies and procedures in the administration of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships Certification Program (the Veteran Initiative).

Title 19

CORPORATIONS AND BUSINESS

Part IX. Louisiana Community Economic Development Financial Assistance Program

Subpart 1. Louisiana Initiative for Veteran and Service- Connected Disabled Veteran-Owned Small

Entrepreneurships Certification Program (the Veteran Initiative)

Chapter 1. General Provisions

§101. Statement of Policy

A. The Department of Economic Development, through its designee or its staff, shall administer these regulations for the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships Certification Program, which are intended to prescribe the procedures for qualifying and certifying a business as a "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship" to facilitate access to state procurement and public contracts and encourage business opportunities for small entrepreneurships.

B. Certifications that a business is a "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship" are not to be construed as an entitlement for any business locating or

located in Louisiana either to such a certification, to any public contract, or to any proceeds from any state contract; and the Secretary of the Department of Economic Development, the Director, or his or their designee, the SE (VI) Certification Program, or its designee or staff, shall have the discretion to determine whether or not each particular applicant or application meets the criteria for the certification as provided herein; and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of such certification status.

C. In no way whatsoever shall the sex, race, birth, age, religious beliefs, political ideas, or affiliations of a business's owners or officers be considered as a factor in determining whether a business receives certified status.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§103. Purpose

A. The purposes and intent of this program are to provide the maximum opportunity for Small Entrepreneurships to become so certified as "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship" and thereby become eligible to participate in a competitive modern business economy, to facilitate their access to state procurement and public contracts, and encourage business opportunities for such small entrepreneurships. These purposes shall be accomplished by providing a program for the certification of a business as "veteran-owned small entrepreneurship" or "service-connected disabled veteran-owned small entrepreneurship."

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§105. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 39:2171 et seq., unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Applicant—an individual, firm or business that seeks to be certified as a "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship."

Certification—the determination and acknowledgement that a business qualifies for designation as a "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship."

Designee—the person designated by the secretary or by the director to act in his absence.

Director—the Director of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships Certification Program (the Veteran Initiative) designated by the Secretary of the Department of Economic Development.

Firm—a business that seeks to be or that has been certified as a "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship."

Full Time—employed and working in the firm at least 35 hours per week on a regular basis.

Program—the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships Certification Program (the Veteran Initiative) in the Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

Service-Connected Disabled Veteran-owned Small Entrepreneurship (SDVSE)—any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity which has not less than 51 percent ownership by a veteran of the United States Armed Forces with a state-connected disability, and meets the criteria for certification by the secretary of the department of Economic Development, pursuant to R.S. 39:2176. Service-connected disability will be ascertained with appropriate documents from the United States Department of Veterans Affairs or the Louisiana Department of Veterans Affairs.

Small Entrepreneurship (SE)—any business or firm organized for profit, including any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity which meets all of the requirements for certification by the Secretary of the Department of Economic Development as specified in R.S. 39:2006(A).

Veteran-Owned Small Entrepreneurship (VSE)—any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity which has not less than fifty-one percent ownership by a veteran of the United States Armed Forces, and meets the criteria for certification by the secretary of the Department of Economic Development, pursuant to R.S. 39:2176.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

Chapter 3. Certification

§301. Eligibility Requirements for Certification

A. Eligibility. An applicant for certification must meet two sets of requirements:

1. an applicant must establish that it is a "service-connected veteran-owned small entrepreneurship" (SDVSE) or a "veteran-owned small entrepreneurship" (VSE), by providing appropriate documentation from the United States Department of Veterans Affairs or the Louisiana Department of Veterans Affairs; and

2. shall meet all the requirements for a Small Entrepreneurship (SE):

a. independently owned and operated;

b. not dominant in its field of operation, which shall be determined by consideration of the business's number of employees, volume of business, financial resources, competitive status, and ownership or control of materials, processes, patents, license agreements, facilities, and sales territory; and

c. together with any of its affiliates, has fewer than 50 full-time employees with average annual gross receipts not exceeding \$5 million per year for construction operations and \$3 million per year for non-construction operations, for each of the previous three tax years.

B. Any records, writings, accounts, reports, documents, financial information, tax information, proprietary business

information and other materials that are in their nature considered to be confidential and are designated as confidential or proprietary by those firms, businesses or individuals submitting, delivering or transmitting the same, pursuant to request, for the purposes of allowing the SE (VI) Certification Program, or its designee or staff, to investigate and/or examine these firms, businesses or individuals pertaining to its statutory duties, may be considered and maintained as confidential and proprietary information, to the extent permitted under Louisiana Public Records.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§303. Responsibility for Applying

A. It is the responsibility of any individual or business wishing to participate in the program to complete the appropriate written application and required certification process. Failure to provide complete, true, accurate or timely any requested additional supporting information may result in the rejection of the application.

B. Application and certification materials will be distributed by the SE (VI) Certification Program, or its designee or staff, upon written or verbal request. Written or verbal requests for application and certification materials should be directed to the SE (VI) Certification Program office in the Department of Economic Development in Baton Rouge.

C. Certification as a (SDVSE) or (VSE) also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification also does not constitute any determination by the SE (VI) Certification Program, its designee or staff, that the firm is a responsible one according to R.S. 39:1505 or R.S. 39:1601, or that the firm is capable of performing any work of any kind.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§305. Certification Application Procedure

A. Applicants for certification must submit to the SE (VI) Certification Program office:

1. a written application;

2. supporting financial and other background information;

3. a statement certifying that the applicant meets the eligibility requirements or criteria as specified in R.S. 39:2176 (A);

4. an affidavit signed, dated, and notarized attesting to the correctness of the information provided and to the authenticity of all supporting documentation or information provided; and

5. if requested, the applicant must also furnish, within a reasonable time, applicant's most recent financial statements, Federal and State tax returns, a copy of its most recently filed Louisiana Department of Labor (LDOL) ES-4 form, and any other appropriate supporting documentation or information as may be requested or required by the SE (VI) Certification Program, or its designee or staff.

B. The SE (VI) Certification Program, through its designee or staff, shall review the application, and if it is found to be incomplete or if further information is needed

(such as, for example, applicant's most recent financial statements, Federal and State tax returns, a copy of its most recently filed Louisiana Dept. of Labor (LDOL) ES-4 form, and any other appropriate supporting documentation or information as may be requested or required by the SE (VI) Certification Program, or its designee or staff), the SE (VI) Certification Program designee or staff will contact the applicant business and request such additional information. If the applicant does not respond with the further requested information within 15 days, the application will be denied. If the application is found to be sufficient, or if the application along with the additional information provided is found to be sufficient, a determination shall be made by the SE (VI) Certification Program, or its designee or staff, as to whether or not the applicant business will be certified.

C. The director, or his designee, shall notify the applicant in writing of the decision whether or not to grant such certification; and if certification is to be granted, a written certification as to such status in appropriate form, as determined by the director or his designee, shall be provided to the applicant business.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§307. Duration of Certification; Graduation Through Growth

A. The amount of time that a firm may be granted certification by the SE (VI) Certification Program is unlimited until the firm graduates by growing to exceed the eligibility requirements for certification.

B. Retention of the firm in the program depends upon the passing of time, the firm's growth and progress toward successfulness and the attainment of its business goals, its willingness and ability to cooperate with and follow through on recommendations of the SE (VI) Certification Program designee or staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§309. Verification of Eligibility; Reports by Certified Small Businesses; Evaluation

A. Verification of Eligibility. The SE (VI) Certification Program, or its designee or staff, may take any reasonable means at any time to confirm an applicant's eligibility or a certified firm's continued eligibility, such as by investigation, letter, telephone, contact with other governmental and/or state agencies, including but not limited to the Department of Labor, and any other persons, companies, suppliers, or by either announced or unannounced site inspections.

B. Report Form. By letter, or on forms which may be identified or prescribed by the SE (VI) Certification Program, or its designee or staff, certified businesses shall continue to report periodically and at times specified by the SE (VI) Certification Program, or its designee or staff, their financial position and attainment of the business' performance goals. Failure to report or failure to report on a timely basis, as required or requested by the SE (HV) Certification Program, or its designee or staff, may result in the business' termination of its SE certification and from the program.

C. Notification of Changes. To continue participation, a certified firm shall provide the SE (VI) Certification Program, or its designee or staff, with a written statement of any changes in its address, telephone number, ownership, control, financial status, major changes in the nature of the operation, or any other appropriate supporting documentation or information as may be requested or required by the SE (VI) Certification Program, or its designee or staff, including, if requested by the SE (VI) Certification Program, or its designee or staff, updated financial information, Federal and State tax returns, copies of DOL ES-4 Forms, and including an affidavit (signed, dated, and notarized) attesting to the authenticity of all of the aforesaid supporting documentation and attesting to the applicant's eligibility or the certified business' continued eligibility requirements or criteria as specified in R.S. 39:2006A, as it may be amended from time to time. Failure to do so may be grounds for the firm's termination of eligibility and certification, and termination from the program.

D. Evaluation. The SE (VI) Certification Program, or its designee or staff, as necessary, shall evaluate and continue to evaluate the information provided and/or otherwise obtained to determine a business' progress, growth and dominance in its field of operations, number of employees, volume of business, areas of improvement, the firm's financial resources, competitive status, ownerships, status of owners and officers, and generally the firm's continued eligibility for its continued certification and continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§311. Deception Relating to Certification

A. Any individual or business found guilty of deception relating to certification will be denied its certification, or have its already approved certification revoked and shall be discharged from the program, and will not be eligible to reapply under the business name involved in the deception or under any business with which such individual(s) or business may be associated or affiliated.

B. In the event an applicant or certified business knowingly files a false statement in its application or in any other filing, the applicant or the certified business and/or its representatives may be guilty of the offense of filing false public records, and may be subject to the penalty provided for in R.S. 14:133. In the event an applicant or a certified business and/or its representative is reasonably believed to have filed a false statement in its application or any other filing, the SE (VI) Certification Program, or its designee or staff, is authorized to notify the District Attorney of East Baton Rouge Parish, Louisiana, and may also notify any other appropriate law enforcement personnel, so that an appropriate investigation may be undertaken with respect to the false statement and the application of any state funds to the application for other filing.

C. The SE (VI) Certification Program or its designee or staff shall have and retain the right, and shall have the authority, but not the obligation, to require and/or conduct full investigations, at any time and from time to time,

including but not limited to full financial and performance audits of any applicant, certified business or firm, including all relevant accounts, records and documents of the individual or business.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§313. Departmental Listing; Availability

A. The department shall maintain a listing of all certified "Veteran-owned small entrepreneurship" or "Service-connected disabled veteran-owned small entrepreneurship" which shall be updated monthly. The listing shall be available on the Internet and shall also be available in written form upon written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§315. Departmental Reporting

A. The department shall report annually to the Commissioner of Administration with respect to the graduation rates for businesses which grew to exceed the eligibility requirements for certification in the most recently concluded fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 39:2006, R.S. 39:2171 et seq. and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

Family Impact Statement

The proposed Rules LAC 19:IX, Subpart 1, Chapters 1 and 3, Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships Certification Program (the Veteran Initiative) should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons should submit written comments on the proposed Rules to John Mathews by 5 pm on January 25, 2010, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to jmathews@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held on January 26, 2009, at 10:00 am at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802.

Kristy Mc Kearn
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Veteran Initiative**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Legislature passed Act 167 in 2009 creating the Veterans Initiative, which provides an evaluation advantage for state projects to be awarded to veteran-owned entities. These rules provide guidance on the portion of the program, which will certify veteran-owned entities. The program is patterned after an existing program called the Hudson Initiative, and will be similarly administered by existing staff at the Department of Economic Development. Apart from periodic staff training the proposed rules are expected to result in an increase in state or local governmental expenditures only to the extent that the evaluation allowances cause projects to be awarded to firms that did not submit the lowest bid.

The Division of Administration will publish rules in Title 19, Chapter 11 of the Louisiana Administrative Code relating to the procurement procedures of this same program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated additional costs to directly affected persons or non-governmental groups. The Veteran and Service-connected Disabled Veteran-owned Small Entrepreneurships will be the direct beneficiaries of the Program. A firm certified through these proposed rules may be awarded a state contract that would not have been awarded to it in the absence of the evaluation offered through the Veterans Initiative. Without a clear understanding of Division goals for the program or a comparison of the request for proposal submissions, a quantitative estimate is indeterminate. Should a veteran-owned entity be awarded a contract that it otherwise would not have obtained, an economic benefit to that firm will result.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The purpose and intent of these rules are to provide the maximum opportunity for Veteran and Service-connected Disabled Veteran-owned Small Entrepreneurships to benefit from business offerings available from state procurement and public contracts.

Kristy McKearn
Undersecretary
0912#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary
Office of Business Development
and
Louisiana Economic Development Corporation**

Retention and Modernization Act
(LAC 13:I.Chapter 35)

The Department of Economic Development, the Office of the Secretary, the Office of Business Development, and the Louisiana Economic Development Corporation, pursuant to the authority R.S. 36:104, 36:108, and 51:2382 and in

accordance with the Administrative Procedure Act R.S. 49:950 et seq., hereby gives notice of its intent to adopt the following Rules of the Retention and Modernization Program. The purpose of the Rules is to establish program policies and procedures in the administration of the Retention and Modernization Program.

Title 13

ECONOMIC DEVELOPMENT

Chapter 35. Retention and Modernization Program

§3501. Purpose and Application

A. The purpose of this Chapter is to implement the Retention and Modernization Act as established by R.S. 51:2399.1 et seq.

B. The Chapter shall be administered to achieve the following purposes:

1. to induce businesses to remain in the state and not relocate outside the state; and
2. to modernize existing business operations in Louisiana.

C. This Chapter shall apply to any employer:

1. seeking to become qualified to claim a credit; or
2. claiming a credit under this program.

D. An employer may earn a refundable tax credit on any income or franchise tax liability at the rate of 5 percent for qualified expenditures incurred for modernization.

E. Nothing herein shall be construed to constitute a guarantee or assumption by the state of any debt of any individual company, corporation, or association or to authorize the credit of the state to be given, pledged, or loaned to any individual, company, corporation, or association.

F. No agency shall incur monetary or personnel costs paid with federal funds for compliance with the provisions of this Chapter, when such use of the funds is prohibited by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3503. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2399.1 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

Department—Department of Economic Development.

Employer—a legal person who is engaged in a lawful enterprise not excluded by this Chapter that executes a contract with the department pursuant to the provisions of this Chapter.

a. **Eligible Employers.** To qualify for a contract pursuant to this Chapter, employers must be a manufacturer, as defined by North American Industry Classification System (NAICS) codes: 113310, 211, 213111, 541360, 311-339, 511-512 and 54171 as the employer's primary function.

b. **Ineligible Employers.** Employers engaged in the following professions or services, and identified by the following NAICS codes, shall not be eligible for any credits under this Chapter:

- i. retail employers (44 and 45);
- ii. business associations and professional organizations (8139);
- iii. state and local governmental enterprises;
- iv. real estate agents, operators and lessors;
- v. automotive rental and leasing;
- vi. local solid waste disposal, local sewer systems, and local water systems business;
- vii. non-profit organizations; gaming industry (713219 and 721120); attorneys.

Facility—employer's manufacturing site that is the subject of the project.

LEDC—Louisiana Economic Development Corporation.

LDR—Louisiana Department of Revenue.

LWC—Louisiana Workforce Commission.

Modernization—capitalized investment by an employer in technology, machinery, building and/or equipment that meets one of the following provisions:

a. an investment from a company with multi-state operations with an established competitive capital project program, which is approved by the department; or

b. an increase in the maximum capacity or efficiency of the facility of greater than 10 percent. The modernization must result in the facility adopting best practices technology for its industry and the company shall establish that without the investment that the facility would be high risk for closure in the foreseeable future. Modernization does not include the replacing of existing technology with the same or similar technology:

i. increased efficiency claims must be supported by an independent third party analysis, such as an engineer's report, or by any other reasonable means;

ii. best practices may be verified by objective data provided by independent third parties knowledgeable in the industry, or by any other reasonable means.

Project—the design, development, installation and construction of a technology, machinery, building and equipment that results in a modernization of an employer's product line, unit or entire operations that require at least five million dollars of investment.

Qualified Expenditures—amounts classified as capital expenditures for federal income tax purposes plus exclusions from capitalization provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized cost of land, capitalized leases of land, capitalized interest, and the capitalized cost for the purchase of an existing building. When an employer purchases an existing building and capital expenditures are used to rehabilitate the building, only the costs of the rehabilitation shall be considered qualified expenditures. Additionally, an employer shall be allowed to increase his qualified expenditures to the extent an employer's capitalized basis is properly reduced by claiming a federal credit.

Secretary—Secretary of the Department of Economic Development, who is, by law, also the president of the Louisiana Economic Development Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business

Development and the Louisiana Economic Development Corporation, LR: 36:

§3505. Eligibility Requirements

A. An employer must meet two sets of requirements.

1. Qualifying Manufacturer

a. Eligible Employers. To qualify for a contract pursuant to this Chapter, employers must be a manufacturer, as defined by North American Industry Classification System (NAICS) codes: 113310, 211, 213111, 541360, 311-339, 511-512 and 54171 as the employer's primary function.

b. Ineligible Employers. Employers engaged in the following professions or services, and identified by the following NAICS codes, shall not be eligible for any credits under this Chapter:

- i. retail employers (44 and 45);
- ii. business associations and professional organizations (8139);
- iii. state and local governmental enterprises;
- iv. real estate agents, operators and lessors;
- v. automotive rental and leasing; local solid waste disposal, local sewer systems, and local water systems business;
- vi. non-profit organizations;
- vii. gaming industry (713219 and 721120);
- viii. attorneys.

c. The department may promulgate rules annually listing other employers, professions or service industries which are eligible and not eligible for any credit pursuant to this Chapter, and such rules shall not take effect unless presented to LEDC and approved by both the House Ways and Means Committee and the Senate Committee on Revenue and Fiscal Affairs in a public meeting held for such purpose.

2. Qualifying Event

a. Efficiency. The employer must establish an increase of greater than 10 percent in the maximum capacity or efficiency of the facility; or

b. Investment. An employer with multi-state operations and an established competitive capital project must make an approved investment of at least \$5 million dollars in the facility.

B. No contract or certification shall be executed with an employer who:

1. has defaulted on or otherwise not repaid any loan or other obligation involving public funds, nor with any employer who has ever declared bankruptcy under which an obligation of the employer to pay or repay public funds or monies was discharged as part of such bankruptcy; or

2. is in default on any filing or payment with or to the state or any of its agencies or political subdivisions and in which an assessment or judgment that is final and non-appealable has been rendered, and remains outstanding, in favor of the state, or any of its agencies, or political subdivisions.

C. No project placed in service before July 1, 2011 shall be eligible for the tax credits authorized pursuant to this program.

D. If approved and subsequently issued a tax credit allocation letter, an applicant shall commit to continue business operations in the state for at least the five year period of the tax credit allocation.

1. If an applicant fails to continue business operations in the state, it may retain credits already granted, but the department reserves the right to withhold previously reserved, but not yet granted tax credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3507. Amount, Allocation and Limitations upon Tax Credits

A. An employer earns tax credits in the calendar year in which the project is placed in service.

B. Certified tax credits shall be granted by the department at a rate of 1 percent of the amount of certified expenditures annually over a five year period, for a total of 5 percent of the amount of certified expenditures, subject to the limitations outlined in this section.

C. The Retention and Modernization Tax Credit Program has a program cap of \$10 million, in tax credits granted per calendar year.

1. The department shall allocate tax credits in accordance with the terms of the tax credit allocation letter.

2. The department shall certify and grant tax credits based upon verification of actual expenditures and in accordance with terms of the tax credit allocation letter.

a. In the event that the total amount of credits granted in any calendar year is less than \$10 million dollars, any residual amount of unused credits shall carry forward for use in subsequent years and may be granted in addition to the ten million dollar limit for each year.

b. In the event that the total amount of credits granted in any calendar year meets the \$10 million dollar cap, any excess credits applied for will be treated as having been applied for on the first day of the subsequent calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3509. Application Procedures

A. Beginning January 1, 2010, an applicant may apply for this program by submitting the following information to the department:

1. a written application;
2. supporting data as requested by the department, including but not limited to: independent third party reports verifying efficiency improvements or investments made;
3. a statement verifying that the applicant meets the eligibility requirements or criteria as specified in R.S. 51:2399.1 et seq.; and
4. an application fee of 0.2 percent of the estimated tax credits, with a minimum application fee of \$200 and a maximum fee of \$5,000.

B. The department shall review the application and supporting information, and if it is found to be incomplete or if further information is needed shall contact the applicant business and request such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3511. Tax Credit Allocation Letter

A. The department shall review the application and supporting information and determine whether to allocate tax credits.

1. Evaluation. When determining allocation of available tax credits the department shall take the following factors into consideration:

- a. the impact of the project on the objectives of the Retention and Modernization Program;
- b. the impact of the project on the employment of Louisiana residents;
- c. the impact of the project on the overall economy of the state;
- d. the availability of tax credits relative to the annual program cap and tax credits being requested by the applicant; and
- e. the total financial impact from an applicant's involvement with any program administered by the department.

B. Beginning March 31, 2010, tax credit allocation letters may be issued quarterly: by March 31, June 30, September 30, and December 31 of each calendar year.

1. All complete applications received in the same quarter shall be treated and evaluated as if received on the same day, according to the following schedule.

- a. Applications received by February 28 shall be considered for allocation on March 31.
- b. Applications received by May 31 shall be considered for allocation on June 30.
- c. Applications received by August 31 shall be considered for allocation on September 30.
- d. Applications received by November 31 shall be considered for allocation on December 31.

C. The tax credit allocation letter shall:

1. contain the employer's name, address and tax identification number;
2. identify the proposed efficiency improvements or investments;
3. identify a timeline for completion;
4. provide for possible extensions for good cause;
5. provide for possible revocation in case of bad faith or unreasonable delays; and
6. provide for a reservation of tax credits, to be allocated in equal portions for five years;

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3513. Certification of Tax Credits

A. Beginning July 31, 2011, employers seeking final certification of tax credits must submit to the department:

1. evidence of qualified expenditures incurred by the employer for modernization:
 - a. qualified expenditures that could improve efficiency may include but not be limited to: new automation equipment, computer-driven instrumentation upgrades, air emission and water affluent reduction equipment;

- b. investment in new equipment for a new production unit making a new or similar product may be a qualified expenditure, if an employer is competing for a new production line as part of a consolidation through competitive capital budget within family of plants either domestically or internationally;

2. evidence of continued business operation; and
3. any other information as reasonably requested by the department.

B. The department shall review requests for certification of tax credits, and upon verification of expenditures, and consultation with the Executive Director of LWC and the Secretary of LDR, shall issue a tax credit certification letter granting tax credits to an employer.

C. The final certification letter shall contain the employer's name, address and tax identification number and be accepted by LDR as proof of the credit.

D. The department shall maintain a list of the tax credit certificates issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3515. Claiming of Tax Credits

A. After receiving a final certification letter from the department, an employer may claim his refundable tax credit from LDR as follows.

1. All entities taxed as corporations for Louisiana income or corporation franchise tax purpose shall claim any credit on their corporation income or corporation franchise tax return.

2. Individuals shall claim any credit on their individual income tax return.

3. Estates or trust shall claim any credit on their fiduciary income tax return.

4. Entities not taxed as corporation shall claim any credit on the returns of the partners or members as follows.

- a. Corporate partners or members shall claim their share of the credit on their corporation income or corporation franchise tax returns.

- b. Individual partners or members shall claim their share of any credit on their fiduciary income tax returns.

B. A retention and modernization tax credit shall expire and have no value or effect on tax liability beginning with the eleventh year after the tax year in which it was originally granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

§3517. False or Fraudulent Claims

A. Any person making an application, claim for a tax credit, or any report, return statement, invoice or other instrument or providing any other information pursuant to this program who willfully makes or who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument, shall be guilty, upon conviction, of a felony and shall be punished by the imposition of a fine of not less than one

thousand dollars and not more than \$50,000, or imprisoned for not less than two years and not more than five years, or both.

B. Any person convicted of a violation shall be liable for the repayment of all credits which were granted to the employer. Interest shall be due on such credits at the rate of fifteen percent per annum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:

Family Impact Statement

The proposed Rules Title 13, Part I, Chapter 35 should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

Interested person should submit written comments on the proposed Rules to Tommy Kurtz through the close of business on January 25, 2010, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to tommy.kurtz@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held on January 26, 2010 at 11 a.m. at the Department of Economic Development, 1301 N. 3rd St., Baton Rouge, LA.

Kristy Mc Kearn
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Retention and Modernization Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no impact on local or state government expenditures. The proposed rules will be administered by existing LED personnel and will not require additional state funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will result in a decrease in state revenue collections.

This new program was created by Act 447 of the 2009 Regular Session. The program provides refundable tax credits of 5 percent of qualified expenditures for a modernization project placed into service after July 1, 2011. Beginning in FY

11/12, credits earned shall be allocated in equal portions over a five-year period, with an annual program cap of \$10 million. It is expected that the maximum allowable credits of \$10 million will be issued annually by FY 15/16.

The estimated effect on revenue collections of local governmental units is zero.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only cost to directly affected persons or non-governmental groups would be the application fee of 0.2 percent of the estimated tax credits per application (minimum of \$200 and maximum of \$5,000) plus any administrative expenses involved in completion of the application. The estimated economic benefits to directly affected persons or non-governmental groups would be a payment of 5 percent of qualified modernization expenditures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Businesses that apply for and receive tax credits under this program will obtain a payment of 5 percent of qualified modernization expenditures. These credits will give the private sector a competitive advantage in modernizing Louisiana businesses relative to modernizing businesses elsewhere.

Kristy McKearn
Undersecretary
0911#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Certification Appeal Process (LAC 28:CXXXI.801 and 803)

Editor's Note: This Notice of Intent is being repromulgated to correct submission errors. The original Notice of Intent was printed in the November 20, 2009 *Louisiana Register* on pages 2594-2495.

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*: §801. Overview and §803. Appeal Process. This revision in policy will allow all the decisions made by the Teacher Certification Appeals Council (TCAC) to be final and that the TCAC will provide a written report of its findings to the Board. These changes will also include clarification that appeals will not be considered for individuals who lack a degree required for certification, examinations required for initial certification, or 50 percent or more of required coursework for certification. Appeals will also be denied to individuals who hold degrees from non-accredited universities or who hold nonstandard teaching certificates. During the 2009 Louisiana Legislative Session, the Legislature approved House Bill No. 183, Act 31, which required BESE to establish an appeals process for applicants who have been denied teacher certification. The proposed revisions to Bulletin 746 will align certification policy with statutory requirements.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

Chapter 8. Certification Appeal Process

§801. Overview

A. The certification appeal process is available to an individual who has applied for certification and has been denied the requested certification due to the absence of certification requirements. The process provides such an individual the opportunity to have their appeal evaluated by the Teacher Certification Appeals Council (TCAC). The TCAC will evaluate all appeals and submit a written report of its findings to BESE. The decision of the TCAC is final.

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 36:

§803. Appeal Process

A. An applicant who is denied certification but who believes that he/she has legitimate grounds for an appeal, may submit a Certification Appeal Application to the Division of Certification, Leadership and Preparation. Only an individual who has been evaluated and denied certification through the Division of Certification, Leadership, and Preparation is eligible to file an appeal. The following restrictions apply.

1. An appeal cannot be initiated until an applicant has submitted a complete certification application to the Louisiana Department of Education, Division of Certification, Leadership, and Preparation; the application is reviewed by a certification specialist; and the applicant is notified that he/she is denied the requested certification.

2. The Certification Office must receive an appeal application within 90 days from the date that the certification request was denied.

3. Appeals will not be considered for individuals who:

- a. lack NTE/Praxis requirements for initial certification; or
- b. lack a grade point average of 2.50 for initial certification; or
- c. lack reading requirements per R.S. 17:7.1.A.(4)(a); or
- d. lack 50 percent or more of courses required for certification; or
- e. lack the degree required for certification; or
- f. lack a degree from a regionally accredited college or university; or
- g. are requesting issuance or renewal of a non-standard teaching certificate.

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 36:

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., January 9, 2010, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette B. Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Certification Appeal Process**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision in policy will allow all the decisions made by the Teacher Certification Appeals Council (TCAC) to be final and that the TCAC will provide a written report of its findings to the Board. These changes will also include clarification that appeals will not be considered for individuals who lack a degree required for certification, examinations required for initial certification, or fifty percent or more of required coursework for certification. Appeals will also be denied to individuals who hold degrees from non-accredited universities or who hold nonstandard teaching certificates. 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
0912#053

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—Standard Certificates for Teachers in Nonpublic/Charter Schools (LAC 28:CXXXI.315)

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*: §315. Standard Certificates for Teachers in Nonpublic/Charter Schools. This revision in policy would specify that any individual with the appropriate teaching experience may be issued a Level 2*, Level 3*, Type B*, or Type A* certificate if they have been employed in a private or charter school and that any teacher who enters a Louisiana public school, other than a charter school, would have to complete the Louisiana Teacher Assistance and Assessment Program.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3 Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

§315. Standard Certificates for Teachers in Nonpublic/Charter Schools

A. A standard certificate with an asterisk (*) following the certificate type is issued to a teacher in a non-public school or charter school setting who has not participated in the state's Louisiana Teacher Assistance and Assessment Program (LaTAAP). The asterisk (*) refers to a statement printed at the bottom of the certificate: "If this teacher enters a public school other than a charter school in Louisiana, he/she will be required to successfully complete the state teacher assessment program."

B. Level 2* (2-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:
 - a. a Louisiana Level 1 certificate;
 - b. successfully taught for three years in area(s) of certification;
 - c. completed a teacher assessment program for three years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 2* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Level 2* certificate is valid in a nonpublic or charter school setting. If the teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program. Upon employment in a public school other than a charter school, this teacher must begin to complete 150 clock hours of professional development over a five year period to renew the higher level certificate.

C. Level 3* (3-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:
 - a. a Louisiana Level 1 or Level 2* certificate;
 - b. successfully taught for five years in the area(s) of certification;
 - c. master's degree from a regionally accredited college or university; and
 - d. completed a teacher assessment program for three consecutive years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 3* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Level 3* certificate is valid in a nonpublic or charter school setting. If the teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program. Upon employment in a public school other than a charter school, this teacher must begin to complete 150 clock hours of professional development over a five year period to renew the higher level certificate.

D. Type B* (B-asterisk) Certificate—a lifetime nonpublic or charter school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the Louisiana Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
 - a. a Louisiana Type C certificate;
 - b. successfully taught for three years in area(s) of certification; and
 - c. completed a teacher assessment program for three consecutive years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type B* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Type B* certificate is valid for life of continuous service in a nonpublic or charter school setting. If the teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program.

E. Type A* (A-asterisk) Certificate—a lifetime nonpublic or charter school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

- a. a Louisiana Type C, Type B, or Type B* certificate;
- b. successfully taught for five years in the area(s) of certification;
- c. master's degree from a regionally accredited college or university;
- d. completed a teacher assessment program for three consecutive years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type A* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Type A* certificate is valid for life of continuous service in a nonpublic or charter school setting. If this teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program.

F. Renewal Guidelines for Level 2* and Level 3* Certificates

1. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five-year time period immediately preceding the request for renewal. The request for the Level 2* or Level 3* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

2. A teacher with an existing Level 2* or Level 3* teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

3. If the holder of an expired Level 2* or Level 3* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the Louisiana employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

4. A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

a. Educators may earn one CLU for each clock hour of active engagement in a high quality professional development activity approved by the employing authority. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the employing authority. Earned CLUs transfer across Local Education Agencies (LEAs).

b. An educator who holds a Level 2* or Level 3* professional license is responsible for maintaining documentation regarding acquisition of 150 CLUs for purposes of renewal and for completing the necessary paperwork every five years to renew his/her license. Upon submission of the renewal application to the State, the employing authority must provide an assurance statement signed by the superintendent or his/her designee, with the required listing of earned CLUs as documented by the educator seeking licensure.

G. Reinstating Lapsed Levels 2* or 3*, Types B* or A* Certificates

1. If the holder of a Level 2*, Level 3*, Type B*, or Type A* certificate allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Chapter 13) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

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 32:1801 (October 2006), amended LR 36:

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., February 8, 2010, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette B. Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel—Standard
Certificates for Teachers in Nonpublic/Charter Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This revision in policy would specify that any individual with the appropriate teaching experience may be issued a Level 2*, Level 3*, Type B*, or Type A* certificate if they have been employed in a private or charter school and that any teacher who enters a Louisiana public school, other than a charter school, would have to complete the Louisiana Teacher Assistance and Assessment Program. 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
0912#007

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs—Programmatic Intervention and Acronyms (LAC 28:XLV.501 and 601)

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 996—Standards for Approval of Teacher and or Educational Leader Preparation Programs: §501. Programmatic Intervention and §601. Acronyms*. This revised policy will define the policy of the Value Added Report for alternate certification programs in Level 4 and Level 5. The proposed policy stipulates that for continued state approval, public and private higher education institutions and private providers that offer teacher certification programs must maintain value added assessment results at Level 3 or higher. Any teacher preparation program that receives a Level 4 or 5 result in any content area shall immediately be assigned a designation of Programmatic Intervention and must have the program reviewed by experts in that content area. The proposed policy requires the provider to develop a corrective action plan that must be approved by the board. Failure to improve

value added assessment results within the Board of Elementary and Secondary Education approved time frame may result in loss of state approval.

Title 28

EDUCATION

**Part XLV. Bulletin 996—Standards for Approval
of Teacher and/or Educational Leader**

Preparation Programs

**Chapter 5. Teacher Preparation Program
Accountability**

§501. Programmatic Intervention

A. In order to offer a state approved teacher preparation program that allows teachers to become certified by the LDOE, public and private higher education institutions must follow the process/procedures detailed in Chapter 2 of this document. Private providers wishing to offer a state approved teacher preparation program must meet all requirements contained in the Program Standards and Approval Process for Private Providers document available from <http://www.teachlouisiana.net>. For continued state approval, public and private higher education institutions and private providers must maintain value added assessment results at Level 3 or higher.

B. The Louisiana Value Added Assessment of Teacher Preparation Programs (VAA-TPP) assesses the impact of new teachers from specific teacher preparation programs on student achievement. Based on this assessment, teacher preparation programs are identified as Level 1 (program completers performing above experienced teachers), Level 2 (program completers performing similarly to experienced teachers), Level 3 (program completers performing similarly to new average teachers), Level 4 (program completers performing more poorly than average new teachers) or Level 5 (program completers performing significantly more poorly than average new teachers). The VAA-TPP has been developed and is supported by the BOR and BESE.

C.1. Any teacher preparation program that receives a Level 4 or 5 result in any content area shall immediately be assigned a designation of Programmatic Intervention. Programmatic intervention will include a review of the existing program in that content area by a team composed of key personnel within the program, a nationally recognized expert from within or outside the state identified by the program provider and a content area specialist designated by the State Superintendent of Education. The review must be completed within one year of the Programmatic Intervention designation and be used to create a corrective action plan to address the needs. Subsequent to the review, the public or private higher education institution or private provider will make a brief report to BESE that will specify:

- a. the findings of the review;
- b. the corrective action plan;
- c. the time frame for implementation of the

corrective action plan and when changes in their value added assessment results would be anticipated to occur based on these actions; time frames may vary depending on the program type.

d. the institution's plan to assess implementation of the corrective action plan and what evidence will be collected demonstrating impact on current teacher candidates.

2. Upon BESE approval of Subparagraphs a-d listed above, the program will be allowed to continue to certify teachers under the designation of Programmatic Intervention until value added assessment results improve to a Level 3 or higher.

D. BESE will conduct a progress review of any state approved teacher preparation program that fails to improve its value added assessment results to a Level 3 or higher within the BESE approved time frame identified in the corrective action plan. This progress review may result in an extended deadline for the teacher preparation program to improve its value added assessment results or loss of state approval. Any state approved teacher preparation program that loses state approval will not be allowed to offer teacher preparation programs that result in certification in the content area(s) that received the Level 4 or 5. A value added assessment Level 4 or 5 in reading could impact state approval in multiple content areas. In order to re-establish state approval to certify teachers in the content area(s), public and private universities must follow the process/procedures developed by the BOR. Private Providers wishing to re-establish state approval in content areas must follow guidelines developed by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Chapter 6. Identifications of Acronyms

§601. Acronyms

A. Listed below are the full identifications of acronyms used in this publication.

BESE—Board of Elementary and Secondary Education.

BOR—Board of Regents.

CHEA—Council for Higher Education.

IEP—Individualized Education Plan.

K-3—Kindergarten through 3rd grade.

K-12—Kindergarten through 12th grade.

LDOE—Louisiana Department of Education.

LEAP 21—Louisiana Educational Assessment Program for the 21st century.

LSDAS—Louisiana School and District Accountability System.

NCATE—National Council for the Accreditation of Teacher Education.

P-12—Pre-kindergarten through 12th grades.

TEAC—Teacher Education Accreditation Council.

USD OE—U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1736 (August 2002), amended LR 30:2459 (November 2004), LR 36:

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., February 8, 2010, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette B. Vosburg

Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs—Programmatic Intervention and Acronyms

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revised policy will define the policy of the Value Added Report for alternate certification programs in Level 4 and Level 5. Public universities may incur costs related to programmatic interventions. The related costs cannot be estimated at this time. 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)

Private universities and private providers may incur costs related to programmatic interventions. The related costs cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0912#009

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Contractual Review
and
Office of State Purchasing**

Small Entrepreneurship
(The Veteran Initiative)—Procurement
(LAC 19:IX.Chapters 11 and 13)

The Division of Administration, Office the Commissioner of Administration, in accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, proposes to adopt LAC 19:IX, Subpart 2, under the authority of R.S. 39:2177(F). The purpose of the promulgation is to provide for the establishment of rules governing procurements made as part of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (The Veteran Initiative), R.S. 39:2171 through 2179. These rules will allow for coordination of state procurement with the implementation of veteran and service-connected disabled veteran-owned small entrepreneurship certification procedures by the Department of Economic Development pursuant to LAC 19:IX, Subpart 1.

**Title 19
CORPORATIONS AND BUSINESS
Part IX. Small Entrepreneurship
(The Veteran Initiative)
Subpart 2. Procurement**

Chapter 11. General Provisions

§1101. Purpose

A. The Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (The Veteran Initiative), hereinafter called LAVET, was created to provide additional opportunities for Louisiana-based veteran and service-connected disabled veteran-owned small entrepreneurships, hereinafter called VSE's and DVSE's, respectively, to participate in contracting and procurement with the State of Louisiana. By formalizing existing practices and implementing new procedures, the LAVET will allow the State of Louisiana to target more effectively certified VSE and DVSE participation and create opportunities relating to the state's contracting and procurement. Shown below are the key features of the LAVET.

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

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

b. To participate, VSE's and DVSE's must be certified by the Department of Economic Development. Certification is based on a firm's gross revenues, number of employees, and other criteria as specified by Act 167 of the 2009 Regular Legislative Session.

c. The LAVET has guidelines for counting certified VSE and DVSE participation.

d. The LAVET incorporates several procedures to help implement the Initiative.

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

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

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

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

d. requiring bidders and proposers to provide written assurance of certified VSE and/or DVSE participation in their bids and proposals;

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

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

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

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

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

5. The LAVET is race and gender neutral. The LAVET shall not be used to discriminate against any person, company, or group of persons or companies. It is the policy of the state to prohibit discrimination based on race, gender,

religion, national or ethnic origin, age, disability, or sexual orientation. Contractors, certified VSE's, and/or certified DVSE's that violate the state's non-discrimination mandate in the operations of the LAVET will be subject to sanctions.

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1103. Mission and Policy Statement

A. Act 167 of the 2009 Regular Legislative Session enacted R.S. 39:2171 et seq., creating the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (The Veteran Initiative) for the State of Louisiana. As enacted, the LAVET is a goal-oriented program, encouraging the state to contract with certified VSE's and DVSE's as well as encouraging the state's contractors to use good-faith efforts to utilize Louisiana-based certified VSE's and DVSE's as subcontractors.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1105. Scope

A. These procedures apply to all state departments, prime contractors, subcontractors, certified VSE's and certified DVSE's involved with LAVET contracts. These procedures do not apply to agency expenditures for amortization of debt, debt service, depreciation, employee benefits, per diem, relocation expenses, salaries, postage, and transfer of charges. These procedures do not apply to contracts for sole source items, contracts with other governmental entities, and those contracts that are prohibited by federal law from inclusion in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

Chapter 13. Procedures

§1301. Operational Procedures

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1303. Objectives

A. The overall objectives for this program are:

1. to implement the policy of the LAVET to promote economic development and business opportunities for all sectors throughout the state;

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

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

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

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

6. to carry out the mandate of the state as enacted by Act 167 of the 2009 Regular Legislative Session;

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1307. Reserved.

§1309. Overall Annual LAVET Goals and Agency Participation Levels

A. Overall Annual Goals. Overall annual goals for LAVET participation for the state will be set each year by the Commissioner of Administration as a percentage increase based on prior year activity.

B. Individual Agency Participation Levels. The Commissioner of Administration will provide guidance on how agencies will determine participation levels. The criteria used to set individual agency participation levels may include but not be limited to certified VSE and DVSE capacities, certified VSE and DVSE availability, nature of the contract, past experiences with LAVET participation, recognized industry composition, and subcontracting opportunities. No quotas or set-asides will be used in implementing the LAVET.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1311. Purchasing Methods

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

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

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

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

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

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

a. Good Faith Subcontracting Plans in an Invitation to Bid

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

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

(a). The bidder has or will use the LAVET certification list maintained by the Department of Economic Development to provide notice of the potential subcontracting opportunities to three or more certified VSE's and/or DVSE's capable of performing the subcontract. Notification must be provided to the certified VSEs and/or

DVSE's no less than five working days prior to the date of bid opening.

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

(c). Written notification must include:

(i). the scope of work;

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

(iii). information about required qualifications and specifications;

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

(v). contact person.

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

b. Post audits may be conducted. In the event that there is a question as to whether the low bidder's good faith subcontracting plan was complied with, the prime contractor must be able to provide supporting documentation to demonstrate its good faith subcontracting plan was actually followed (i.e., phone logs, fax transmittals, letters, e-mails). If it is at any time determined that the contractor did not in fact perform its good faith subcontracting plan, the contract award or the existing contract may be terminated.

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

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

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

ii. reserve ten percent of the total RFP evaluation points for otherwise responsive proposers who are themselves a certified as either a VSE or DVSE or who have made a good faith effort to use one or more VSEs and/or DVSE's in subcontracting.

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

c. Good Faith Subcontracting in a Request for Proposal

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

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

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

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

(d). The written notification gave the VSEs and/or DVSE's complete information regarding the potential subcontract, including such things as:

- (i). the scope of work;
- (ii). information regarding the location to review plans and specifications (if applicable);
- (iii). information about required qualifications and specifications;
- (iv). bonding and insurance information and/or requirements (if applicable);
- (v). contact person.

ii. A RFP under LAC 19:IX.1311.C.4.a.i shall require all proposers who are not certified VSE's or DVSE's to certify they made a good faith subcontracting effort in their proposals.

iii. A RFP under LAC 19:IX.1311.C.4.a.ii may require that proposals include a proposed schedule of certified VSE and/or DVSE participation that lists the names of potential certified VSE and/or DVSE subcontractors, a description of the work each would perform, and the dollar value of each proposed certified VSE and/or DVSE subcontract.

iv. A RFP under LAC 19:IX.1311.C.4.a.ii may require that proposers provide documentation to demonstrate their good faith subcontracting effort (i.e.: phone logs, fax transmittal logs, letters, e-mails) in order to receive any reserved points.

v. Proposers responding to RFP's under either LAC 19:IX.1311.C.4.a.i or LAC 19:IX.1311.C.4.a.ii may be asked to provide written justification of the subcontractor selection process if a certified VSE or DVSE is not used as a subcontractor.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1313. Procedures for Counting Small Entrepreneurship Participation

A. The state may count towards its LAVET goals the total dollar value of the contract awarded to the certified VSE or DVSE, if the certified VSE or DVSE is the prime contractor.

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

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

D. The state may count toward its LAVET goals the total dollar value of the contract if the RFP contemplated awarding ten percent of the total evaluation points to a proposer who demonstrated good faith efforts to use certified

VSE's and/or DVSE's as subcontractors, but was unsuccessful in doing so.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1315. Certification Procedures

A. Certification procedures are in accordance with rules and regulations promulgated by the Department of Economic Development (LAC 19:VII.Subpart 1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1317. Implementation Procedures

A. In an effort to maximize the LAVET's success, the following procedures will be implemented to maximize opportunities for certified VSE and DVSE participation.

1. The Division of Administration and state departments/agencies are responsible for the direct operation and direct implementation of the LAVET.

2. Each department/agency of the state shall choose an initiative coordinator. The person chosen to be initiative coordinator shall be the person serving as the undersecretary of the department or the business manager for an agency. The initiative coordinator or his designee shall be responsible for acting as a business advisor to work directly with certified VSE's and DVSE's and contractors to provide information, assistance, and support. The Division of Administration and state departments/agencies will undertake various tasks to make the program workable, including the following:

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

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

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

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

e. conduct outreach activities;

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1319. Legal Remedies

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

§1321. Reporting Procedures

A. The Commissioner of Administration is charged with the preparation of an annual report on the progress of the LAVET in the most recently ended fiscal year. The Commissioner must present the report to the House Committee on Appropriations and the Senate Committee on Finance by January 15 of each year. Therefore, information for the commissioner's report regarding an agency's achievement of LAVET goals must be submitted to the commissioner no later than October 1 of each year. Each agency is required to report for the preceding fiscal year:

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

2. number of contracts and the value of the contracts that included a good faith certified VSE and/or DVSE subcontracting plan; and

3. number of actual agency staff that attended Division of Administration training for LAVET and the number of certified VSE's and DVSE's that attended workshops and training sessions.

B. On-line forms for consistency in reporting will be provided on the commissioner's home page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2171 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review and Office of State Purchasing, LR 36:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of children.

3. The proposed Rule will not affect the functioning of the family.

4. The proposed Rule will not affect family earnings or family budget.

5. The proposed Rule will not affect the behavior or personal responsibility of children.

6. The proposed Rule deals strictly with the state's procurement function.

Public Comments

Any interested person may submit views, positions, or comments, in writing to Denise Lea, Assistant Commissioner, P.O. Box 94095, Baton Rouge, Louisiana 70804-9095 or by facsimile to 225-342-8688.

Denise Lea
Assistant Commissioner

Sandra Gillen
Director
Office of Contractual Review

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Small Entrepreneurship (The Veteran Initiative)—Procurement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of the Veteran Initiative, established by R.S. 39:2171 et seq. and this proposed rule may result in marginal additional costs for state contracts if higher priced veteran small entrepreneurships are chosen over lower cost competitors but the extent to which this might occur cannot be anticipated. The proposed rule explains procedures to be used in procurements involving Veteran and Service-Connected Disabled Veteran-Owned ("Veteran") Small Entrepreneurships certified by the Department of Economic Development.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections as a result of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certified veteran small entrepreneurships will benefit by increased participation in public procurement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect on competition and employment as business opportunities for veteran small entrepreneurships are increased.

Denise Lea
Assistant Commissioner
0912#030

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Public Defender Board

Capital Defense Guidelines and Performance Standards (LAC 22:XV.Chapter 9)

The Public Defender Board, a state agency within the Office of the Governor, proposes to adopt LAC 22:XV.Chapter 9, as authorized by R.S. 15:148. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 307 of the 2007 Regular Session of the Louisiana Legislature directed the Public Defender Board to adopt rules creating mandatory: 1) statewide public defender standards and guidelines that require public defender services to be provided in a manner that is uniformly fair and consistent throughout the state; and 2) qualification standards for public defenders that ensure that the public defender services are provided by competent counsel. Said standards are to ensure that public defenders are qualified to handle specific case types which shall take into consideration the level of education and experience that is necessary to competently handle certain cases and case types, including capital cases. In compliance with the directives of Act 307, the Public Defender Board proposes to adopt these capital defense guidelines.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XV. Public Defender Board

Chapter 9. Capital Defense Guidelines and Performance Standards

§901. Objective and Scope of Guidelines

A. Objective of the Guidelines and Performance Standards

1. The objective of these guidelines and associated performance standards is to create mandatory statewide guidelines and performance standards for the defense of capital cases as required by R.S. 15:148(B)(10) in order to ensure high quality legal representation for all persons facing the possible imposition or execution of a death sentence in a manner that is uniformly fair and consistent throughout the state.

2. The guidelines are principally intended to focus on the structure of capital defense service delivery. The performance standards are principally intended to focus on the tasks involved in the delivery of capital defense services by attorneys, investigators, mitigation specialists and supervisors.

3. These Guidelines are intended to adopt and apply the guidelines for capital defense set out by the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, its associated Commentary and the *Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases*. In these guidelines, the ABA guidelines have been adapted and applied to meet the specific needs and legal requirements applicable in Louisiana while seeking to give effect to the intention and spirit of the ABA guidelines.

4. These guidelines and associated performance standards are intended to provide capital defenders and responsible agencies with specific guidance on the performance of their functions and to allow the state public defender and the Louisiana Public Defender Board to more efficiently evaluate the delivery models and performance of the capital defense services provided throughout the state.

B. Scope of the Guidelines

1. These guidelines and performance standards apply from the moment the client is taken into custody and extend to all stages of every case in which the state may be entitled to seek the death penalty, including pre-indictment proceedings, the initial and ongoing investigation, pretrial proceedings, trial, motion for new trial, sentencing, the direct appeal, state and federal post-conviction review, clemency proceedings, and any connected litigation. The guidelines and performance standards also apply to any services rendered prior to the client being taken into custody, such as where counsel assists the client in surrendering.

2. Unless specifically mentioned, these guidelines shall apply only in the case of capital defendants who are eligible for public defender services. The word defendant is used broadly to describe the client at all stages of every case covered by these guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§903. Adoption and Implementation of Capital Representation Plans

A. Adoption of Capital Representation Plans

1. The state public defender shall adopt and implement a plan formalizing the means by which high quality legal representation in death penalty cases is to be provided in accordance with these guidelines (the "Louisiana Capital Representation Plan").

2. Each district public defender (or regional director where a service region has been established) shall adopt and implement a plan formalizing the means by which high quality legal representation in death penalty cases is to be provided in accordance with these guidelines and the Louisiana Capital Representation Plan (the "District Capital Representation Plan").

3. The state public defender may publish a form for the District Capital Representation Plan.

B. Capital Representation Plans to Provide for Compliance with the Guidelines

1. The Louisiana Capital Representation Plan and the District Capital Representation Plans shall set forth how each jurisdiction will conform to each of these guidelines and meet the standards established by the performance standards.

C. Capital Representation Plans to Provide for Zealous Advocacy

1. All elements of the Capital Representation Plan should be structured to ensure that counsel defending death penalty cases are able to do so free from political influence, judicial interference, conflicts of interest and under conditions that enable them to provide zealous advocacy in accordance with the Louisiana Rules of Professional Conduct. The Capital Representation Plans should be structured to allow these goals to be achieved in a cost-effective and fiscally responsible manner.

2. While ensuring that the performance of the defense function is free from judicial interference, defense counsel should: maintain adherence to the Rules of Professional Conduct; manifest a professional attitude toward the judge, opposing counsel, witnesses, jurors, and others in the courtroom; and should not knowingly disobey an obligation under the rules or rulings of a court, except for an open refusal based on an assertion that no valid obligation exists.

D. Capital Representation Plans to Provide for Case Supervisor in Every Case

1. The Capital Representation Plan shall provide that for each capital case a case supervisor will be specifically identified. Each case supervisor must be certified as lead counsel under these guidelines.

2. Where lead counsel in the case is an employee of a public defender office or defender organization, the supervisor will be the director of that office or organization, or a person he or she assigns to that role.

3. Where lead counsel in the case is acting under contract, the supervisor will be the director of the contracting agency, or a person he or she assigns to that role.

4. Where the director of an office, organization or contracting agency is counsel in the case, the supervisor shall be the trial level compliance officer or a person assigned by the trial level compliance officer.

5. The case supervisor is not counsel in the case but is responsible for assisting and supporting each attorney to provide representation in compliance with these guidelines. The case supervisor must monitor the representation in the case for compliance with these guidelines and associated performance standards.

6. The case supervisor may make recommendations to the defense team, resolve workload questions pursuant to §919 and report non-compliance with the guidelines to the district public defender and state public defender. The case supervisor does not have the authority to act on behalf of the defendant or to direct members of the defense team to take any action or refrain from taking any action.

E. Transitional provisions for capital representation plan

1. Each district public defender and the state public defender is to complete and submit to the board a capital representation plan within three months of the adoption of these guidelines by the board. The state public defender is to provide technical assistance to district public defenders to assist in completing their capital representation plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§905. Designation of Responsible Agencies

A. Responsibility for Ensuring High Quality Legal Representation in Capital Cases

1. Subject to R.S. 15:165, the district public defender is responsible within his or her jurisdiction for:

a. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at trial level;

b. ensuring the continuing cooperation of trial counsel and defense team members with appellate and post-conviction counsel;

c. recruitment and development of attorneys to represent capital defendants at trial level, including assisting attorneys in meeting certification requirements;

d. assigning the attorneys who will represent the defendant throughout the trial level of the case, except to the extent that the defendant has private attorneys and has not sought assistance as a partially indigent defendant;

e. monitoring the performance of all attorneys providing trial level capital representation in the jurisdiction;

f. periodically reviewing the roster of qualified attorneys in his or her jurisdiction and recommending to the state public defender the withdrawal of certification from any attorney who fails to provide high quality legal representation consistent with these guidelines; and

g. investigating and maintaining records concerning complaints about the performance of attorneys providing representation in death penalty cases within his or her jurisdiction and taking appropriate corrective action without delay.

2. The district public defender may assign these responsibilities to the state public defender by agreement with the state public defender and upon execution of an appropriate District Capital Representation Plan. Where a service region is established, the responsibilities vested in the district public defender in these guidelines may be assigned to the regional director as a part of a service delivery method for the region established under R.S. 15:160(B)(7).

3. The state public defender is responsible for:

a. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at post-sentencing, appellate level and upon any remand;

b. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at state post-conviction level;

c. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at clemency level;

d. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at trial level where defense services are provided by a capital defense organization acting pursuant to a contract with the board;

e. ensuring that each capital defendant in the jurisdiction receives high quality legal representation consistent with these guidelines and associated performance standards at trial level where responsibility is assigned to the state public defender by agreement with the district public defender or where such responsibility is assigned pursuant to R.S. 15:165;

f. investigating and maintaining records concerning complaints about the performance of attorneys providing representation in cases for which he or she has responsibility under §705.A and take appropriate corrective action without delay; and

g. performing or ensuring the performance of all the duties listed in Subsection E.

B. Independence from the Judiciary

1. The district public defender, regional director and state public defender are to be independent of the judiciary and they, not the judiciary or elected officials, shall select lawyers for specific cases.

C. Delegation of Responsibility for Ensuring High Quality Legal Representation in Capital Cases

1. If the district public defender, regional director or state public defender assigns, contracts or delegates performance of its responsibilities under this Section, it shall clearly identify within the Capital Representation Plan to whom responsibility is assigned, contracted or delegated.

2. Performance of responsibilities under this Section may only be assigned, contracted or delegated to:

a. the state public defender;

b. a "defender organization", that is:

i. a jurisdiction-wide capital trial office, relying on staff attorneys, members of the private bar or both to provide representation in death penalty cases. This may include a regional death penalty center as described in R.S. 15:164;

ii. a jurisdiction-wide capital appellate and/or post-conviction defender office, relying on staff attorneys, members of the private bar or both to provide representation in death penalty cases; or

iii. an "independent authority", that is, an entity run by defense attorneys with demonstrated knowledge and expertise in capital representation.

3. Regardless of any contract, assignment or delegation (save for an assignment of responsibility to the state chief defender or the regional director) the district public defender, regional director or state public defender remain ultimately responsible for ensuring that the responsibilities described under this Section are met.

D. Conflict of Interest

1. In any circumstance in which the performance of a duty under this Section would result in a conflict of interest, the relevant duty should be performed by the state public defender, a defender organization or independent authority free of a conflict of interest and identified for this purpose in the Capital Representation Plan.

2. The Capital Representation Plan shall identify an effectual system to identify and resolve such conflicts. The system will include provisions to ensure that no organization or person responsible for representing a capital defendant shall be responsible for assigning or supervising counsel for another defendant with an antagonistic defense.

3. In order to ensure that the state public defender's office remains free of conflicts in all cases, no attorney who holds a formal role in the office of the state public defender shall represent a capital defendant in the jurisdiction during the term of his or her service.

E. Duties of State Public Defender

1. The state public defender should, in accordance with these guidelines, perform the following duties:

a. recruit and certify attorneys as qualified to be appointed to represent defendants in death penalty cases;

b. draft and periodically update rosters of certified attorneys;

c. periodically publish the certification standards, the procedures by which attorneys are certified and how attorneys are assigned to particular cases in each district;

d. assign the attorneys who will represent the defendant at each stage of every case where the state public defender has responsibility for ensuring that the capital defendant receives high quality legal representation under §705.A;

e. monitor the performance of all attorneys and defender organizations providing representation in capital proceedings;

f. periodically review the roster of qualified attorneys and withdraw certification from any attorney who fails to provide high quality legal representation consistent with these guidelines;

g. conduct, sponsor, or approve specialized training programs for attorneys representing defendants in death penalty cases;

h. recruit and support the professional development of mitigation specialists in the state of Louisiana; and

i. ensure that each district public defender and regional director complies with his or her responsibilities under these guidelines and associated Performance Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§907. Case tracking of Capital Cases

A. Obligation of District Public Defender to Track All Capital Cases within Jurisdiction

1. Each district public defender should track the arrest, indictment, procedural posture and disposition in all capital cases in his or her district up to and including sentencing stage. Tracking should include the cases of those defendants who are not currently indigent. Information gathered from the tracking of capital cases is to be promptly provided to the state public defender.

2. The district public defender's obligations under this Section remain even where the district has assigned responsibility for capital representation to the state public defender.

B. Obligation of State Public Defender to Track Capital Cases Post-sentencing

1. The state public defender should track the appeal, state post-conviction, federal post-conviction and clemency proceedings of every capital case in the jurisdiction.

C. Obligation of State Public Defender to Maintain Statewide Caseload Data

1. The state public defender should maintain and make available to the Board data describing the statewide capital caseload at each stage of a capital case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§909. Eligibility for Public Defender Services

A. Eligible for Services if Financially Unable to Secure Appropriate Representation

1. A person will be eligible for public defender services if he or she is unable, without substantial financial

hardship to himself or to his dependents, to obtain competent, qualified legal representation on his own.

2. "Substantial financial hardship" is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance, resides in public housing, or earns less than two hundred percent of the federal poverty guideline. A defendant is presumed to have a substantial financial hardship if he or she is currently serving a sentence in a correctional institution or is housed in a mental health facility.

3. Capital defendants not falling below the presumptive threshold will be eligible to receive public defender services if their particular circumstances, including seriousness of the charges being faced, monthly expenses, local private counsel rates for counsel qualified to handle capital cases, would result in a "substantial hardship" were they to seek to retain private counsel. Relevant considerations may include such factors as income or funds from employment or any other source, including public assistance, to which the accused is entitled, property owned by the accused or in which he or she has an economic interest, outstanding obligations, the number and ages of dependents, employment and job training history, and level of education. Release on bail alone shall not disqualify a person from eligibility.

4. A capital defendant meeting the above criteria will be eligible for public defender services notwithstanding that he or she has retained counsel through a collateral funding source or on a pro bono basis. A capital defendant who has retained counsel at his own expense may be eligible for public defender services subject to careful examination of his or her financial status and the possibility of seeking an order under R.S. 15:176.

B. Determination of Eligibility

1. The district public defender shall be responsible for determining eligibility for public defender services in each case in his or her jurisdiction. Should the district public defender be prevented from making such a determination by a conflict of interest, responsibility for the determination of eligibility will transfer to the state public defender.

2. The determination of eligibility shall not be subject to judicial or political interference.

3. A determination of eligibility in capital cases should be made as soon as possible after arrest or after the issue of eligibility has been raised.

4. Once a capital defendant is determined to be eligible for public defender services he or she shall be presumed to remain eligible through each stage of the capital case unless a formal determination of ineligibility is made.

5. Where, as a result of a change of circumstances or new information, the district public defender or state public defender believes that a defendant may not be eligible, the question of eligibility shall be investigated and a new determination made.

6. A capital defendant may be found to be eligible for public defender services notwithstanding a judicial finding that the defendant is not indigent pursuant to R.S. 15:175.

C. Eligibility in Capital Cases Presumed until Investigation of Eligibility Complete

1. All capital defendants are presumed eligible for public defender services until the completion of any investigation of eligibility and a formal determination of ineligibility.

D. Finding of Ineligibility

1. Where a capital defendant is found to be ineligible for public defender services under this Section, the defendant may apply to the court for a determination of indigency under R.S. 15:175. If found by the court to be indigent, the defendant shall be deemed to be eligible for the purposes of this Section.

2. No capital defendant shall be found ineligible where he or she is able to provide some but not all of the funds necessary for an adequate defense. Instead, the defendant should be found eligible and an application for partial reimbursement pursued under R.S. 15:176.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§911. Assignment of Counsel

A. Assignment of Specific Attorneys to Each Capital Case

1. In each capital case the person or organization responsible for assigning counsel pursuant to §905 shall assign specific attorneys to each case and not an office, organization or group of attorneys. At least one appropriately certified attorney shall be assigned as lead counsel and at least one appropriately certified attorney shall be assigned as associate counsel. Additional counsel may be assigned when necessary or appropriate and assignments may be changed, subject to maintaining continuing compliance with these guidelines.

B. Assignment to be Consistent with Requirements of Guidelines

1. An attorney may only be assigned if he or she is currently certified in the appropriate role, is conflict free, meets the workload requirements of these guidelines and can be compensated in accordance with these guidelines. Assignments of attorneys must be made so as to meet the requirements of these guidelines, including §913.

C. Assignment of Counsel to Eligible Defendant Desiring Public Defender Services

1. Counsel shall be assigned to each defendant who is eligible to receive public defender services at the earliest possible opportunity following arrest and, wherever possible, prior to appearance under C. Cr. P. art. 230.1. Counsel shall be assigned no later than 48 hours after the time for appearance under C. Cr. P. art. 230.1.

2. Where an eligible capital defendant is arrested outside of Louisiana, the district public defender in the district in which the offense is alleged to have occurred will immediately assign counsel.

3. Counsel may be assigned prior to arrest where the capital defendant is an existing client of a public defender service or where the defendant seeks assistance in surrendering him or herself to police.

4. Counsel shall not be assigned to a defendant who indicates that he does not wish to receive public defender services. With the consent of the defendant, public defender services may be provided while a defendant considers whether he or she desires to receive public defender services.

D. Assignment of Counsel prior to Formal Finding of Eligibility

1. Where counsel is assigned prior to a formal finding of eligibility it is counsel's responsibility to immediately confer with the defendant to confirm his or her desire to receive public defender services unless this has already occurred.

E. Assignment of Counsel in Conflict Cases

1. Assignments in cases where there exists a conflict of interest will occur in accordance with the Capital Representation Plan and §905. Any person or organization unable to perform the assignment function due to a conflict of interest must immediately act to ensure that the appropriate non-conflicted authority may make the assignment.

F. Assignment of Counsel in Overflow Cases

1. Assignments in cases where the responsible person or organization is unable to assign counsel due to a lack of appropriately qualified and available counsel will occur in accordance with the Capital Representation Plan. Any person or organization unable to make an assignment due to a lack of available counsel must immediately act under the Capital Representation Plan to ensure that the appropriate authority may make the assignment.

G. Self-representation and Assignment of Standby Counsel

1. Where a capital defendant seeks to proceed without counsel, counsel is obliged to continue to represent the client in accordance with these guidelines and the performance standards until the motion for self-representation is granted. This obligation will include: investigating the competency of the client; the capacity of the client to knowingly, voluntarily and intelligently waive the right to the assistance of counsel; and the capacity of the client to engage in self-representation. Where appropriate, counsel should oppose the defendant's motion. Where appropriate, counsel should seek review of a trial court decision granting a capital defendant's motion for self-representation.

2. Where a capital defendant is proceeding pro se and the court permits or requires standby counsel, attorneys shall be assigned under these guidelines. Where attorneys are assigned to act as standby counsel a defense team shall be assembled consistent with §913 and be prepared to assume representation of the defendant should the court so order. Standby counsel has an ongoing obligation to monitor the capital defendant's competency, the quality of his waiver and his ability to represent himself and to bring such matters to the attention of the court where appropriate.

H. Unavailability of Counsel for Assignment

1. Where the persons or organizations identified in the capital representation plan responsible for assignment of counsel are unable to assign counsel, the district public defender and the state public defender shall be immediately notified. Where the district public defender and the state public defender are also unable to assign counsel, the state public defender shall immediately cause to be filed with the

relevant court a notice that counsel cannot be assigned at this time.

2. In such cases, the state public defender shall assign capitally certified counsel for the limited purpose of protecting the capital defendant's rights, including pursuing a halt of the prosecution.

3. Where counsel cannot be assigned to a case under this Section, the state public defender and district public defender shall have an ongoing responsibility to identify counsel suitable for assignment to the case.

I. Transitional provisions for assignments made prior to adoption of Guidelines

1. The district public defender or state public defender, as appropriate, shall review all assignments of attorneys in open capital cases made within his or her jurisdiction prior to the adoption of these guidelines by the board. Within six months of the adoption of these guidelines the district public defender or state public defender, as appropriate, shall take such action as is necessary to ensure that the assignment of attorneys in each such case has been brought into compliance with these Guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§913. The Defense Team and Supporting Services

A. Minimum Components of the Defense Team

1. For all capital defendants, a defense team that will provide high quality legal representation must be assembled.

a. The defense team should consist of no fewer than two attorneys certified in accordance with §915 of these guidelines (with at least one qualified as lead counsel), an investigator, and a mitigation specialist;

b. The defense team must include individuals possessing the training and ability to obtain, understand and analyze all documentary and anecdotal information relevant to the client's life history;

c. At least one member of the team must have specialized training in identifying, documenting and interpreting symptoms of mental and behavioral impairment, including cognitive deficits, mental illness, developmental disability, neurological deficits; long-term consequences of deprivation, neglect and maltreatment during developmental years; social, cultural, historical, political, religious, racial, environmental and ethnic influences on behavior; effects of substance abuse and the presence, severity and consequences of exposure to trauma;

d. The two attorneys, investigator and mitigation specialist described above are the minimum components of any defense team. The emphasis in assembling a defense team is to ensure that the team possesses the skills, experience and capacity to provide high quality representation in the particular case.

e. Additional team members will be appropriate in many cases in order to: reflect the seriousness, complexity or amount of work in a particular case; meet legal or factual issues involving specialist knowledge or experience; ensure that the team has the necessary skills, experience and capacity available to provide high quality representation in the particular case; provide for the professional development of defense personnel through training and case experience; and for any other reason arising in the circumstances of a particular case.

B. Expert, Investigative and Other Ancillary Professional Services

1. Counsel shall have access to the assistance of all expert, investigative, and other ancillary professional services reasonably necessary or appropriate to provide high quality legal representation at every stage of the proceedings.

2. The state public defender shall provide funds for the assistance of experts, including mitigation specialists, and extraordinary investigative services. Such services will be provided by persons independent of the government and confidentiality of communications with the persons providing such services is to be maintained throughout the funding process. Funds for ordinary investigative services will be provided by the district public defender unless responsibility for the case under §905 is vested in the state public defender.

C. Defendants with Retained or Pro Bono Counsel

1. A capital defendant who is eligible for public defender services under §909 is entitled to public funds for the minimum components of a defense team and expert, investigative and other ancillary services notwithstanding that he or she has retained or pro bono counsel.

2. In such a case the district public defender, regional director or state public defender, as appropriate, shall be responsible for supplementing existing services available to the defendant to meet the requirements of this Section.

3. In such a case, the district public defender, regional director or state public defender, as appropriate, shall be responsible for ensuring that the capital defendant receives high quality legal representation in his or her capital case. In the absence of specific agreement with the district public defender, regional director or state public defender, counsel assigned to the case shall operate as lead counsel.

4. If a retained attorney becomes unable to continue representing a capital defendant because the defendant or any third party can not fulfill the terms of the financial agreement between the attorney and the defendant or any third party, that attorney is not eligible to be appointed to represent the defendant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§915. Qualifications of Defense Counsel

A. Certification Standards Intended to Ensure High Quality Legal Representation

1. The certification standards and mechanisms established by these guidelines should be construed and applied in such a way as to further the overriding goal of providing each client with high quality legal representation.

B. Goals of Certification Standards

1. In formulating certification standards, the Louisiana Public Defender Board seeks to insure:

a. that every attorney representing a capital defendant has:

i. obtained a license or permission to practice in the state of Louisiana;

ii. the skills, experience and capacity available to provide high quality capital defense representation;

iii. demonstrated a commitment to providing zealous advocacy and high quality legal representation in the defense of capital cases; and

iv. satisfied the training requirements set forth in §923;

b. that the pool of defense attorneys as a whole is such that each capital defendant in Louisiana receives high quality legal representation. Accordingly, the certification standards are meant to insure that the pool includes sufficient numbers of attorneys who have demonstrated:

i. substantial knowledge and understanding of the relevant state, federal and international law, both procedural and substantive, governing capital cases;

ii. skill in the management and conduct of complex negotiations and litigation;

iii. skill in legal research, analysis, and the drafting of litigation documents;

iv. skill in oral advocacy;

v. skill in the use of expert witnesses and familiarity with common areas of forensic investigation, including fingerprints, ballistics, forensic pathology, and DNA evidence;

vi. skill in the investigation, preparation, and presentation of evidence bearing upon mental status, including mental retardation;

vii. skill in the investigation, preparation, and presentation of mitigating evidence;

viii. skill in the elements of trial advocacy, such as jury selection, cross-examination of witnesses, and opening and closing statements; and

ix. skill in maintaining a strong working relationship with a capital defendant.

C. Standard Process for Certification

1. Certification is available for the roles of Trial Lead Counsel, Trial Associate Counsel, Appellate Lead Counsel, Appellate Associate Counsel, Post-Conviction Lead Counsel, or Post-Conviction Associate Counsel.

2. Attorneys seeking certification must submit a detailed application to the state public defender with the overall purpose of establishing their experience and knowledge in each of the categories in §915.B.1.b, as well as the minimum requirements for the particular role for which they seek certification as outlined in §915.C.3, and have satisfied the training requirements outlined in §923.

3. The information in an application for certification shall include:

a. to the extent possible, a list of all capital cases in which the attorney has served as defense counsel, including the name of the defendant, judicial district court, trial judge, prosecuting attorneys, co-counsel, the result or verdict and any reported appellate decisions in the case;

b. any other experiences the attorney believes will establish his or her qualifications, including but not limited to:

i. non-capital trial or appellate experience;

ii. experience as a public defender or prosecutor, or as an attorney in a capital defense organization;

iii. observation of complete capital trials; and/or

iv. extensive research and/or training in the field of capital defense;

c. at least two samples of substantial written legal work product including analysis of complex legal issues, preferably filed in a capital case, prepared by the attorney at the trial, appellate or post-conviction level;

d. the names and phone numbers of two district court judges (or appellate judges in the case of appellate certification) or capital defense attorneys familiar with the attorney's work as an advocate;

e. written statement by the applicant describing the extent and source of relevant proficiencies in each of the categories in §915.B.1.b;

f. an authorization to permit the state public defender to obtain CLE records for the attorney both prior to and during any period of certification;

g. a signed undertaking that the attorney will comply with the continuing obligations of certified counsel detailed in §915.B.1.a;

h. a listing of the number of active trial, appellate or post-conviction cases the attorney has, and any non-active cases that may become active in the next year.

i. any other relevant background or specializations which might inform the state public defender of the attorney's qualifications for certification or the assignment of particular cases;

j. proof that the attorney is licensed to practice in Louisiana or has been granted permission to practice in a capital case or cases in Louisiana;

k. information relevant to assessing the applicant's professional, physical and mental fitness for certification, including:

i. any findings of professional misconduct in this or any other jurisdiction, including any findings of contempt of court;

ii. any matter affecting the applicant's physical health that would substantially impair the applicant's capacity to meet the requirements of certified capital counsel in these guidelines and associated performance standards; and/or

iii. any matter affecting the applicant's mental health that would substantially impair the applicant's capacity to meet the requirements of certified capital counsel in these guidelines and associated performance standards.

4. The state public defender may develop and publish an application form. Where an applicant is unable to supply one or more of the items required above, the application should provide an explanation for this and the state public defender may waive the requirement or require other material to be supplied in lieu of that listed in this Section.

D. Minimum Experience Requirements for Certification

1. The following minimum required experience levels apply for each of the roles for which certification is available:

a. Qualified Trial Lead Counsel shall:

i. have at least five years of criminal trial litigation experience;

ii. have prior experience as lead counsel in no fewer than nine jury trials tried to completion; of these, at least five must have involved felonies or two must have involved the charge of murder; and

iii. have prior experience as lead counsel or associate counsel in at least one case in which the death penalty was sought and was tried through the penalty phase or have prior experience as lead counsel or associate counsel in at least two cases in which the death penalty was sought and where, although resolved prior to trial or at the guilt

phase, a thorough investigation was performed for a potential penalty phase.

b. Qualified Trial Associate Counsel shall:

i. have at least three years of criminal trial; and

ii. have prior experience as lead counsel in no fewer than three felony jury trials which were tried to completion, including service as lead or associate counsel in at least one homicide trial.

c. Qualified Appellate Lead Counsel shall:

i. have at least five years of criminal appellate litigation experience;

ii. have prior experience within the last three years as lead counsel in the appeal of no fewer than three felony convictions in federal or state court; and

iii. have prior experience within the last three years as lead counsel or associate counsel in the appeal or post-conviction application, in federal or state court, of at least one case where a sentence of death was imposed; and

iv. be familiar with the practice and procedure of the Louisiana Supreme Court in the appeal of capital cases; the practice and procedure of the United States Supreme Court in the application for writs of certiorari in capital cases; and the law controlling the scope of and entitlement to state post conviction and federal habeas corpus review.

d. Qualified Appellate Associate Counsel shall:

i. have demonstrated adequate proficiency in appellate advocacy in the field of felony defense; and either have at least:

(a) three years of criminal trial or appellate litigation experience; or

(b) two years experience as a full time attorney at a capital defense organization in Louisiana.

e. Qualified Post-Conviction Lead Counsel shall:

i. have at least five years of criminal post-conviction litigation experience; and

ii. have demonstrated clear competence and diligence in representation provided as:

(a) counsel of record for defendant in at least five felony post-conviction relief/habeas corpus proceedings (including at least one murder conviction); and

(b) counsel of record for defendant as lead or associate counsel in two death penalty related post-conviction/habeas corpus proceedings in which petition has been filed; and

iii. have been lead counsel in a capital post-conviction proceeding which had an evidentiary hearing or been lead counsel in at least two felony post-conviction evidentiary hearings or trials; and

iv. be familiar with the substantive law and the practice and procedure of the courts of Louisiana in the review of capital post-conviction applications; and

v. be familiar with federal habeas corpus statutory law, practice and procedure, particularly including federal review of state convictions in capital cases.

f. Qualified Post-Conviction Associate Counsel shall:

i. have demonstrated adequate proficiency in post-conviction/habeas advocacy in the field of felony defense; and either

(a) have at least three years of criminal trial, appellate or post-conviction/habeas litigation experience; or

(b). have at least two years experience as a full time attorney at a capital defense organization in Louisiana.

g. Waiver of Experience Qualification Due to Equivalent Alternative Experience

i. Having appropriate regard to the goals of these certification standards, the state public defender may waive formal compliance with the minimum experience requirements contained in this Section where satisfied that the applicant has equivalent alternative experience. However, in all cases lead counsel must have been admitted to the bar for at least five years.

E. Minimum Training Requirements for Certification

1. Prior to certification, the applicant must have satisfactorily completed within the preceding two years a comprehensive training program as described in §723.B. This requirement is non-waivable, though counsel not meeting this requirement will be eligible for provisional certification.

F. Consideration of Certification Applications

1. Subject to §915.H, the decision to certify or not certify an applicant under §915 rests in the sole discretion of the state public defender and shall not be subject to political or judicial interference.

2. The state public defender shall promptly review each application, investigate the contents of the submission, make any further enquiries that will assist in deciding whether certification is appropriate, and determine whether the attorney should be certified as Trial Lead Counsel, Trial Associate Counsel, Appellate Lead Counsel, Appellate Associate Counsel, Post-Conviction Lead Counsel, Post-Conviction Associate Counsel or provisionally certified under §915.G.

3. The state public defender may request that the applicant submit any further information required to allow a full consideration of the application.

4. The state public defender shall not certify any applicant unless he or she: is licensed or has been granted permission to practice in Louisiana; meets the requirements of §915.D and E; and has submitted an application complying with §915.C, including an undertaking to comply with the requirements of §915.B.1.a.

5. In determining whether certification is appropriate the state public defender shall have regard to:

- a. the goals of certification;
- b. the experience of the applicant;
- c. the prior training of the applicant;
- d. the proficiency of the applicant in the provision of capital defense services; and
- e. the extent to which the applicant has the commitment, skill and capacity to provide zealous advocacy and high quality legal representation in the defense of capital cases.

6. If the applicant is not certified, or not certified for the role requested, the state public defender shall inform him or her of the reasons for the denial of certification in writing. The applicant shall be given the opportunity to supplement the initial application or, where appropriate, to submit a further application upon meeting any deficiency.

G. Provisional Certification

1. An attorney whom the state public defender has found to be not appropriate or eligible for certification in a particular role may be granted provisional certification in

that role subject to such conditions as may be set by the state public defender.

2. Conditions attached to provisional certification may include but are not limited to:

- a. undertaking and satisfactorily completing further training as determined by the state public defender;
- b. working with resource counsel assigned by the state public defender;
- c. working only on a specific case or cases;
- d. working only with a specific attorney or attorneys as determined by the state public defender;
- e. limiting responsibility in work on a case to a particular area or areas as determined by the state public defender;
- f. working only as a part of a defense team that includes a member or members with a particular skill, experience or expertise as determined by the state public defender;
- g. achieving or maintaining a caseload or workload of a level and type determined by the state public defender.

3. A provisionally certified attorney shall be regarded as being certified for the purposes of §913 and Rule XXXI, La. S. Ct. Rules but may not be assigned to any case without the prior approval of the state public defender and under circumstances that ensure that the conditions set for provisional certification are met and will continue to be met.

H. Appeal from Denial of Certification

1. After being notified of the final decision of the state public defender, an attorney who has been denied certification can make a written request within 21 calendar days of the notification to appeal the decision to the board or an appeals review committee designated by the board. The decision of the board or appeals review committee shall not be subject to judicial or political interference.

I. Obligations of Certified Counsel

1. It will be a continuing obligation of certified counsel to:

- a. comply with these guidelines and associated performance standards;
- b. comply with the Louisiana Rules of Professional Conduct;
- c. maintain caseloads and workloads within the limits established by the Guidelines established by the Louisiana Public Defender Board, except as specifically authorized by the state public defender;
- d. cooperate with case monitoring and case reviews by the case supervisor, district public defender and state public defender;
- e. attend and successfully complete continuing capital legal education as described in §923.E;
- f. notify the state public defender of any change or address or contact information;
- g. immediately notify the state public defender of any change in his or her licensure or permission to practice in the state of Louisiana;
- h. immediately notify the state public defender of any change in the information contained in his or her application for certification relating to professional, physical, mental fitness to be certified as capital counsel;
- i. promptly respond to any request for information from the state public defender, regional director or district

public defender, as appropriate, relevant to the attorney's performance as capitally certified counsel or satisfaction of the obligations of capitally certified counsel; and

j. notify every court in which he or she is counsel in a capital case of any reduction in the level or extent of his certification.

J. Maintaining Certification

1. Certified attorneys must apply to the state public defender for re-certification by January 31 of each calendar year following the year of initial certification under these Guidelines.

2. When applying for re-certification, counsel must certify continued compliance with the obligations established under the Guidelines, including the requirement for continuing capital legal education. The attorney must advise the state public defender of any previously undisclosed failure to comply with these Guidelines.

3. The state public defender shall publish an application form for re-certification. The state public defender shall distribute re-certification application forms to all certified counsel each year.

4. Following submission of an application for certification, an attorney will remain certified until such time as the state public defender determines to re-certify or not re-certify the attorney.

5. The state public defender will promptly consider each application for re-certification and determine whether to re-certify the attorney. Consideration of re-certification and any appeal from the decision will be handled in a manner consistent with §715.F, G and H. An attorney will remain provisionally certified during any appeal from a refusal to re-certify the attorney.

6. Where an attorney fails to timely apply for re-certification, he or she shall be reduced to provisional certification status. The state public defender shall investigate the failure to apply for re-certification and either de-certify the attorney or consider an out of time application for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§917. Certification Transitional Provision

A. Re-certification for Attorneys on the Roster Prior to the Promulgation of these Guidelines

1. All attorneys on LPDB Capital Certification Roster at the time of the adoption of these Guidelines by the Louisiana Public Defender Board shall be deemed to be certified under these guidelines on the date of adoption subject to the following.

a. All attorneys deemed to be certified under this Section must apply for certification under these guidelines within six months of the guidelines being adopted by the board or be de-certified. An attorney de-certified in this way may subsequently apply for certification.

b. Attorneys deemed to be certified under these guidelines must satisfy the comprehensive training program requirement contained in §723.B within two years of the adoption of these guidelines. Where an attorney fails to satisfy this provision he or she shall be immediately reduced to provisional certification status and the state public defender shall determine whether the attorney should be de-certified.

c. The state public defender will inform any court in which the attorney is acting for a capital defendant of the de-certification of the attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§919. Workload

A. Workloads Should be Low Enough to Allow High Quality Legal Representation

1. Workloads of defense team members shall be maintained at a level that enables counsel to provide each client with high quality legal representation in accordance with these guidelines and associated performance standards, including the ability of counsel to devote full time effort to the case as circumstances will require.

B. Caseloads and Workloads

1. Attorneys shall maintain workloads in compliance with any policy or rule adopted by the board under R.S. 15:148(B)(1)(a).

2. Pending the adoption by the board of a policy or rule under R.S. 15:148(B)(1)(a), attorneys shall maintain caseloads in compliance with Chapter 12, Louisiana Standards on Indigent Defense.

C. Responsibility for Maintaining Appropriate Workload Levels

1. The state public defender, regional director and district public defender shall be responsible for ensuring that the attorneys in each case for which they have responsibility under §705 are in compliance with this Section and shall assist the attorneys to achieve and maintain appropriate workloads.

2. Each supervisor of a capital attorney has a responsibility to ensure that the attorneys he or she supervises maintain compliance with this Section and assist the attorneys to achieve and maintain appropriate workloads.

3. Each attorney has an individual responsibility to ensure that he or she maintains compliance with this Section.

D. Obligation to Refuse New Cases in Excess of Workload Limits

1. An attorney should not be assigned new case assignments that will result in his or her workload exceeding that allowed by §919.A after accepting a capital case.

2. Where an attorney believes that accepting a new case will result in a workload in violation of §919.A, the attorney must bring this to the attention of the case supervisor for reasonable resolution of the question of professional duty created. Where the question of whether the workload is excessive is reasonably arguable, the responsibility to ensure compliance with these guidelines rests with the case supervisor. Where the workload is excessive, this may include but is not limited to ensuring that no new assignment is made; reallocating other responsibilities; and providing additional personnel on new or existing cases.

3. Where the attorney believes that the resolution of the question has been inadequate he or she must raise the question progressively with the district public defender, regional director and state public defender, as appropriate, for reasonable resolution.

4. Where the question of whether the workload is excessive is not reasonably arguable or where the attorney has exhausted all available avenues for a reasonable

resolution of the question and no reasonable resolution has been provided, the attorney should decline to accept any new cases.

5. An attorney should decline to accept new cases, rather than withdraw from existing cases, if the acceptance of a new case will result in his or her workload exceeding that allowed by §919.A.

E. **Obligation to Respond to Excessive Workloads**

1. Where an attorney believes that his or her workload is in violation of §919.A the attorney must bring this to the attention of the case supervisor for reasonable resolution of the question of professional duty created. Where the question of whether the workload is excessive is reasonably arguable, the responsibility to ensure compliance with these guidelines rests with the case supervisor.

2. Where a case supervisor becomes aware that an attorney's workload may exceed that allowed by §719.A, he or she shall immediately investigate the attorney's workload and take appropriate steps to bring the attorney's workload into compliance with this Section. Such action may include:

- a. assigning additional members to the defense team on particular cases to reduce the workload demands on the attorney;
- b. assisting the attorney in moving to withdraw from a particular case or cases;
- c. counseling the attorney to withdraw from a case or cases that are not the subject of supervision;
- d. assisting the attorney in managing non-representational responsibilities by reassigning those responsibilities or providing additional support for the attorney in meeting those responsibilities.

3. Where the attorney believes that the resolution of the question of excessive workload has been inadequate, he or she must raise the question progressively with the district public defender, regional director and state public defender, as appropriate, for reasonable resolution.

4. Where the question of whether the workload is excessive is not reasonably arguable and where the attorney has exhausted all available avenues for a reasonable resolution of the question and no reasonable resolution has been provided, the attorney should move to withdraw from the case or cases in which capital defense services in compliance with these guidelines and associated performance standards cannot be provided. The state public defender must be provided reasonable notice prior to the filing of any motion to withdraw under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§921. Monitoring of Certified Counsel; Removal

A. **Monitoring Performance of Defense Counsel**

1. The state public defender is responsible for monitoring the performance of all capital defense counsel to ensure that each client is receiving high quality legal representation.

2. The district public defender is responsible for monitoring the performance of all capital defense counsel in his or her jurisdiction, when not precluded from doing so by a conflict of interest.

3. Where there is evidence that an attorney is not providing high quality legal representation consistent with these guidelines and associated performance standards, the

state public defender and district public defender, as appropriate, should take necessary action to protect the interests of the attorney's current and potential clients.

B. **Complaints Procedure**

1. The state public defender shall establish and publicize a complaints procedure.

C. **Capital Case Review**

1. Whenever a capital case has been closed at trial, appellate, state post-conviction, federal post-conviction or clemency level the state public defender shall receive a briefing from counsel regarding the course of the representation. The state public defender may publish a form for the provision of case briefings.

2. At the discretion of the state public defender and in every case in which a death sentence is imposed or affirmed, post-conviction relief is denied or a defendant is executed, a case review committee shall be convened by the state public defender to review the course of the representation. The purpose of the review is to gather information to assist in the ongoing provision of high quality representation in capital cases.

D. **Periodic Review of Certification and Service Provision**

1. The state public defender shall review the roster of attorneys certified on an annual basis to ensure that attorneys listed remain capable of providing high quality legal representation.

2. The state public defender shall review the service delivery of each district public defender and defender organization each year to ensure that each remains capable of providing high quality legal representation.

E. **Decertification**

1. The state public defender may decertify, reduce the role for which counsel is certified or reduce to provisional certification any attorney who has: failed, without good cause, to meet the requirements of these guidelines and associated performance standards; has failed, without good cause, to satisfy the obligations of certified counsel under §915.B.1.a; has become unsuitable for capital certification under §915; has failed to continue to demonstrate that he or she has the required legal knowledge and skill necessary for capital defense representation; or has failed to continue to demonstrate that he or she is willing to apply that knowledge and skill with appropriate thoroughness and preparation.

2. The state public defender may also remove an attorney from the roster if, as part of a periodic review of the roster, the state public defender determines that a smaller roster of attorneys will better serve the goals of ensuring the best possible representation of indigent capital defendants and of delivering quality services in the most efficient and cost-effective manner.

3. Where counsel is decertified the state public defender shall ensure that each court in which the attorney represents a capital defendant is advised of this fact. The responsible agency under §905 will assign new counsel to represent the defendant in order to ensure that the defendant receives representation in compliance with these guidelines and the associated performance standards. Counsel who are decertified shall not be paid for work performed after decertification except for such work as is necessary to provide for an effective transition of case responsibility to successor counsel.

4. Where there is substantial evidence that an attorney has failed to provide high quality legal representation, the attorney shall be reduced by the state public defender to provisional certification and the state public defender shall promptly investigate the circumstances of the representation.

5. Following the investigation, the state public defender may restore the attorney's original level of certification, reduce the role for which the attorney is certified, confirm the provisional certification or decertify the attorney.

6. Where there is substantial evidence that a systemic defect in a defender organization has caused the office to fail to provide high quality legal representation, the state public defender and district public defender shall ensure that the organization does not receive additional assignments of cases. The state public defender shall promptly investigate the existence of a systemic defect.

7. Following the investigation the state public defender may direct that the defender organization continue to receive case assignments, require that remedial action be taken or take action to ensure that the defender organization does not receive any further assignments and that existing clients receive representation consistent with these guidelines and associated performance standards.

8. Any attorney or defender organization that may be the subject of an adverse decision under §921.E shall be provided written notice of any action being contemplated and an opportunity to respond in writing before any final action is taken.

9. Any attorney or defender organization adversely affected by a decision under §921.E may appeal that decision in the manner described in §915.H.

F. Protection of Zealous Advocacy

1. The state public defender must ensure that this Section is implemented consistently with §903, so that an attorney's zealous representation of a client cannot be cause for the imposition or threatened imposition of sanctions pursuant to this Section.

G. Inherent Regulatory Authority of Louisiana Supreme Court

1. Nothing in this Section is intended to derogate from the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation of the practice of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§923. Training

A. Funding of Capital Defense Trainings

1. Funds should be made available by the Louisiana Public Defender Board for the effective training, professional development, and continuing education of capital defense attorneys, investigators and mitigation specialists.

B. Comprehensive Training Program

1. Attorneys seeking to qualify for capital defense certification shall satisfactorily complete a comprehensive training program, approved by the state public defender, in the defense of capital cases. Such a program should include, but not be limited to, presentations and training in the following areas:

- a. relevant state, federal, and international law;
- b. pleading and motion practice;
- c. pretrial investigation, preparation, and theory development regarding guilt/innocence and penalty;
- d. jury selection;
- e. trial preparation and presentation, including the use of experts;
- f. the investigation, preparation, and presentation of mitigating evidence;
- g. investigation, preparation, and presentation of evidence bearing upon mental status, including mental retardation;
- h. ethical considerations particular to capital defense representation;
- i. preservation of the record and of issues for post-conviction review;
- j. counsel's relationship with the client and his family;
- k. post-conviction litigation in state and federal courts;
 1. the presentation and rebuttal of scientific evidence, and developments in mental health fields and other relevant areas of forensic and biological science.

2. The state public defender shall develop and provide a comprehensive training program to assist attorneys in meeting the mandatory training requirements established by 8.1(B). The state public defender shall offer the comprehensive training program on at least an annual basis.

D. Continuing Capital Legal Education

1. Attorneys seeking to remain on the certification roster must continue to attend and successfully complete specialized training program approved by the state public defender that focuses on the defense of death penalty cases. Attorneys must complete at least eighteen hours of training at an approved course or courses every two years.

E. Continuing Professional Education—Non-attorneys

1. All non-attorneys wishing to be eligible to participate on defense teams should receive continuing professional education appropriate to their areas of expertise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§925. Funding and Compensation

A. Responsibility for Funding Capital Defense

1. Except as otherwise provided in these guidelines, the district public defender shall be responsible for funding capital defense services in each case for which he or she has responsibility under §905. The state public defender shall be responsible for funding capital defense services as provided for in these guidelines and in each case for which he or she has responsibility under §905.

2. Where a district public defender or the state public defender has insufficient funds to provide for capital defense services for which it has responsibility, the Board shall have responsibility for making available sufficient funds to permit the funding of capital defense services consistent with these guidelines and associated performance standards.

3. Where the board is unable to provide sufficient funds to permit representation consistent with these guidelines and associated performance standards it shall be the obligation of defense counsel in each case so affected to

take all necessary steps to preserve and protect the defendant's rights until adequate funding is provided, including, in a trial level case, move for a halt of prosecution.

B. Allocation of Funds

1. Within the constraints of available funds, the board, the state public defender and each district public defender responsible for capital representation shall endeavor to make adequate budgetary allowance for the funding of capital defense services consistent with these guidelines and associated performance standards and in a cost-effective and fiscally responsible manner.

2. The board, the state public defender and each district public defender responsible for capital representation must balance the responsibility to fund capital representation with the obligation to fund representation in other cases and within the constraints provided by available funds, must endeavor to provide adequate funds for all required indigent defense services and make budget allocations accordingly.

3. Similarly, the board, the state public defender and each district public defender responsible for capital representation must balance the responsibility to fund capital representation across all of the districts in the state and at each stage of capital representation and must endeavor to provide adequate funds for all required capital defense services and make budget allocations accordingly.

4. Where the demand for capital defense services exceeds the available funds, the board, the state public defender and each district public defender shall ensure that funds are allocated consistent with the following principles:

a. funds allocated for and necessary for services other than capital defense services shall not be re-allocated to capital defense services, provided that the budget has reasonably sought to balance funding for the capital and non-capital funding responsibilities of the board, state public defender and district public defender;

b. funds allocated for different districts, regions or stages of representation in capital cases shall not be re-allocated to another district, region or stage of representation provided that the budget has reasonably sought to balance funding for all required capital defense services;

c. funds should be made available to capital cases only to the extent that each case can be funded at a level that can provide for representation consistent with these guidelines and associated performance standards. Capital cases should not be partially funded at a level below that necessary to achieve compliance with these guidelines and associated performance standards;

d. notwithstanding the above, where a capital case cannot be adequately funded, funds may be used for the limited purposes of: preserving the rights of the defendant, including the right to a halt of prosecution; and minimizing any irremediable prejudice arising from the lack of adequate funds, for example, by preserving available evidence;

e. within each stage of representation (trial, appeal, post-conviction, clemency), funds are to be allocated and expended on cases in the order in which the obligation to provide representation began, or the order in which the need for particular funds has been presented; and

f. decisions regarding the allocation of funds are to be made free from political or judicial interference.

C. Compensation of Capital Defense Counsel

1. Counsel in death penalty cases should be fully compensated at a rate that is commensurate with the provision of high quality legal representation and reflects the extraordinary responsibilities inherent in death penalty representation. Salary and other compensation should be comparable to other positions of similar stature throughout the state.

2. Flat fees, caps on compensation, and lump-sum contracts with attorneys are improper in death penalty cases.

3. No distinction between rates for services performed in or out of court should be maintained.

4. Periodic billing and payment should be available to capital defense counsel.

D. Compensation of Non-attorney Team Members

1. Non-attorney members of the defense team should be fully compensated at a rate that is commensurate with the provision of high quality legal representation and reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases. Salary and other compensation should be comparable to other positions of similar stature throughout the state.

2. No distinction between rates for services performed in or out of court should be maintained.

3. Periodic billing and payment should be available to non-attorney team members and experts.

E. Roster of Presumptively Reasonable Compensation

1. The state defender shall draft and publish a roster of presumptively reasonable rates of compensation for defense counsel, investigators, mitigation specialists and experts across the state, making provision for different rates for different regions of the state where necessary.

F. Funding in Unusually Protracted or Extraordinary Cases

1. Additional compensation should be available in unusually protracted or extraordinary cases.

G. Reasonable Incidental Expenses

1. Counsel and members of the defense team should be fully reimbursed for reasonable incidental expenses.

H. Documentation of Resource and Funding Allocation

1. It shall be the responsibility of counsel to request all resources and funds necessary to provide representation consistent with these guidelines and the performance standards. Counsel must ensure that all requests for and decisions regarding the allocation of resources and funds are clearly documented in the client file.

2. The board, the state public defender and each district public defender shall also ensure that all requests for and decisions regarding the allocation of resources and funds are clearly documented and preserved.

3. The requirement to clearly document decisions regarding resource and funding allocations operates even where counsel is also the person responsible for making the decision, for example, where the district public defender is lead counsel. Where counsel's obligation to the client creates a conflict with the obligation to make a decision regarding resource and funding allocations, the decision may be referred to the state chief defender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

§927. Establishment of Performance Standards

A. Establishing Performance Standards

1. The Louisiana Public Defender Board shall establish Performance Standards for all counsel in death penalty cases.

2. Pending the adoption of these performance standards, counsel in death penalty cases should meet the standards adopted by the American Bar Association.

B. Standards Shall Operate as a Benchmark for Performance and Qualifications

1. The standards of performance should be formulated and interpreted so as to insure that all counsel provide high quality legal representation in capital cases in accordance with these guidelines. The performance standards shall serve as a benchmark when assessing the performance of counsel.

C. Interim Performance Standards

1. Pending the formal adoption of capital performance standards by the board the following shall, with any necessary modification to reflect Louisiana nomenclature and prevailing legal obligations, be deemed to operate as relevant performance standards under these Guidelines:

a. Guidelines 10.2-10.15.2 of the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*; and

b. State of Louisiana Performance Standards for Criminal Defense Representation in Indigent Criminal Cases in the Trial Court (adopted June 20, 2006).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by helping to ensure that indigent parents and/or their children accused of capital offenses will receive quality legal representation, thereby helping the family unit during a time of crisis.

Small Business Statement

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

Public Comments

Interested persons who wish to make comments may do so at the public hearing or by writing to Jean M. Faria, State Public Defender, 500 Laurel Street, Suite 300, Baton Rouge, LA 70801. Written comments will be accepted through 4:30 p.m. on Friday, January 22, 2010.

Public Hearing

A public hearing on this proposed regulation will be held on Monday, January 25, 2010 at 2 p.m. at 500 Laurel Street, Suite 300, Baton Rouge, LA 70801.

Jean M. Faria
State Public Defender

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Capital Defense Guidelines and Performance Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to the state or local government units, as the objective of the proposed rule is to increase the quality of representation without increasing costs or the Louisiana Public Defender Board's table of organization. Training will be provided at no cost to public defender attorneys; however, it is conceivable that District Public Defenders may incur some costs associated with travel (i.e., mileage, meals and lodging) if public defender attorneys working for them are required to travel to attend training.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions establishing mandatory guidelines and performance standards for the defense of capital cases. It is anticipated that implementation of this proposed rule will have minimal economic cost for public defender attorneys who desire to handle capital cases and meet additional training requirements; however, the cost is indeterminable since there is no way to determine how many public defender attorneys will obtain such certification and, further, that training will be provided at no cost to such public defender attorneys. However, in the event District Public Defenders do not pay travel costs for public defender attorneys who work for them, it is conceivable that the individual public defender attorneys may incur some travel costs if they are required to travel to attend training.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amended rule should not affect competition or employment.

Jean M. Faria
State Public Defender
0912#033

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Psychologists

Training and Credentials, Certificate of Prescriptive Authority, Supervised Practice, Continuing Education, Licenses, Temporary Licensure, Supervision of Unlicensed Assistants, Disciplinary Action
(LAC 46:LXIII. Chapters 3, 4, 7, 8, 9, 10, 11, and 15)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend and repeal LAC 46:LXIII.Chapters 3, 7, 8, 9, 10, 11 and 15, and repeal LAC 46:LXIII.Chapter 4.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 3. Training and Credentials

§301. School

- A. ...
- B. is an institution accredited by a regional body that is recognized by the U.S. Department of Education;
- C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:

§303. Doctoral Programs in Psychology

- A. - C.1. ...
2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists in an applied area of psychology recognized by the board.
3. - 7. ...
8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology, in an applied area of specialization recognized by the board.
9. The program shall be an internal degree program (as opposed to an external degree program unless it is either designated by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register or it is accredited by the American Psychological Association.)

10. - D.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), LR 27:1895 (November 2001), LR 36:

§305. Specialty Areas

- A. In applied healthcare areas such as counseling, clinical, clinical neuropsychology, and school psychology, preparation shall include early and continuing involvement

of students in applied healthcare settings. Such experiences shall occur at two levels: practicum and internship.

1. The practicum level is an earlier, prerequisite phase of involvement, usually for academic credit, often on campus, with typical time commitment of 8 to 16 hours per week. Practicum settings should provide supervised training in interviewing, appraisal, modes of intervention and research skills or other skills appropriate to the student's level of experience and area of specialization. A minimum of 300 hours of practicum experience should precede the internship. This should include at least 100 hours of direct client contact and at least 50 hours of scheduled individual supervision.

2. The following will be used to identify organized psychology internship training programs.

- a. An organized training program, in contrast to supervised experience or on-the-job training, is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is assuring breadth and quality of training.

- b. The internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed/certified by the State/Provincial Board of Examiners in Psychology.

- c. The internship agency had two or more psychologists on the staff as supervisors, at least one of whom was actively licensed as a psychologist by the State/Provincial Board of Examiners in Psychology.

- d. Internship supervision was provided by a staff member of the internship agency or by an affiliate of that agency who carried clinical responsibility for the cases being supervised. At least half of the internship supervision was provided by one or more psychologists.

- e. The internship provided training in a range of assessment and treatment activities conducted directly with clients seeking psychological services.

- f. At least 25 percent of trainee's time was indirect client contact (minimum 375 hours).

- g. The internship included a minimum of two hours per week (regardless of whether the internship was completed in one year or two) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also have been at least two additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person including discussion; group supervision, additional individual supervision.

- h. Training was post-clerkship, post-practicum and post-internship level.

- i. The internship agency had a minimum of two interns at the internship level of training during the applicant's training period.

- j. Trainee had title such as "intern," "resident," "fellow," or other designation of trainee status.

- k. The internship agency had a written statement or brochure which described the goals and content of the internship, stated clear expectations for quantity and quality of trainee's work and was made available to prospective interns.

1. The internship experience (minimum 1,500 hours) was completed within 24 months.

B. In applied non-healthcare areas such as educational, developmental, experimental, social, or industrial-organization, psychology, internship training may take the form of post-doctoral supervised experience as defined in the regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), LR 36:

§307. Clinical Neuropsychology

A. - C.1.c. ...

d. specialty internship in clinical neuropsychology, followed by the completion of a formal post-doctoral fellowship (one year minimum) in clinical neuropsychology, or the equivalent of one full year (2,000 hours) of post-doctoral experience in clinical neuropsychology under the supervision of a qualified clinical neuropsychologist (as defined here and in LAC 46:LXIII.307.C.2, 3, and 4). The majority of these hours must involve clinical neuropsychological assessment, and some portion of the remaining hours should be related to rehabilitation of neuropsychological deficits. The supervision, as defined above, should involve a minimum of one hour of face-to-face supervision a week, though additional supervisory contact may be required during training phases and case discussions. The 2,000 total hours must be obtained in no more than two consecutive years;

C.1.e. - C.2.c. ...

d. In addition to whatever remedial didactic training is necessary, the candidate for respecialization in clinical neuropsychology, will complete either a formal, one year post-doctoral fellowship training program, or the equivalent of one full year (2,000 hours) of supervised experience in clinical neuropsychology as defined in LAC 46:LXIII.307.C.1.d.

C.2.e. - C.3.a. ...

i. diplomat status (ABPP/ABCN or ABN) in neuropsychology;

C.3.a.ii. - C.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), amended LR 36:

Chapter 4. Certificate of Prescriptive Authority

§401. Preface

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), repealed LR 36:

§403. Application for Certificate of Prescriptive Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR

31:70 (January 2005), amended LR 32:1228 (July 2006), LR 33:458 (March 2007), LR 34:1406 (July 2008), repealed LR 36:

§405. Limits of Practice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:71 (January 2005), repealed LR 36:

§407. Documentation of Physician Consultation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:71 (January 2005), repealed LR 36:

§409. Prescribing Practices of a Medical Psychologist

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:72 (January 2005), repealed LR 36:

§411. Continuing Professional Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:72 (January 2005), repealed LR 36:

§413. Annual Renewal of the Certificate of Prescriptive Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:73 (January 2005), repealed LR 36:

§415. Complaint Procedure

Repealed effective January 1, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:73 (January 2005), repealed LR 36:

Chapter 7. Supervised Practice Leading toward Licensure

§703. Duration and Setting of Supervised Practice

A. Two years of full-time (4,000 hours) supervised and documented experience shall be required for licensure. Up to one year full-time (2,000 hours) of an acceptable internship may be applied to this requirement, however all remaining supervision must be post-doctoral.

A.1. - 3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2075 (October 2003), LR 36:

Chapter 8. Continuing Education

§801. Preface

A. Pursuant to R.S. 37:2357(B) each licensed psychologist is required to complete 30 hours of credit of

acceptable continuing education from an acceptable sponsor as defined in this Chapter within biennial reporting periods. The continuing education requirements of psychologists are designed to promote their continued familiarization with new developments within the profession. Continuing education offerings shall be at the graduate or post-graduate level in terms of content, quality, organization, and presentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 36:

§805. Acceptable Sponsorship, Offerings and Activities

A. The board will recognize the following as acceptable sponsors of the continuing education requirements:

A.1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:

Chapter 9. Licensees

§901. Reinstatement of Lapsed Licenses

A. ...

B. Within two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee. Applicants who appear for reinstatement after 1 year of the lapsing of his/her license are required to submit to a criminal background check.

C. After two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee provided that the person is in compliance with R.S. 37:2357.A and the rules and regulations of the board. Applicants for reinstatement received after two years are required to submit to a criminal background check and oral examination.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 10:795 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2074 (October 2003), LR 33:648 (April 2007), LR 36:

Chapter 10. Temporary Licensure

§1001. Registration of Out-of-State Psychologist

A. Any nonresident duly licensed or certified for independent practice as a doctoral level psychologist in the state of his/her residence and which state will permit residents of this state a like and similar privilege as provided herein may, if associated with a psychologist who is a resident of the state of Louisiana and licensed under Title 37,

Chapter 28 of the Louisiana Revised Statutes, practice as a psychologist for a period not to exceed 30 days in any calendar year to the same extent and manner as if licensed in this state.

B. A psychologist not licensed in Louisiana, whose license is current, unrestricted, and at the doctoral level in the jurisdiction of his/her residence, must properly register with the board prior to providing psychological services in Louisiana by providing to the Board:

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2365.D.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007), LR 36:

§1002. Emergency Temporary Registration for Psychologists

A. ...

B. Prior to providing professional services in Louisiana a psychologist licensed at the doctoral level in another jurisdiction of the United States, shall apply for an Emergency Temporary Registration (ETR). The application for ETR shall be made available via the board website or mailed upon request.

C. - D. ...

E. A psychologist not licensed in Louisiana, whose license is current, unrestricted, and at the doctoral level in the jurisdiction of his/her residence in the United States, and properly registers with the board may gratuitously provide psychological services if:

1. ...

2. the psychologist complies with the Louisiana Licensing Law for Psychologists R.S. Title 37, Chapter 28, the *Louisiana Administrative Code*, Title 46, Part LXIII and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability; and

3. ...

F. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007), amended LR 36:

Chapter 11. Supervision of Unlicensed Assistants in Providing Psychological Services

§1103. Responsibilities of Supervisors

A. - C. ...

D. An ongoing record of supervision shall be maintained which details the types of activities in which the assistant is engaged and the level of competence in each. This record shall be kept in such form as may be prescribed by the board.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:

Chapter 15. Rules for Disciplinary Action
Subchapter A. Applicability; Processing Complaints

§1501. Applicability

A. These rules shall be applicable to any action of the Louisiana State Board of Examiners of Psychologists (board) to withhold, deny, revoke or suspend any psychologist's license on any of the grounds set forth in R.S. 37:2359 or under any other applicable law, regulation or rule, when such action arises from a complaint as defined in this section.

B. These rules shall not be applicable to the licensure of psychologists pursuant to R.S. 37:2356.

C. Unless otherwise provided by law, the board may delegate its authority and responsibility under these rules to a committee of one or more board members, to a hearing officer, or to other persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 9:461 (July 1983), amended LR 12:833 (December 1986), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:

§1503. Complaints

A. A complaint is defined as the receipt of any information by the board indicating that there may be grounds for disciplinary action against a psychologist, or any other individual, under the provisions of Title 37, Chapter 28 of the LA Revised Statutes, or other applicable law, regulation or rule.

B. Upon receipt of a complaint, the board may initiate and take such action as it deems appropriate.

C. Complaints may be initiated by the board, by any licensed psychologist or by any other person.

D. Upon receipt of complaints from other persons, the board will forward its Request for Investigation form to said person(s). Ordinarily, the board will not take additional action until the form is satisfactorily completed.

1. Except under unusual circumstances, the board will take no action on anonymous complaints.

2. If the information furnished in the Request for Investigation form is not sufficient, the board may request additional information before further considering the complaint.

E. - F ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 9:461 (July 1983), amended LR 12:833 (December 1986), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed amendments and adoption of the rules related to Training and Credentials, Certificate of Prescriptive Authority, Supervised Practice Leading toward Licensure, Continuing Education, Licenses, Temporary Licensure, Supervision of Unlicensed Assistants in Providing Psychological Services, and Rules for Disciplinary Action of psychologists are implemented to safeguard the public welfare of this state and will have no known or foreseeable impact on the stability of the family; authority and rights of

parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed rule.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8280 YMCA Plaza Drive, Building 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12:00 p.m., January 14, 2010.

Jaime T. Monic
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Training and Credentials, Certificate of Prescriptive Authority, Supervised Practice, Continuing Education, Licenses, Temporary Licensure, Supervision of Unlicensed Assistants, Disciplinary Action

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule includes \$640 in Fiscal Year 09-10 related to publishing the proposed and final rule in the *Louisiana Register*. The Louisiana Board of Medical Examiners (LSBME) will also incur costs of approximately \$358 to copy, certify and mail records for approximately 58 psychologists seeking prescriptive authority from the LSBME.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 251 of the 2009 Legislative Session removed the authority of the Louisiana State Board of Examiners of Psychology (LSBEP) to issue Certificates of Prescriptive Authority to licensed psychologists and transferred that authority to the LSBME effective on or before January 1, 2010. Beginning in Fiscal Year 10-11, there is the potential for the 58 medical psychologists who are currently certified to prescribe with LSBEP to be regulated solely by the LSBME. Medical Psychologists currently pay an annual renewal fee of \$320 to the LSBEP. As such, the LSBEP will lose a maximum amount of \$18,560 for 58 license fees at \$320 each for each psychologist not seeking a license with LSBEP beginning in Fiscal Year 10-11. Additionally, the LSBEP issues approximately 8 Certificates of Prescriptive Authority annually at a one-time fee of \$250 for each applicant. Therefore, the LSBEP will lose a maximum amount of \$2,000 for 8 certificates of prescriptive authority at \$250 each for each psychologist not seeking such a certificate with LSBEP beginning in Fiscal Year 10-11. The LSBEP will charge the LSBME a fee in the amount of \$25 per request for verification of licensure for 58 Medical Psychologist in Fiscal Year 09-10 (\$1,450) and the same fee for an estimated eight new Medical Psychologist each year (\$200) beginning in Fiscal Year 10-11. LSBME will also collect approximately \$358 to copy, certify and mail records for approximately 58 psychologists seeking prescriptive authority from the LSBME in Fiscal Year 09-10.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will increase LSBEP fees for an estimated 58 medical psychologists statewide by a projected total amount of \$1,808 in Fiscal Year 09-10. These increased costs include approximately \$358 in copy fees (\$6.17 per medical psychologist) and \$1,450 in verification fees (\$25 per medical psychologist). Furthermore, fees for the 58 affected

medical psychologist statewide will decline by an estimated total amount of \$20,360 in Fiscal Years 10-11 and 11-12 due to the rule's elimination of a requirement that these medical psychologists maintain a license with the LSBEP and pay the corresponding \$320 annual license fee. The LSBEP will assess copy fees in the amount of \$1.00 for the first page and \$.25 for each page thereafter, to each of the 58 medical psychologists requesting that their records be copied for their licensing application to the LSBME for an estimated 58 psychologists. After the initial transfer of those records pertaining to medical psychologists, the LSBEP will no longer create or maintain such records for transfer. Additionally, a \$25 verification fee will be assessed upon request for such documentation in the form of a letter, or other verification form, from the LSBEP verifying licensure and prior disciplinary actions. Additionally, those medical psychologists under the sole licensure of the LSBME will no longer be assessed a renewal fee by LSBEP. It is likely that LSBME will promulgate its own fee schedule pertaining to the licensure and renewal of medical psychologists, however that information is not available to this board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment associated with these proposed rules.

Jaime T. Monic
Executive Director
0912#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Digital Imaging of Prescriptions (LAC 46:LIII.1123)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §1123—Records of its rules. In particular, the proposed Rule will provide flexibility in recordkeeping requirements for those pharmacies utilizing digital imaging software for their prescription records.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter B. Pharmacy Records

§1123. Records

A. - D.9. ...

E. Digital Imaging of Prescriptions

1. In lieu of filing the actual original hard-copy prescription, a pharmacy may use an electronic imaging recordkeeping system, if:

a. the system is capable of capturing, storing, and reproducing the exact image of a prescription, including the reverse side of the prescription;

b. any notes of clarification of and alterations to a prescription shall identify the author and shall be directly associated with the electronic image of the prescription;

c. the prescription image and any associated notes of clarification to or alterations to a prescription are retained for a period not less than two years from the date the prescription is last dispensed;

d. policies and procedures for the use of an electronic imaging recordkeeping system are developed, implemented, reviewed, and available for board inspection; and

e. the prescription is not for a Schedule II controlled dangerous substance.

2. In this capacity the pharmacy may retain the hard copy prescriptions in order of date scanned in lieu of numerical order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, LR 36:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency rule.

1. The effect on the stability of the family. We can discern 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. We can discern 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. We can discern no effect on the functioning of the family.

4. The effect on family earnings and family budget. We can discern no effect on family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. We can discern no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. We can discern no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Digital Imaging of Prescriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$500 in FY 09-10, for printing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We can discern no measurable impact on revenue collections for state or local governmental units, including the Board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment will permit those pharmacies utilizing digital imaging software to store their prescription records in a date sequence instead of the currently required prescription number sequence. This alternative method may reduce the amount of time devoted to compliance with current recordkeeping requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We can discern no effect on competition or employment.

Malcolm J. Broussard
Executive Director
0912#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Interns (LAC 46:LIII.709)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to add a new §709—Scope of Practice to Chapter 7—Pharmacy Interns of its rules. In particular, the proposed Rule will identify the scope of practice for pharmacy interns as well as establish a maximum supervisory ratio of pharmacists to pharmacy interns.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 7. Pharmacy Interns

§709. Scope of Practice

A. Pharmacy interns may perform any duty of a pharmacist provided he is under the supervision of a pharmacist.

B. The ratio of pharmacy interns to pharmacists shall be 1:1. However, the ratio of pharmacy interns on rotation with a board-approved college of pharmacy to pharmacists shall be no more than 3:1.

C. A pharmacy intern may not:

1. present or identify himself as a pharmacist;
2. sign or initial any document which is required to be signed or initialed by a pharmacist unless a preceptor cosigns the document;
3. independently supervise pharmacy technicians; or

4. administer immunizations unless properly credentialed as required by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 36:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency rule.

1. The effect on the stability of the family. We can discern 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. We can discern 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. We can discern no effect on the functioning of the family.

4. The effect on family earnings and family budget. We can discern no effect on family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. We can discern no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. We can discern no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 at 9 a.m. in the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Interns**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$500 in FY 09-10, for the cost of printing the notice of intent and the final rule in the state register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We can discern no measurable impact on revenue collections for state or local governmental units, including the Board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pharmacy interns enrolled in a professional pharmacy degree program in a college of pharmacy would be directly affected by the proposed rule. The Board's current informal policy is a 1:1 ratio for pharmacy interns not on rotation, and an unlimited ratio for those pharmacy interns on rotation sites. The Board is concerned for the capacity of one pharmacist to supervise an unlimited number of interns, and further, no college of pharmacy rotation program currently allows more than a 2:1 ratio. The rule proposes to establish supervisory ratios, such that one pharmacist may supervise one pharmacy intern; however, the ratio would be increased for any pharmacy functioning as a rotation site with a college of pharmacy. In those cases, a pharmacist could supervise up to three pharmacy interns in that alternative classroom setting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We can discern no effect on competition or employment.

Malcolm J. Broussard
Executive Director
0912#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Prescription Monitoring Program
(LAC 46:LIII.2901)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend the definition of one term found in §2901 of Chapter 29—Prescription Monitoring Program. In particular, the proposed Rule will identify two drug products in the definition of 'drugs of concern.'

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 29. Prescription Monitoring Program

Subchapter A. General Operations

§2901. Definitions

* * *

Drugs of Concern—means drugs other than controlled substances which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers [whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation]:

- a. butalbital when in combination with at least 325 milligrams of acetaminophen per dosage unit; and
- b. tramadol.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency rule.

1. The Effect on the Stability of the Family. We can discern 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. We can discern 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. We can discern no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. We can discern no effect on family earnings or family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. We can discern no effect on the behavior and personal responsibility of children.
6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We can discern no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on these proposed Rules is scheduled for Wednesday, January 27, 2010 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Prescription Monitoring Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$500 in FY 09-10, for the cost of printing the notice of intent and the final rule in the state register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We can discern no measurable impact on revenue collections for state or local governmental units, including the Board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule adds butalbital (containing at least 325 mg. of acetaminophen) and tramadol as “drugs of concern” to facilitate their reporting to Louisiana’s prescription monitoring program. Pharmacies can meet the rule’s expanded reporting requirement as part of routine electronic file maintenance conducted while dispensing prescriptions using existing software support services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We can discern no effect on competition or employment.

Malcolm J. Broussard
Executive Director
0912#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Prescription Transfers (LAC 46:LIII.2523)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2523—Transfer of Prescription Information of its rules. In particular, the proposed Rule will provide flexibility in recordkeeping requirements for those pharmacies sharing a common electronic prescription file.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2523. Transfer of Prescription Information

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

B. Pharmacies Using Common Electronic Files

1. Pharmacies using a common electronic file are not required to physically or electronically transfer prescriptions for information dispensing purposes between or among pharmacies participating in the same common prescription file; provided, however, any such common file must contain complete and adequate records of such prescriptions, and further, that a hard copy of each prescription transferred or accessed for purposes of refilling shall be generated and maintained at the pharmacy refilling the prescription or to which the prescription is transferred.

2. This accommodation shall comply with all state and federal laws and regulations regarding controlled dangerous substance prescription transfers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), LR 36:

Family Impact Statement

1. The effect on the stability of the family. We can discern 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. We can discern 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. We can discern no effect on the functioning of the family.

4. The effect on family earnings and family budget. We can discern no effect on family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. We can discern no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. We can discern no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 at 9 a.m. in the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Prescription Transfers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$500 in FY 09-10, for the cost of printing the notice of intent and the final rule in the state register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We can discern no measurable impact on revenue collections for state or local governmental units, including the Board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment will permit those pharmacies sharing common electronic prescription file systems to forego the existing prescription transfer requirements imposed on pharmacies not sharing common electronic file systems. In particular, prescription transfer procedures, which require telephone or other electronic communication from one pharmacy to another, would no longer be required, provided

those pharmacies sharing common electronic prescription file systems maintained adequate records to properly identify all pharmacies associated with each prescription.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We can discern no effect on competition or employment.

Malcolm J Broussard
Executive Director
0912#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Disproportionate Share Hospital Payments
Radiology Utilization Management (LAC 50.V.2501)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing 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 of Health and Hospitals, Bureau of Health Services Financing now proposes to amend the general provisions governing DSH payment methodology to establish that uncompensated care costs associated with outpatient high-tech imaging that do not meet the established criteria for radiology utilization management are not allowable for disproportionate share 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

§2501. General Provisions

A. - D. ...

E. The uncompensated care costs associated with outpatient high-tech imaging that do not meet the established criteria for radiology utilization management are not allowable for disproportionate share payments.

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

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

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 or autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disproportionate Share Hospital
Payments Radiology Utilization Management**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will likely reduce disproportionate share payments by an unknown amount. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 09-10 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 may reduce federal revenue collections by an unknown amount. It is anticipated that \$123 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the general provisions governing disproportionate share hospital (DSH) payment methodology to establish that uncompensated care costs associated with outpatient high-tech imaging that do not meet the established criteria for radiology utilization management are not allowable for disproportionate share payments. Although this rule may result in a reduction of DSH payments for FY 09-10, FY 10-11, and FY 11-12, we cannot determine the amount of DSH payments to hospitals that may not be made for the uncompensated care costs that do not meet the established criteria for radiology utilization management and are not allowable for DSH payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This rule has no known effect on competition and employment

Jerry Phillips
Medicaid Director
0912#079

Robert E. Hosse
Staff Director
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.Chapter 85)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XIII.Chapter 85 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.

Section 302 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (P.L. 108-173) established provisions which mandated that suppliers of durable medical equipment (DME) and prosthetic and orthotic devices must be accredited by one of the independent accreditation organizations recognized by Medicare in order to receive reimbursement. The department proposes to amend the provisions governing Medicaid coverage of medical equipment, supplies and appliances to adopt Medicare's requirements for provider accreditation.

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 April 1, 2010, all providers seeking reimbursement for medical equipment, supplies and appliances must be accredited by one of the following Medicare deemed accreditation organizations:

1. The Joint Commission (JC);
2. National Association of Boards of Pharmacy (NABP);
3. Board of Certification/Accreditation International;
4. The Compliance Team, Inc.;
5. American Board for Certification in Orthotics and Prosthetics, Inc. (ABC);
6. The National Board of Accreditation for Orthotic Suppliers (NBAOS);
7. Commission on Accreditation of Rehabilitation Facilities (CARF);
8. Community Health Accreditation Program (CHAP);
9. HealthCare Quality Association on Accreditation (HQAA); or
10. Accreditation Commission for Health Care, Inc. (ACHC).

B. Verification of accreditation must be received by the department on or before March 31, 2010. A provider's prior authorization privileges will be revoked on April 1, 2010 if this verification is not received.

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:

§8503. Provider Responsibilities

A. Providers shall not initially deliver more than a one month allotment of approved supplies. All subsequently approved supplies must be delivered in increments not to exceed a one month allotment.

B. It is the provider's responsibility to verify that the recipient is Medicaid eligible on the date of service in order for payment to be made. The date of service is the date of delivery, unless the item is delivered through a mail courier service.

1. The date of shipping will be considered the date of service for all items delivered through a mail courier service.

C. Providers who make or sell medical equipment, supplies and appliances must provide a warranty which lasts at least one year from the time the item is delivered to the recipient. If, during that year, the item does not work, the manufacturer or dealer must repair or replace the item.

D. Providers who rent medical equipment must provide a full-service warranty covering the authorized period(s) of the rental equipment.

E. Providers must furnish a comparable, alternate device while repairing the recipient's device during a warranty period.

F. For any appliance which requires skill and knowledge to use, the provider must provide appropriate training for the recipient. Documentation of plans for training must be furnished to the prior authorization unit upon request.

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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by requiring providers to attain accreditation from a nationally recognized organization in order to assure the quality of medical equipment, supplies and appliances furnished to Medicaid recipients.

Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 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.

Alan Levine
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 09-10. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$205 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule proposes to amend the provisions governing Medicaid coverage of medical equipment, supplies and appliances to adopt Medicare's requirements for provider accreditation. It is anticipated that implementation of this proposed rule will cost each provider (454 providers currently participating in the Medicaid Program) approximately \$750 to \$2,900 each year in FY 09-10, FY 10-11 and FY 11-12 for accreditation fees, depending upon the accreditation body they select. It is unknown how many providers are currently accredited or how many will seek accreditation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0912#80

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospital Licensing Standards Crisis Receiving Centers
(LAC 48:I.9303 and Chapter 96)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9303 and to adopt LAC 48:I.Chapter 96 as authorized by R.S. 36:254 and 40:2100-2115. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated

a Rule that established new regulations governing the licensing of hospitals (*Louisiana Register*, Volume 29, Number 11). The department now proposes to amend the provisions of the November 20, 2003 Rule governing hospital licensing standards to establish provisions for crisis receiving centers. Crisis receiving centers are specialty units of a hospital that provide health care services to individuals who are experiencing a behavioral health crisis.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9303. Definitions

A. The following definitions of selected terminology are used in connection with these hospital licensing standards:

* * *

Crisis Receiving Center—a specialty unit of a hospital that shall receive, examine, triage, refer or treat an individual who is experiencing a behavioral health crisis.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Chapter 96. Hospitals—Crisis Receiving Centers

Subchapter A. General Provisions

§9601. Introduction

A. A crisis receiving center is a specialty unit of a hospital that provides health care services to individuals who are experiencing a behavioral health crisis.

B. Crisis receiving centers shall receive, examine, triage, refer or treat individuals that present to the unit and are in need of assistance with a behavioral health crisis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9603. Licensure Requirements

A. All crisis receiving center specialty units must be licensed by the department and shall comply with the provisions of §9333 of these hospital licensing standards.

B. A crisis receiving center specialty unit (CRC-SU) shall have approval from the Office of Mental Health (OMH) and/or the human service district before applying to become licensed as part of the hospital.

C. Prior to securing licensure and operating the CRC-SU, the hospital shall submit architectural plans of the CRC-SU to the department's Division of Engineering for approval.

D. A CRC-SU shall not operate until it has been licensed by the Health Standards Section (HSS) as a specialty unit of the hospital. No retroactive licenses shall be granted.

E. A CRC-SU shall be located in a designated area of the hospital or offsite campus of the hospital. The CRC-SU shall not relocate to another location, even within the hospital, without prior written approval from HSS.

F. If the CRC-SU is located at the main campus of the hospital, the hospital shall have a dedicated emergency department which shall comply with all Emergency Medical Treatment and Active Labor Act (EMTALA) regulations.

G. If the CRC-SU is located at an offsite campus, the CRC-SU shall be considered a dedicated emergency department. The CRC-SU shall comply with all EMTALA regulations if the unit meets one of the following criteria:

1. the entity is licensed by the state as an emergency department;
2. holds itself out to the public as providing emergency care; or
3. during the preceding calendar year, the entity provided at least one-third of its outpatient visits for the treatment of emergency medical conditions.

H. The following levels of a CRC-SU may be licensed as an optional service of the hospital:

1. Level I CRC-SU; and
2. Level II CRC-SU.

I. A CRC-SU shall comply with:

1. Office of Public Health (OPH) regulations;
2. Office of State Fire Marshal regulations; and
3. the physical plant requirements of this Chapter.

J. The CRC-SU shall develop and implement policies and procedures regarding the segregation of child and adolescent patients from adult patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9605. Licensing Process

A. The hospital shall submit the following items to the department in order to add a CRC-SU to its existing license:

1. a licensing application on the department's designated form;
2. the appropriate licensing fee, if applicable;
3. a copy of the prerequisite approval from OMH and/or the appropriate human service district; and
4. other documentation as required by the department, including a current Office of Public Health (OPH)/Sanitation approval, Division of Engineering approval and Office of State Fire Marshal approval for occupancy.

B. Following receipt of the completed licensing application, the department shall conduct an on-site survey and inspection to determine compliance with the licensing laws, regulations, and standards.

1. For a Level I CRC-SU, the department may, in its sole discretion, allow a verified attestation by the licensed hospital to substitute for an on-site survey and inspection.

C. If the on-site inspection determines that the hospital is compliant with the requirements and licensing standards for a CRC-SU, the department shall issue the hospital a sub-license/certificate indicating that the CRC-SU is licensed as a specialty unit of the hospital.

1. The sub-license/certificate shall designate the level of the CRC-SU and the number of beds licensed in the CRC-SU.

2. The sub-license/certificate shall be posted in a conspicuous place in the designated CRC-SU.

D. A hospital shall not operate a CRC-SU at a level higher than what has been licensed and designated by the department on the sub-license/certificate.

E. The expiration date of the sub-license/certificate shall coincide with the expiration date of the hospital license. The CRC-SU sub-license/certificate shall be renewed at the time the hospital's license is renewed. The licensing agency may perform an on-site survey and inspection for an annual renewal.

F. The sub-license/certificate shall be valid only for the designated geographical location and shall be issued only for the person/premises named in the application. The geographical location of the CRC-SU shall not be moved, changed, or relocated without notification to HSS, approval by HSS, and the re-issuance of the sub-license/certificate.

G. The sub-license/certificate shall not be transferable or assignable. If the hospital undergoes a change of ownership, the new owning entity shall obtain written consent from OMH and/or the appropriate human service district, and shall submit a new license application to the department for the CRC-SU.

H. The department may conduct on-site surveys and inspections at the CRC-SU as necessary to ensure compliance with these licensing standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9607. Discharges, Referrals or Transfers

A. Patients that are discharged home from the CRC-SU shall be given verbal and written discharge instructions and any referral information regarding follow-up care and treatment.

B. If it is deemed necessary that the patient be admitted for inpatient behavioral health services, the CRC-SU shall provide an appropriate and immediate mechanism for transporting the individual to such inpatient facility. Copies of pertinent patient information shall be transferred to the treating facility.

C. The CRC-SU shall establish and implement a standard method of follow-up to ensure that the patient has been received and engaged in the referred service(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9609. Training Requirements

A. A CRC-SU shall ensure that all staff providing direct patient care has documentation of crisis services and intervention training in accordance with this Chapter.

B. Crisis services and intervention training shall include, but is not limited to the following:

1. an organized training program that includes an initial 40 hours of training to be completed upon hire and a minimum of 12 hours of training to be completed annually thereafter. Required training includes, but is not limited to the following areas:

- a. components of the crisis cycle;
- b. recognizing the signs of anxiety and escalating behavior;
- c. therapeutic communication;
- d. high-risk behavior assessment techniques;
- e. verbal de-escalation techniques;
- f. positive behavior management and limit-setting;
- g. nonviolent physical intervention techniques;

- h. establishing a therapeutic rapport and professional boundaries;
- i. levels of observation;
- j. maintaining a safe and therapeutic milieu;
- k. an overview of mental illness and substance abuse;
- l. safe application of physical and mechanical restraints;
- m. physical assessment of the restrained individual;
- n. statutes, regulations, standards and policies related to seclusion and restraint;
- o. confidentiality and Health Insurance Portability and Accountability Act (HIPPA) regulations; and
- p. an overview of behavioral health settings and levels of care.

C. All formal training shall be provided by qualified behavioral health personnel with extensive experience in the field in which they provide training. Nonviolent physical interventions shall be taught by a trainer with documented current certification by a nationally established crisis intervention program (e.g. Crisis Prevention and Intervention, Tactical Crisis Intervention, Crisis Intervention Training, etc.).

D. In addition to the initial 40 hour crisis services and intervention training, nurses shall receive 24 hours of training focused on psychotropic medications, their side effects and adverse reactions as part of their initial training. At least four hours of nurses' annual training shall focus on psychopharmacology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Subchapter B. Level I Crisis Receiving Centers

§9615. General Provisions

A. A Level I CRC-SU shall operate 24 hours per day, seven days per week.

B. The length of a patient stay for a Level I CRC-SU shall not exceed 24 hours.

C. Services required of a Level I CRC-SU include, but are not limited to:

- 1. 24-hour telephone hotline;
- 2. triage and screening services;
- 3. assessment services;
- 4. intervention and stabilization; and
- 5. linking and referral services.

D. The Level I CRC-SU shall develop and implement policies and procedures for instituting an increased level of supervision for patients at risk for suicide and other self injurious behaviors.

E. The CRC-SU Level I shall comply with the provisions of the state Mental Health Law regarding the execution of emergency certificates pursuant to R.S. 28:53, or a successor law.

F. The CRC-SU shall maintain a policy manual that outlines the procedures to access CRC services and procedures for managing voluntary and involuntary commitments with specific focus on ensuring the patient's civil rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9617. Level I Services

A. 24-Hour Telephone Hotline

1. A Level I CRC-SU shall either maintain a telephone hotline that operates 24 hours per day, seven days per week or enter into a formal cooperative agreement with an existing 24-hour hotline as specified in the region's crisis response systems plan.

2. The hotline shall be staffed at all times by trained crisis workers.

a. A trained crisis worker is one who is:

- i. trained in the assessment and management of crisis phone calls;
- ii. able to assess the priority of the call; and
- iii. able to provide interventions that are appropriate to the level of acuity of the caller.

b. The trained crisis worker shall have resource data available whenever calls are answered in order to facilitate crisis intervention.

c. The trained crisis worker shall have the ability to provide active intervention (i.e. contacting emergency medical services, police, fire department, etc.) in life-threatening situations.

3. The CRC-SU shall have written procedures for handling crisis calls.

4. The telephone settings shall be set up so as to protect the confidentiality of callers.

5. The CRC-SU shall have well written procedures to expand the facility's capacity to handle multiple calls coming into the CRC-SU simultaneously.

B. Triage and Screening

1. The Level I CRC-SU shall conduct a triage/screening of each individual who applies for crisis assistance or is under an order for involuntary examination.

2. The triage/screening shall be available 24 hours per day and shall be conducted within 15 minutes of the individual presenting to the unit. The CRC-SU shall have procedures to prioritize imminently dangerous patients and to differentiate between medical emergencies and behavioral health emergencies.

3. Until a patient receives triage/screening, he or she shall wait in a location with restricted access and egress with constant staff observation and monitoring.

4. The triage/screening shall include:

- a. an evaluation of the existence of a medical emergency;
- b. an evaluation of imminent threat of harm to self or others;
- c. an evaluation for the presence or absence of cognitive signs suggesting delirium or dementia;
- d. an evaluation of the need for an immediate full assessment;
- e. an evaluation of the need for an emergency intervention; and
- f. a medical screening including at a minimum, vital signs and a medical history, whenever possible.

5. The triage/screening shall be conducted by licensed professionals in the medical or behavioral health fields that have the training and experience to screen individuals for both behavioral and medical emergent needs in accordance with the scope of practice of their licensed discipline.

6. When emergency medical services are not available onsite at the Level I CRC-SU, the staff shall be prepared to

render first-responder healthcare (basic cardiac life support, first aid, etc.) at all times. A CRC-SU shall also ensure that access to emergency transportation services to the nearest emergency department is available.

7. A Level I CRC-SU shall have procedures in place to ensure that based on the triage/screening, patients are prioritized for further assessment and services according to their risk level, or they are referred to other resources for care.

C. Assessments

1. After the triage/screening is completed, patients who have not been referred to other resources shall receive a full assessment.

2. Assessments shall be conducted based on the priority level determined by the triage/screening. Every patient under the age of 18 shall be assessed by staff with appropriate training and experience in the assessment and treatment of children and adolescents in a crisis setting.

3. The assessment shall be initiated within two hours of the triage/screening evaluation and shall include:

- a. a full behavioral health assessment;
- b. a physical health assessment; and
- c. an assessment for possible abuse and/or neglect.

4. A full behavioral health assessment shall include:

a. patient interviews by board certified/eligible psychiatrist(s) trained in emergency psychiatric assessment and treatment;

b. a review of the medical and psychiatric records of current and past diagnoses, treatments, medications and dose response, side-effects and compliance;

c. contact with current mental health providers whenever possible;

d. a psychiatric diagnostic assessment;

e. identification of social, environmental, and cultural factors that may be contributing to the crisis;

f. an assessment of the patient's ability and willingness to cooperate with treatment;

g. a general medical history that addresses conditions that may affect the patient's current state (including a review of symptoms) and is focused on conditions that may present with psychiatric symptoms or that may cause cognitive impairment, e.g., a history of recent physical trauma; and

h. a detailed assessment of substance use, abuse/ and misuse.

5. All individuals shall see a psychiatrist within eight hours of the triage/screening. The board certified/eligible psychiatrist shall formulate a preliminary psychiatric diagnosis based on review of the assessment data collected.

6. A physical health assessment shall be conducted by a licensed physician, nurse practitioner, or physician's assistant and shall include the following:

a. vital signs;

b. a cognitive exam that screens for significant cognitive or neuropsychiatric impairment;

c. a neurological screening exam that is adequate to rule out significant acute pathology;

d. medical history and review of symptoms;

e. pregnancy test in all fertile women;

f. urine toxicology evaluation;

g. blood levels of psychiatric medications that have established therapeutic or toxic ranges; and

h. other testing or exams as appropriate and indicated.

7. An assessment for possible abuse and neglect shall be conducted (at the minimum) by a crisis worker trained in how to conduct an assessment to determine abuse and neglect. The CRC-SU must ensure that every patient is assessed for sexual, physical, emotional, and verbal abuse and/or neglect.

D. Brief Intervention and Stabilization

1. If an assessment reveals that immediate stabilization services are required, the Level I CRC-SU shall provide behavioral health interventions and stabilization which may include the use of psychotropic medications which can be administered and benefits generally realized within a 24-hour period.

2. Following behavioral health interventions and stabilization measures, the Level I CRC-SU shall assess the patient to determine if referral to community based behavioral health services is appropriate; or a higher level of care is required.

E. Linking/Referral Services

1. If an assessment reveals a need for emergency or continuing care for a patient, the Level I CRC-SU shall make arrangements to place the patient into the appropriate higher level of care. Patients in a Level I CRC-SU shall be transitioned out of the Level I CRC-SU within 24 hours.

2. If the assessment reveals no need for a higher level of care, the Level I CRC-SU shall provide:

a. referrals to appropriate community-based behavioral health services for individuals with developmental disabilities, addiction disorders, and mental health issues; and

b. brief behavioral health interventions to stabilize the crises until referrals to appropriate community-based behavioral health services are established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9619. Staffing Requirements

A. A Level I CRC-SU shall be under the direction of a qualified member of the medical staff of the hospital.

B. A Level I CRC-SU shall have the following staff on duty at all times:

1. a registered nurse in charge of the unit who meets the following criteria:

a. currently licensed in Louisiana and in good standing;

b. has one year of experience in the field of behavioral health; and

c. has documented crisis services and intervention training in accordance with the provisions of this Chapter; and

2. at least one additional worker with documented crisis services and intervention training.

C. A Level I CRC-SU shall have the following staff on call at all times and available to be onsite at the CRC-SU within one hour:

1. a behavioral health counselor who meets the following criteria:

a. has a master's degree in psychology, social work or counseling;

b. has one year of experience in the field of behavioral health; and

c. has documented crisis services and intervention training in accordance with this Chapter;

2. a licensed practical nurse (LPN) or RN who meets the following criteria:

a. currently licensed in Louisiana and in good standing;

b. has one year of experience in the field of behavioral health; and

c. has documented crisis services and intervention training in accordance with this Chapter.

D. A psychiatrist shall be on call at all times to fulfill these licensing requirements and to meet the needs of the patient(s).

E. A Level I CRC-SU shall have sufficient numbers and types of qualified staff on duty and available at all times to provide necessary care and safety, based on the acuity of the patients, the mix of the patients present in the Level I CRC-SU, and the need for extraordinary levels of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9621. Physical Environment

A. A Level I CRC-SU shall be located in an exterior area of the hospital which is easily accessible to patients seeking CRC-SU services. Patients shall not be required to go through other areas of the hospital to get to a Level I CRC-SU. The CRC-SU may share an entrance with an emergency department.

1. A Level I CRC-SU may also be located in a licensed offsite location of the hospital.

B. The CRC-SU shall give special design considerations to prevent injury and suicide in all patient care areas.

C. The layout, design details, equipment, and furnishings shall be such that patients shall be under continuous visual observation at all times and shall not be afforded opportunities for hiding, escape or injury to themselves or others.

D. Interior finishes, lighting, and furnishings shall suggest a residential, rather than institutional setting, while conforming to applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

E. Grab bars, if provided, must meet the following specifications:

1. of an institutional type;

2. shall not rotate within their fittings;

3. must be securely fastened with tamper-proof screw heads;

4. shall be free of any sharp or abrasive elements; and

5. if mounted adjacent to a wall, the space between the wall and the grab bar shall be one and one-half inches.

F. Towel racks, closet and shower curtain rods, if provided, must be the breakaway type.

G. Plastic bags and trash can liners shall not be used in patient care areas.

H. Electrical receptacles shall be of the safety type or protected by 5 milli ampere ground-fault-interrupters.

I. A Level I CRC-SU shall have at least two rooms that afford privacy for the triage/screening and/or assessment of

individuals presenting to the unit. Rooms for triage/screening, and/or assessment shall have:

1. a minimum area of 120 square feet and shall be located within the CRC-SU unit; and

2. doors to these rooms shall swing outward or be double hinged.

J. A Level I CRC-SU shall have at least one designated area for the holding and monitoring of patients who are in the process of being triaged/screened, assessed and awaiting referral.

K. A Level I CRC-SU shall have at least one seclusion room. The seclusion room shall be intended for the short-term occupancy by violent or suicidal patients and provide an area for patients requiring security and protection. The seclusion room shall:

1. enable direct staff supervision of the patient by direct visualization or through the use of electronic monitoring;

a. if electronic monitoring equipment is used, it shall be connected to the hospitals' emergency electrical source;

2. be designated for single occupancy and contain at least 80 square feet;

3. be constructed to prevent patient hiding, escape, injury or suicide;

4. contain a restraint bed;

5. have a minimum ceiling height of 9 feet;

6. have ceiling construction that is monolithic or tamper proof;

7. be located in close proximity to a toilet room;

8. not contain protruding edges or corners;

9. have doors that:

a. are 3 feet, 8 inches wide;

b. swing out; and

c. permit staff observation of the patient while also maintaining provisions for patient privacy; and

10. not have electrical switches and receptacles.

L. There shall be a locked storage area to secure a patient's personal items and to secure contraband.

1. The CRC-SU shall have policies and procedures for the handling of such items.

2. The locked storage area shall be accessible only to authorized personnel.

M. The CRC-SU shall have a minimum of two single-use toilet rooms accessible to patients and at least one toilet room for CRC-SU staff.

1. All toilet rooms shall contain a toilet and a lavatory.

2. All plumbing and piping connections to fixtures shall be enclosed and not accessible to tampering by patients.

3. The doors on the toilet rooms shall swing out or be double hinged.

4. If mirrors are located in the toilet rooms, they shall be fabricated with laminated safety glass or protected by polycarbonate laminate or safety screens.

5. Bathroom/toilet room hardware and accessories shall be of special design to give consideration to the prevention of injury and suicide.

N. The CRC-SU shall have at least one single-use shower facility for the use of patients within the confines of the CRC-SU.

1. Shower sprinkler heads shall be recessed or of a design to minimize patient tampering.

O. All windows in the CRC-SU shall be fabricated with laminated safety glass or protected by polycarbonate laminate or safety screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Subchapter C. Level II Crisis Receiving Centers

§9631. General Provisions

A. A Level II CRC-SU is an intermediate level of care unit that provides for:

1. an increased opportunity for observation;
2. improved diagnostic accuracy;
3. brief interventions;
4. psychotropic medications;
5. the ability to denote response to intervention; and
6. an appropriate referral for extended services as necessary.

B. The goal of a Level II CRC-SU is to stabilize the patient and prevent the need for admission to a higher level of psychiatric care.

C. A Level II CRC-SU shall meet all of the requirements of a Level I CRC-SU and shall operate 24 hours per day, seven days per week.

D. The length of a patient stay at a Level II CRC-SU shall not exceed 72 hours.

E. The Level II CRC-SU shall be located adjacent to the Level I CRC-SU.

F. The beds in a Level II CRC-SU shall not be licensed as hospital beds and shall not be counted in the aggregate number of licensed hospital beds.

G. A Level II CRC-SU shall not be included, considered or certified as a portion or part of a distinct part psychiatric unit.

H. Patients may be directly admitted to a Level II CRC-SU from:

1. a Level I CRC-SU after the triage/screening and assessment has been completed;
2. an emergency department of a hospital, provided that the patient has undergone an emergency medical screening; or
3. an outpatient setting, provided that the outpatient setting has within the previous 24-hour period completed a triage/screening and assessment that meets the established criteria under the Level I CRC-SU provisions of this Chapter.

NOTE: If the required components of triage/screening and/or assessment have not been completed by the transferring hospital or outpatient setting, then immediately upon entry, the Level II CRC-SU shall conduct the additional components of the assessment prior to admitting the patient.

I. The Level II CRC-SU shall develop and implement policies and procedures for the use of psychotropic medications and pharmacy services.

J. The Level II CRC-SU shall develop and implement policies and procedures to utilize behavior management and therapeutic interventions to stabilize the behavioral health crisis in the least restrictive manner.

K. The Level II CRC-SU shall develop and implement policies and procedures on seclusion and restraint in accordance with federal requirements. All staff shall be

trained on seclusion and restraint policies and procedures, and shall utilize the least restrictive method.

1. Policies shall include procedures and performance improvement measures to minimize the use of seclusion and restraints.

L. The Level II CRC-SU shall develop and implement policies and procedures for instituting an increased level of supervision for patients at risk for suicide and other self injurious behaviors.

M. When a Level II CRC-SU receives a patient with a properly executed emergency certificate, the CRC-SU shall immediately notify the coroner's office.

1. If an emergency certificate is issued by appropriately licensed personnel of the CRC-SU, the CRC-SU shall immediately notify the coroner's office or physician as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9633. Level II Services

A. In addition to the services required in §9617 of this Chapter, the Level II CRC-SU must provide the following services.

1. A Level II CRC-SU shall provide continuous observation of the patient in order to determine the following:

- a. adherence to the initial service plan;
- b. response to medications;
- c. response to therapeutic interventions; and
- d. evidence of deterioration or stabilization of behaviors.

2. The Level II CRC-SU shall assure access to necessary medical supports and services in order to stabilize acute medical conditions.

3. The Level II CRC-SU shall provide therapeutic milieu that encompasses:

- a. a calming physical environment;
- b. staff members knowledgeable of therapeutic communication; and
- c. an atmosphere conducive to enhancing the mental health of the patients being served.

4. The Level II CRC-SU shall conduct a psychosocial assessment on each patient within 24 hours of admission. This assessment shall be conducted by a:

- a. behavioral health counselor who has:
 - i. a master's degree in psychology, social work or counseling;
 - ii. one year of experience in the field of behavioral health; and
 - iii. training in crisis services and intervention.

5. The Level II CRC-SU shall develop an initial service plan for each patient admitted based on their individual needs that includes, but is not limited to the following:

- a. continued reassessments;
- b. brief behavioral health interventions;
- c. family or support system involvement;
- d. substance abuse treatment and relapse prevention, as indicated;
- e. peer support services;
- f. psychotropic medications; and
- g. discharge planning and referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9635. Staffing Requirements

A. A Level II CRC-SU shall meet all of the staffing requirements of the Level I CRC-SU in addition to the following requirements.

1. A Level II CRC-SU shall have an RN in charge of the unit at all times. This RN may be the same nurse in charge of the Level I CRC-SU, providing he/she is not assigned to provide patient care to patients in the Level II CRC-SU.

2. The Level II CRC-SU shall have sufficient numbers and types of qualified staff on duty and available at all times to provide necessary care, services, treatment and safety, based on the acuity of the patients, the mix of the patients present in the CRC-SU, and the need for extraordinary levels of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§9637. Physical Environment

A. A Level II CRC-SU shall meet the physical requirements of a Level I CRC-SU unless otherwise specified herein.

B. A Level II-CRC-SU may be located in an interior area of the hospital provided that it is immediately adjacent to the Level I CRC-SU.

1. A Level II CRC-SU may be located in a licensed offsite location of the hospital.

C. A Level II CRC-SU shall not be required to have the triage/screening rooms within the area of the Level II CRC-SU.

D. The Level II CRC-SU shall have patient rooms that meet the following requirements:

1. single occupancy rooms;
2. minimum of 100 square feet of space;
3. monolithic or tamper-proof ceilings;
4. have closet or storage space for personal belongings; and
5. electrical receptacles shall be of the safety type or protected by 5 milli ampere ground-fault-interrupters; and
6. doors that swing outward or are double hinged.

E. Electric patient beds shall not be used.

F. An electronic nurse call system is not required, but if it is included, provisions shall be made for easy removal and for covering call button outlets. The CRC-SU shall have policies and procedures to address calls where no electronic system is in place.

G. Bathrooms

1. The Level II CRC-SU shall have a minimum of two toilet rooms that contain all of the following:

- a. toilet;
- b. shower; and
- c. lavatory;
- i. if the lavatory is in the patient room and not contained within the bathroom, the lavatory shall be adjacent to the bathroom.

2. If the Level II CRC-SU has more than 12 patient beds, there shall be one additional bathroom for each additional four beds.

3. The bathrooms shall be outfitted as follows.

a. All plumbing and piping connections to fixtures shall be enclosed and not accessible to tampering by patients.

b. The doors on the toilet rooms shall swing out or be double hinged.

c. If mirrors are located in the toilet rooms, they shall be fabricated with laminated safety glass or protected by polycarbonate laminate, or safety screens.

d. Bathroom/toilet room hardware and accessories shall be of special design to give consideration to the prevention of injury and suicide.

4. Shower sprinkler heads shall be recessed or of a design to minimize patient tampering.

H. The Level II CRC-SU shall have a toilet room and a break room designated for staff use.

I. Separate and apart from the seclusion room required in a Level I CRC-SU, the Level II CRC-SU shall have a minimum of one seclusion room for every 12 beds.

1. The seclusion room in the Level II CRC-SU shall meet the same requirements specified for the seclusion room in the Level I CRC-SU.

2. The patient rooms in the Level II CRC-SU may be used as seclusion rooms provided they meet the same requirements as specified for the seclusion room in the Level I CRC-SU.

J. The Level II CRC-SU shall have separate consultation room(s) with a minimum floor space of 100 square feet each, provided at a room-to-bed ratio of one consultation room for each 12 beds. Consultation rooms within the unit shall be used for interviews with the patient and/or their families. The room shall be designed for acoustical and visual privacy.

K. The Level II CRC-SU shall have a room with a minimum of 225 square feet for group therapy, treatment team planning and conferencing.

L. The Level II CRC-SU shall have a room within the unit with a minimum of 120 square feet for examination and treatment of patients.

M. The Level II CRC-SU shall have an area for accommodation of charting, storage of records, and the storage and preparation of medications. Provisions shall be made for securing patient records and medications in this area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by assuring that Medicaid recipients have access to behavioral health services rendered by appropriately regulated and licensed providers.

Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospital Licensing Standards Crisis Receiving Centers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed licensing rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$2,788 (\$2,788 SGF) will be expended in FY 09-10 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 may increase revenue collections as a result of the collection of licensing fees; however, there is no way to determine how many hospitals may apply for a license for an offsite location (there is no licensing fee for an onsite center) so the anticipated revenue collections are indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the minimum licensing standards for hospitals to establish provisions for crisis receiving centers. Crisis receiving centers are specialty units of a hospital that provide health care services to individuals who are experiencing a behavioral health crisis. It is anticipated that implementation of this proposed rule may have economic cost for hospitals that open a crisis receiving center in an offsite location (\$300 licensing fee per facility per offsite location); however, the cost is indeterminable since there is no way to establish how many hospitals will apply for a license for an offsite location.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition; however, it is anticipated that this rule may have a positive impact on employment as the opening of crisis receiving centers may create job opportunities.

Jerry Phillips
Medicaid Director
0912#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural, Non-State Hospitals Outlier Payment Methodology (LAC 50:V.954)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.954 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children less than six years of age (*Louisiana Register*, Volume 20, Number 6). These provisions also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or younger. An outlier payment is calculated on an individual case basis and paid at cost if the covered charges for medically necessary services exceed a designated percent of the prospective payment. The June 20, 1994 Rule was subsequently amended to: 1) reduce the outlier payments made to private (non-state) hospitals by amending the definition of marginal cost; 2) change the base period for the hospital calculation of payments; and 3) establish a deadline for receipt of the written request for outlier payments (*Louisiana Register*, Volume 29, Number 6). The Department of Health and Hospitals, Bureau of Health Services Financing now proposes to repromulgate all of the provisions governing outlier payments in a codified format for inclusion in the *Louisiana Administrative Code*.

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

§954. Outlier Payments

A. Pursuant to §1902(s)(1) of Title XIX of the Social Security Act, additional payments called outlier payments shall be made to hospitals for catastrophic costs associated with inpatient services provided to:

1. children less than six years of age who receive services in a disproportionate share hospital setting; and
2. infants less than one year of age who receive services in any acute care hospital setting.

B. The marginal cost factor for outlier payments is considered to be 100 percent of costs after the costs for the case exceed the sum of the hospital's prospective payment and any other payment made on behalf of the patient for that stay by any other payee.

C. To qualify as a payable outlier claim, a deadline of not later than six months subsequent to the date that the final

claim is paid shall be established for receipt of the written request for outlier payments.

D. The hospital specific cost to charge ratio shall be reviewed bi-annually and updated according to the current cost report data.

E. Outlier payments are not payable for transplant procedures.

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:

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 Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 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.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services—Non-Rural, Non-State Hospitals Outlier Payment Methodology

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 09-10. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$164 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to repromulgate the provisions governing outlier payments in a codified format for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-

governmental groups in FY 09-10, FY 10-11 and FY 11-12 since it does not change the current payment methodology.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0912#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Prosthetics and Orthotics Provider Accreditation (LAC 50:XVII.301)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XVII.301 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.

Section 302 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (P.L. 108-173) established provisions which mandated that suppliers of durable medical equipment (DME) and prosthetic and orthotic devices must be accredited by one of the independent accreditation organizations recognized by Medicare in order to receive reimbursement. The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing the accreditation requirements for prosthetics and orthotics providers to adopt Medicare's list of deemed accreditation organizations for suppliers of durable medical equipment, prosthetics, orthotics and supplies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions Chapter 3. Provider Participation

§301. Accreditation Requirements

A. - D. ...

E. Effective for dates of service on or after April 1, 2010, all providers seeking reimbursement for prosthetic and orthotic services and devices must be accredited by one of the following Medicare deemed accreditation organizations:

1. The Joint Commission (JC);
2. National Association of Boards of Pharmacy (NABP);
3. Board of Certification/Accreditation International;
4. The Compliance Team, Inc.;
5. American Board for Certification in Orthotics and Prosthetics, Inc. (ABC);
6. The National Board of Accreditation for Orthotic Suppliers (NBAOS);
7. Commission on Accreditation of Rehabilitation Facilities (CARF);
8. Community Health Accreditation Program (CHAP);

9. HealthCare Quality Association on Accreditation (HQAA); or

10. Accreditation Commission for Health Care, Inc. (ACHC).

F. Verification of accreditation must be received by the department on or before March 31, 2010. A provider's prior authorization privileges will be revoked on April 1, 2010 if this verification is not received.

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 31:85 (January 2005), repromulgated LR 31:1597 (July 2005), amended LR 34:2638 (December 2008), repromulgated LR 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by requiring providers to attain accreditation from a nationally recognized organization in order to assure the quality of prosthetic and orthotic devices furnished to Medicaid recipients.

Public Comments

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 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.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prosthetics and Orthotics 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 09-10. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$164 will be collected in FY 09-10 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing provider accreditation for prosthetics and orthotics to expand the list of accrediting organizations by adopting Medicare's list of national accreditation organizations. It is anticipated that implementation of this proposed rule will cost each provider (47 providers are enrolled in the Medicaid Program with the specialty of prosthetics and/or orthotics) approximately \$750 to \$2,900 each year in FY 09-10, FY 10-11, and FY 11-12 for accreditation fees, depending upon the accreditation organization they select. It is unknown how many providers are currently accredited or how many will seek accreditation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0912#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office for Addictive Disorders

Opioid Treatment Programs: Need and Application Reviews
(LAC 48:I.Chapter 129)

The Department of Health and Hospitals Office for Addictive Disorders, proposes to adopt LAC 48:1 Chapter 129 Opioid Treatment Programs: Need and Application Reviews as authorized by R.S. 40:1058.3(C)2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 166 of the 2008 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to adopt this rule in accordance with the Administrative Procedure Act to provide for the following: (a) criteria and processes for determining whether there is a need for new or additional methadone maintenance programs in a certain geographic location; and (b) procedures for selecting a methadone maintenance program to be licensed once a need has been determined. In compliance with the directives of Act 166, the Department of Health and Hospitals Office for Addictive Disorders proposes to adopt provisions governing the need and application review process for new or additional methadone maintenance programs, hereinafter referred to as opioid treatment programs. The determination of need and application review processes will insure equitable geographic distribution and access to quality opioid treatment program services in Louisiana.

The provisions of the Opioid Treatment Program (OTP) need and application review shall apply only to applications for new programs not approved prior to July 1, 2001. In addition, in order to facilitate the adoption of the new provisions governing opioid treatment programs, a new Chapter 129 has been established.

Title 48
PUBLIC HEALTH—GENERAL
Part 1. General Administration
Subpart 5. Health Planning
Chapter 129. Opioid Treatment Program (OTP) Need
and Application Reviews

Subchapter A. General Provisions

§12901. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

Applicant—the individual or legal entity who is applying to open an OTP.

Applicant Representative—the person specified by the applicant on the application form who is authorized to respond to Department of Health and Hospital questions regarding the OTP application review process and to whom written notifications are sent relative to the status of the application during the review process.

Applicant Review Period—the period of time in which the review is conducted.

Approval—a determination by the Department of Health and Hospitals (DHH) that an application meets the criteria of the OTP application review.

Approved—opioid treatment programs which are grandfathered in accordance with the grandfather provisions of this program and/or opioid treatment programs approved in accordance with the OTP application review.

Committee—The Opioid Treatment Program (OTP) application review committee.

Department—the Department of Health and Hospitals (DHH) in the state of Louisiana. The following is a list of pertinent sections.

DHH Administrative Regions—The administrative regions and the parishes which comprise these regions are as follows:

- a. Region I: Orleans, Plaquemines, Jefferson and St. Bernard;
- b. Region II: Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;
- c. Region III: Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;
- d. Region IV: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;
- e. Region V: Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;
- f. Region VI: Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;
- g. Region VII: Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster;
- h. Region VIII: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and
- i. Region IX: Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

Health Standards Section (HSS)—Section of Bureau of Health Services Financing, DHH that surveys, licenses and serves as the regulatory body for health care facilities in the state, including opioid treatment programs.

Methadone Maintenance Program—see Opioid Treatment Program.

Notification—is deemed to be given on the date on which a decision is mailed by DHH by certified mail to the last known address of the applicant.

Office for Addictive Disorders (OAD) or its successor organization—DHH office and single state agency that is statutorily responsible for the treatment and prevention of addictive disorders.

Opioid Treatment Program (OTP)—a program engaged in medication-assisted opioid treatment of individuals with an opioid agonist treatment medication.

Opioid Treatment Program Need Review—a review to determine whether there is a need for new or additional OTPs in a certain geographic location.

Opioid Treatment Program Application Review—a review of applications to select an OTP to be licensed once a need has been determined.

Secretary—the secretary of the DHH.

State Opioid Treatment Authority—the OAD authority within DHH designated to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

§12903. General Information

A. No opioid treatment program may be licensed in the state of Louisiana after July 1, 2001 unless the department has determined, in its discretion, that there is a need for new or additional opioid treatment programs in a certain geographic location. The department will provide criteria and processes for determining whether such a need exists and procedures for selecting an opioid treatment program to be licensed once a need has been determined. An offsite location and/or a mobile site of an existing OTP clinic is considered a new OTP and, as such, must receive approval of the department OTP need and applications reviews.

1. The department shall conduct an OTP need review to determine if there is a need for new or additional opioid treatment programs in a certain geographic location.

2. Once the need has been determined, the department will issue a request for applications for new or additional OTPs.

3. The department shall conduct an OTP application review.

4. Once the application review approval is granted, the OTP is then eligible to apply for a license from the department.

B. The duties of the department under this opioid treatment program (OTP) need review and application review include, but are not limited to:

1. defining the appropriate methodology for the collection of data necessary for the administration of the OTP need review; and

2. developing the application review process.

C. Grandfather Provision. An approval shall be deemed to have been granted without OTP need or application review for OTPs that were licensed and approved in Section 7403 prior to July 1, 2001.

D. OTP application review approvals are non-transferable. Approvals for licensed OTPs are limited to the name of the original licensee and to the location unless exempted from the need and application reviews.

1. For all OTPs undergoing a change of ownership after July 1, 2010, including those OTPs who qualify for the Grandfather Provision, the buyer must submit a new application and obtain approval from the OTP application review committee prior to the change of ownership.

2. For all OTPs undergoing a change in location after July 1, 2010, including those OTPs who qualify for the Grandfather Provision, the owner must submit a new application and obtain approval from the OTP application review committee prior to the change of location.

E. Exemptions from OTP Need Review and Application Review.

1. Exemptions from OTP need review and application review shall be made for OTP clinics that meet the following criteria:

a. an OTP clinic is replaced due to destruction by fire or a natural disaster, such as a hurricane, and is closed no longer than eight months; or

b. an OTP clinic is replaced due to potential health hazard in the clinic and is closed for no longer than 150 days.

2. One extension of no more than three months may be granted upon the documentation of good cause, provided the extension is requested no later than one month from the original deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

Subchapter B. Determination of Need

§12905. Opioid Treatment Program Need Review

A. The OTP Need Review includes criteria and processes to determine the need for new or additional OTPs in a certain geographic location within an identified DHH administrative region.

B. Determination of Need

1. The department will determine need through a review and evaluation of the following criteria:

a. estimated prevalence of opioid addiction in the population of the geographic area to be served; and

b. estimated number of persons in need of medication-assisted treatment for opioid addiction in the geographic area; and

c. estimated treatment demand for medication-assisted opioid addiction treatment in the geographic area to be served; and

d. existing access, utilization and availability of medication-assisted opioid addiction treatment in the geographic area to be served;

2. A determination of need will utilize data sources that include information compiled and recognized by the department and/or any of the following: Substance Abuse and Mental Health Services Administration (SAMHSA), the United States Census Bureau, the Drug Enforcement Administration (DEA) and the National Institute on Drug Abuse (NIDA).

D. The department may conduct additional need reviews only when special needs and circumstances arise which indicate the need for additional medication-assisted opioid

addiction treatment services, such as increased utilization rates, reduced availability, and/or reduced accessibility of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

Subchapter C. Procedure for Selection of Opioid

Treatment Program

§12907. Opioid Treatment Program Application Review

A. If the department determines that there is a need for services in a DHH region, the department will issue a request for applications (RFA) announcement statewide through the Louisiana Press Association. The RFA will specify the dates during which the department will accept applications.

B. No applications will be accepted under these provisions unless the department declares a need and issues an RFA.

C. Any applicant to open an OTP must adhere to all policies, rules and regulations set forth by the State of Louisiana and the Department of Health and Hospitals. Services shall be provided in accordance with standards set forth by SAMHSA, DHH Health Standards, the US Department of Justice/Drug Enforcement Administration (DEA), the Louisiana Board of Pharmacy and all applicable, SAMHSA-approved accrediting bodies.

D. Any applicant to open an OTP shall be free of any conviction for, or guilty plea, or plea of nolle contendere to a felony. If the applicant is an agency, the owners of that agency must be free of such felony convictions.

E. The OTP request for applications will indicate which department administrative region is in need of openings, or slots, for clients; the number of slots needed, the date by which the slots need to be available to the target population and the factors which the department considered relevant in determining the need for the treatment slots. The OTP request for applications will specify the type of information on which the determination of need was based.

F. OTP applications shall be submitted to the DHH Office for Addictive Disorders, State Opioid Treatment Authority.

1. Application forms shall be requested in writing or by telephone from the Office for Addictive Disorders, State Opioid Treatment Authority, who will provide application forms, criteria utilized to determine need and other materials relevant to the application process.

2. The applicant representative specified on the application will be the only person to whom the DHH Office for Addictive Disorders will send written notification in matters relative to the status of the application during the review process. If the applicant representative or his address changes at any time during the review process, the applicant shall notify the DHH Office for Addictive Disorders, State Opioid Treatment Authority, in writing.

3. A prospective OTP applicant shall submit the following documents as part of the application:

a. a letter of intent to inform the department that the applicant requests an OTP application review and to include the following:

i. the name, address and telephone number of the applicant;

ii. the name of the applicant representative, an individual authorized to respond to department questions regarding the application and who also signs the letter of intent;

iii. the proposed location of the OTP; and

iv. a brief description of the proposed service, and the proposed date of implementation.

b. an original and three copies of the application. An application shall be submitted on forms provided for that purpose, contain such information as the department may require, and be accompanied by a nonrefundable fee of \$600.

4. Applications will be accepted for a period to be specified in the request for application.

5. Once submitted, an application cannot be changed and additional information will not be accepted.

6. Submitted applications failing to meet these guidelines or without the required fee will not be processed and will be returned to the applicant.

G. The OTP committee shall be appointed by the Secretary of the Department of Health and Hospitals. DHH appointments to the OTP committee shall include the following members:

1. DHH OAD Medical Director or physician who has expertise in substance abuse treatment and, in particular, opioid treatment;

2. Executive Director of the DHH Office for Addictive Disorders program service region or district in which the proposed OTP would be located;

3. licensed addiction counselor approved by the Louisiana Addictive Disorder Regulatory Authority and DHH Office for Addictive Disorders;

4. member of the Louisiana Board of Pharmacy;

5. Louisiana State Opioid Treatment Authority;

6. current President of the State Opioid Treatment Authority Alliance or a State Opioid Treatment Authority from another state; and

7. DHH OAD Fiscal Director.

H. No committee member shall have a proprietary, financial, professional or other personal interest of any nature or kind in any OTP.

I. The applicant shall make a brief presentation of the proposed program before the committee and respond to questions raised by the committee.

J. The department sets the review period, which will be no more than 60 days, except as noted below. The review period begins on the first day after the date of receipt of the application.

1. A longer review period will be permitted only when initiated by the committee. A maximum of 30 days will be allowed for an extension.

2. An applicant may not request an extension of the review period, but may withdraw an application (in writing) at any time prior to the notification of the decision by the DHH Office for Addictive Disorders.

K. The committee will review the applications and independently evaluate and assign points in each of the following subject areas for the quality and adequacy of the applicant's responses:

1. financial viability and availability of funds;

2. licensure and/or accreditation:

a. work plan for accreditation and state licensure;

b. history of compliance with accreditation, licensure and/or certification bodies related to the provision of healthcare services;

3. range of services and program design;

4. community integration:

a. availability, accessibility and appropriateness of the location of the proposed OTP site; (for example: accessibility to public transportation and healthcare providers; location in relation to children's schools and playgrounds);

b. methods to achieve community integration through a community relations plan.

L. A score will be given to the applicants' responses on the application.

M. The approved highest scoring application will then be forwarded to the DHH Secretary for final approval.

N. Upon the secretary's final approval, the Office for Addictive Disorders State Opioid Treatment Authority will forward a notice of approval letter to the applicant representative.

O. Each applicant will be notified of the department's decision. Notification shall be sent by certified mail to the applicant representative.

P. Notification shall be sent to the applicant at his last known address. An applicant is responsible for notifying the department of any change of address.

Q. Applications approved under these provisions are bound to the description in the application with regard to opioid treatment as well as to the location. The OTP application review approval shall expire if these aspects of the application are altered, except as noted below.

1. If, due to no fault of the approved OTP applicant, the location fails, the applicant has 30 days from the application approval date to secure an alternate location and submit the location to the committee.

2. The committee will approve or deny the alternate location within 15 days of submittal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

Subchapter D. Administrative Appeals

§12909. Appeal Procedures

A. Upon denial of the department to grant an OTP proposal review approval, only the applicant shall have the right to request an administrative appeal.

1. A written request for such an appeal must be submitted to the secretary within 30 days after the notification of the denial is received by the applicant.

2. The request shall contain a statement setting forth the specific reasons the applicant disagrees with the denial.

3. All administrative appeals shall be consolidated for purposes of the hearing.

B. Administrative Hearings

1. The hearings shall be conducted at the DHH Bureau of Appeals in accordance with the Administrative Procedures Act.

2. Any party may appear and be heard at any appeal proceeding through an attorney or designated representative. A person appearing in a representative capacity shall file a written notice of appearance on behalf of the provider identifying his/her name, address, telephone number and the party being represented.

3. The hearing shall be conducted within 60 days after receipt of the written request for the hearing. Either party may request an extension of the hearing date upon a showing of good cause provided that the hearing is rescheduled to a date no later than 120 days from receipt of notice of the department's decision.

4. The Bureau of Appeals may schedule a preliminary conference. If one is scheduled, the parties shall be notified in writing of the date, time and place of the conference.

5. The applicant and department will be notified in writing of the date, time and place of the administrative hearing no later than 15 calendar days prior to the hearing.

6. An applicant who has requested an administrative appeal shall present his case first and has the burden to show by a preponderance of the evidence that his application should have been approved by the department pursuant to the provisions of this rule. After the applicant has presented his evidence, the department will then have the opportunity to present its case and to refute and rebut the testimony and evidence presented by the applicant.

7. If an applicant fails to appear at the administrative hearing, a decision shall be issued by the Bureau of Appeals dismissing the appeal. The dismissal may be rescinded upon order of the Bureau of Appeals if the applicant makes written application within 10 calendar days following the mailing of the dismissal order and provides evidence of good cause for the failure to attend the hearing.

D. The issuance of the approval shall be suspended if an applicant files an appeal. The suspension is effective only during the administrative appeal process.

E. Within 20 days of the completion of the hearing, The Bureau of Appeals shall make a written decision. The written decision shall be final, binding and enforceable. A copy of the decision shall be mailed to the applicant at his last known address or to his authorized representative.

F. An applicant has the right to file for judicial review in accordance with the Administrative Procedures Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

§12911. Licensing and Certification Compliance

A. The following time frames shall apply for complying with the requirements for obtaining DHH licensure as an opioid treatment program and for complying with all applicable federal, state, and local laws and regulations.

1. Opioid treatment programs shall achieve DHH licensure no later than one year from the date of the OTP application review approval.

2. OTPs shall be in compliance with all applicable OTP federal, state, and local laws and regulations no later than one year from the date of the OTP application review approval.

B. Failure to meet the timeframes in this section could result in an automatic expiration of the OTP application review approval of the OTP.

C. An OTP that intends to relinquish application review approval prior to the expiration of the timeframes in this Section, shall submit a letter of such intent to the DHH Office for Addictive Disorders State Opioid Treatment Authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

Subchapter E. Rescission of OTP Need Review Application Approvals

§12913. General Provisions

A. Opioid treatment program application review approval shall be automatically rescinded upon rendering of a final decision under the following circumstances:

1. a clinic's license is revoked;
2. a clinic's license is not renewed;
3. a clinic's license is denied;
4. a clinic's license is voluntarily surrendered;
5. a cessation of the clinic's business;
6. a clinic's accreditation is revoked;
7. a clinic's accreditation is not renewed;
8. a clinic's accreditation is denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1058.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy by assuring better geographic distribution of facilities and improved access to opioid treatment services rendered by appropriately regulated and licensed providers.

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 department, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments to Michael Duffy, Department of Health and Hospitals, Office for Addictive Disorders, Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 27, 2010 at 11:00 A.M. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Opioid Treatment Programs:
Need and Application Reviews**

**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 09-10 since existing staff will be absorbing the need review process into their current workload. It is anticipated that \$1680 (Federal) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. In addition, it is anticipated that \$7036 (Federal), in FY 10-11 only, will be spent on the Request for Applications announcement in newspapers statewide; as well as on travel, lodging and stipend costs for the seven-member application review committee.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule may increase self-generated revenue collections as a result of the collection of application review fees; however, there is no way to determine how many providers may apply for this application review so the anticipated revenue collections are indeterminable.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule proposes to adopt provisions governing the need and application review process for new or additional opioid treatment programs. It is anticipated that implementation of this proposed rule will have an economic cost to new opioid treatment programs who make application for the review, based on the existing application review fee of \$600.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Michael Duffy
Assistant Secretary
0911#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Crime Victims Services Bureau
(LAC 22:I.2327)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby gives notice of its intent to repeal LAC 22:I.Chapter 23, Crime Victims Services Bureau in its entirety. This repeal is a technical adjustment as the information is not required to be promulgated and will remain intact and enforced as a department regulation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 23. Crime Victims Services Bureau

**§2327. Louisiana Department of Public Safety and
Corrections Victim/Witness Notification Request
Form**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36, Chapter 9.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 27:410 (March 2001), amended LR 29:2503 (November 2003), LR 32:851 (May 2006), repealed LR 36:

Family Impact Statement

The proposed repeal of this 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 January 8, 2010.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Crime Victims Services Bureau

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no impact on state or local government expenditures. This is merely a technical adjustment to an existing regulation.

**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 the repeal of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no estimated cost or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment as a result of this rule change.

Thomas C. Bickham, III
Undersecretary
0912#046

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Death Penalty (LAC 22:I.103)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of LAC 22:I.103, "Death Penalty."

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose. To set forth procedures to be followed for the lethal injection of those individuals sentenced to death.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations and the Wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women. The Secretary and the Wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women are 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 that the department shall carry out the death penalty in accordance with the provisions of the Louisiana Revised Statutes. All execution processes shall be performed in a professional, humane, sensitive and dignified manner. Executions shall be conducted at the Louisiana State Penitentiary. The warden of that facility is responsible for carrying out the death sentence on the date established by the sentencing court.

D. Incarceration Prior to Execution. Male offenders sentenced to death shall be incarcerated at the Louisiana State Penitentiary (LSP) at Angola, Louisiana. Female offenders sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women (LCIW) at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the offender in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female offenders shall be transported to the Louisiana State Penitentiary for execution as directed by the secretary.

E. Mental Competency. Pursuant to the provisions of R.S. 15:567.1, a person who is not competent to proceed to execution may not be executed. A person is not competent to proceed to execution when he lacks the competence to understand that he is to be executed, and the reason he is to suffer that penalty. Any person sentenced to death may raise the issue of his mental incompetence to proceed to execution by filing an appropriate petition in the sentencing court. A person acting as petitioner's "next friend" or the Secretary of the Department of Public Safety and Corrections may also file the petition. The petition shall contain the information enumerated in R.S. 15:567.1C. The sentencing court shall then determine the offender's mental competency in accordance with R.S. 15:567.1.

F. Death Warrant. Upon receipt of a death warrant, the secretary shall send written notification including a copy of the warrant to the following:

1. the warden at LSP;
2. the warden at LCIW (if appropriate);
3. the condemned offender, through the appropriate warden's office;
4. the governor, through the governor's executive counsel shall be mailed the certified copy of the warrant, return receipt requested, and the return receipt filed in the condemned offender's record; and
5. the clerk of each court of appeal.

G. Communications. The secretary shall establish a communication system between the governor's office and the LSP command center.

1. Primary communications shall be via a telephone line opened directly to the LSP command center from the execution chamber. This line shall be tested one hour prior to the scheduled execution. Other than testing, this line shall remain open.

2. Secondary communication shall be via cellular telephone.

3. In the event that both the primary and secondary communications are inoperable, the execution shall be delayed until communications are established.

H. Media Access

1. The media may contact the warden's office to request interviews. If the warden, condemned offender, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews and may specify whether the interviews shall be conducted individually or in "press conference" fashion.

I. Visits

1. Prior to the scheduled execution, the warden may approve special visits for the condemned offender.

2. The condemned offender shall not be required to visit with non-staff visitors that the condemned offender does not wish to see.

J. Pre-Execution Activities

1. The warden shall select an appropriate area to serve as a press room.

2. Approximately 30 calendar days prior to the scheduled execution date, the LSP execution team shall begin conducting training sessions no less than once per week until the scheduled date of the execution.

3. Approximately 14 calendar days prior to the scheduled execution date:

a. the secretary or designee shall give either written or verbal notice (followed by written notice placed in the United States mail within five days thereafter) of the date and time of the execution to the victim's parents, or guardian, spouse and any adult children who have indicated that they desire such notice. The named parties shall be given the option of attending the execution. Within three days of receipt of the notification, the named parties shall notify, either verbally or in writing, the secretary's office of their intention to attend as witness;

b. the warden at LSP shall have the condemned offender complete the requests for clergy witness, instructions for disposal of property and funeral arrangements. All such requests shall be signed in the presence of a notary.

4. Approximately 10 calendar days prior to the scheduled execution date:

a. the warden at LSP shall notify the following individuals/agencies of the date and time of the execution:

- i. Louisiana State Police;
- ii. West Feliciana Parish Sheriff;
- iii. West Feliciana Parish Coroner;

iv. the condemned offender's clergy representative regarding the condemned offender's desire for the clergy representative to witness the execution.

b. The secretary shall select media representatives in accordance with Paragraph L.2. of this regulation and notify the warden of LSP in writing of the names of those selected.

5. Approximately seven calendar days prior to the scheduled execution date, the secretary shall notify the warden of LSP of the names of witnesses selected in accordance with R.S. 15:570-571.

6. Approximately seven calendar days prior to the scheduled execution date the warden at LSP shall order that the condemned offender be constantly monitored. A log entry must be made every 15 minutes that shall include, but not be limited to, movement, mood changes, meals served, showers, telephone calls, etc.

7. In the five calendar days prior to the execution, access to the execution room shall be restricted in accordance with institutional policy.

8. Approximately 12 to 24 hours prior to the scheduled execution:

a. the condemned offender shall be transferred from death row and housed in the execution building. The 15 minute log shall continue to be maintained;

b. the warden at LSP shall establish a line of communication with the secretary's office for notice of case status and/or other significant legal changes.

9. The following events shall take place upon the condemned offender's arrival at the execution building.

a. The execution building shall be restricted. Only the following shall be permitted access:

- i. secretary and/or designee(s);
- ii. warden;
- iii. deputy wardens;
- iv. chaplain;
- v. physician;
- vi. chief of security;
- vii. maintenance superintendent;
- viii. any other person deemed necessary by the warden.

b. The deputy warden/security and/or chief of security at LSP shall assign security personnel to staff entrances and checkpoints.

c. The deputy warden/security at LSP shall ensure that the condemned offender's property is inventoried in front of the condemned offender. Pursuant to Subparagraph J.3.b. of this regulation, the condemned offender shall have previously specified who is to receive their personal effects.

d. The condemned offender shall be allowed visits with family, friends and/or private clergy, as approved by the Warden at LSP. Visits will normally terminate by 3:00 p.m. on the day of the execution, except visits with a priest, minister, religious advisor or attorney which will terminate at the discretion of the warden at LSP or his designee.

e. All communications equipment shall be tested, including primary and secondary communication with the secretary and governor's offices.

f. The warden at LSP shall receive updates from security personnel on crowd control, demonstrations, etc., as needed.

g. The deputy warden/security and/or chief of security at LSP shall brief the warden at LSP on the tension level within the prison population, as needed.

h. The warden at LSP shall advise the secretary of any unusual activity.

K. Time and Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6:00 p.m. and 9:00 p.m. (R.S. 15:570.C.)

L. Witnesses. All witnesses shall be over 18 years of age and all witnesses shall agree to sign the report of execution (R.S. 15:570-571).

1. The execution shall take place in the presence of the following witnesses:

a. the warden of the Louisiana State Penitentiary or designee;

b. the coroner of West Feliciana Parish or deputy;

c. a physician chosen by the warden;

d. a competent person/s selected by the warden to administer the lethal injection; and

e. a priest, minister, or religious advisor, if the offender so requests.

2. Not less than five nor more than seven other witnesses are required by law to be present. (R.S. 15:570.A.) These witnesses shall be selected as follows.

a.i. Three witnesses shall be members of the news media selected by the secretary from the following categories:

(a) a representative from the associated press;

(b) a representative selected from the media persons requesting to be present from the parish where the crime was committed; and

(c) a representative selected from all other media persons requesting to be present.

ii. These witnesses must agree to act as pool reporters for the remainder of the media present and meet with all media representatives immediately following the execution.

b. Up to two witnesses may be victim relationship witnesses (R.S. 15:570.D). If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim relationship witnesses who shall be authorized to attend. In the case of multiple victim's families, the secretary shall determine the number of witnesses, subject to availability of appropriate physical space.

c. The remaining witnesses shall be selected by the secretary.

3. All persons selected as witnesses shall sign a copy of the Agreement by Witness to Execution prior to being transported to the execution room.

M. Execution Procedures

1. The execution shall be conducted in accordance with established procedures.

2. No cameras or recording devices, either audio or video, shall be permitted in the execution room.

3. The identity of the person/s specified in Subparagraph L.1.d. who participates in an execution either directly or indirectly, shall remain strictly confidential and shall not be subject to public disclosure in any manner whatsoever (R.S. 15:570.E-F).

4. The witnesses shall enter the witness room where they will receive a copy of the condemned offender's written last statement, if a written statement is issued.

5. The condemned offender shall then be taken to the lethal injection room by the escorting officers. Once in the room, the condemned offender shall be afforded the opportunity to make a last verbal statement if he so desires. He shall then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden shall close the curtain to the witness room and signal the I.V. technician(s) to enter. The I.V. technician(s) shall appropriately prepare the condemned offender for execution and exit the room. The warden shall re-open the witness room curtain.

6. The person/s designated by the warden and at the warden's direction, shall then administer, by intravenous injection, the appropriate substances in a lethal quantity into the body of the condemned offender until he is deceased.

7. No employee, including employee witnesses to the execution, except the secretary or the warden or their designees, shall communicate with the press regarding any aspect of the execution except as required by law.

N. Post Execution

1. At the conclusion of the execution, the coroner or his deputy shall pronounce the condemned offender dead.

2. The warden shall advise the secretary that the coroner has pronounced the condemned offender dead.

3. The secretary shall advise the governor or designee that the execution has been carried out.

4. The witnesses shall be escorted from the witness area.

5. The body of the condemned shall be removed from the execution chamber.

6. Disposition of the body shall be in accordance with arrangements made prior to the execution at the condemned offender's request.

7. The warden shall make a written report reciting the manner and date of the execution which he and all of the witnesses shall sign. The report shall be filed with the clerk of court in the parish where the sentence was originally imposed. (R.S. 15:571)

O. Debriefing

1. The warden at LSP shall ensure that critical incident debriefings are available for the execution team and staff participants.

2. The LSP religious services coordinator and/or LSP mental health staff shall be available for debriefing for the family of the condemned offender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the

Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999), LR 28:2552 (December 2002), LR 29:2847 (December 2003), LR 31:1600 (July 2005), LR 31:2032 (August 2005), LR 32:2270 (December 2006), LR 36:

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 January 8, 2010.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Death Penalty

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. This is merely a technical amendment to an existing regulation.

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 technical amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this technical amendment.

Thomas C. Bickham, III
Undersecretary
0912#048

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Louisiana Risk Review Panels (LAC 22:I.107)

Editor's Note: This Notice of Intent is being repromulgated to correct a submission error. The original Notice of Intent may be view in the November 20, 2009 issue of the *Louisiana Register* on page 2633.

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 107 Louisiana Risk Review Panels.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this month's edition of the *Louisiana Register*.

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 January 8, 2010.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Risk Review Panels

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change, which allows offenders to become eligible for parole after serving half of their prison sentence, could result in a decrease of incarceration costs due to early releases of offenders associated with the Louisiana Risk Review Panel. It is indeterminable how many offenders would be released as a result of this rule change. However, the potential costs savings for every offender released would be \$24.39 per offender per day or \$8,902 annually for offenders housed at the local level. Currently, there are 6,411 offenders with an average sentence length of 6.72 years who have served an average of 1.66 years and whose only offense is under the Uniformed Controlled Dangerous Substances Law. Of these offenders, there are 268 offenders that have an average sentence length of 4.93 years and have served an average of 3.2 years. Therefore, 268 additional offenders may be eligible for the Louisiana Risk Review Panel for serving at least half of their prison sentence. The potential cost savings may be offset with the back filling of vacated beds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an increase in self-generated revenue to the extent that individuals become eligible for early release. Each individual who is released upon review by the Louisiana Risk Review Panel will pay a monthly parole fee of \$53. The amount of parole fees collected is indeterminable since it is not known how many offenders the Louisiana Risk Review Panel will release on parole. The current parole fee collection rate is 58%. There is also a one time \$65 processing fee that will be deposited into the Adult Probation and Parole Officer Retirement Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

For every offender released, there would be costs to affected persons for parole fees. However, there would be economic benefits to affected persons provided they are employed upon release.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a positive impact on employment when affected persons are employed upon release.

Thomas Bickham, III
Undersecretary
0911#098

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Offender Incentive Pay and Other Wage Compensation (LAC 22:I.331)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of LAC 22:I.331, "Offender Incentive Pay and Other Wage Compensation."

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§331. Offender Incentive Pay and Other Wage Compensation

A. Purpose. To state the secretary's policy regarding payment of incentive wages and other wage compensations to offenders.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Director of Prison Enterprises, Regional Wardens and Wardens. 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 that compensation shall be paid, in accordance with the provisions of this regulation, to all offenders who have served at least three years of their sentence in the physical custody of the department and who have performed satisfactory work in the job assignment in which they have been classified (except those offenders who opt to receive good time in lieu of incentive wages in accordance with R.S. 15:571.3).

D. Procedures

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is not eligible to earn good time at any rate shall serve three years from the date of reception before becoming eligible to earn incentive pay.

a. Grandfather Clause. The provisions of this Section are applicable to offenders received at the reception and diagnostic centers on or after September 20, 2008. Offenders received at reception and diagnostic centers prior to this date shall be subject to the waiting period previously in effect for this regulation. Offenders who are currently receiving incentive pay will not be affected and will continue to be eligible to receive incentive pay as they did on the effective date of this regulation but shall be subject to the provisions of Paragraph D.2. as it applies to job changes.

2. Once eligible to earn incentive pay, each offender shall initially be paid an "introductory pay level" of two cents per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the

institution. In the event of a change in an offender's job assignment or custody status, the offender's rate of compensation shall automatically be adjusted to the lowest pay rate of the assigned job. If the change in job assignment is not for disciplinary reasons, but due to institutional needs, the offender shall be paid at the same rate as the previous job assignment and the rate of compensation shall not be automatically adjusted to the lowest pay rate of the new job assignment.

a. Grandfather Clause. Offenders earning incentive pay at any rate, prior to the effective date of this regulation, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position will receive the adjusted lower rate.

3. An offender may receive a raise in his hourly pay rate of no greater than \$0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution, except as provided in Paragraphs D.12 and 13 below.

4. No offender shall earn more than 80 hours in a two-week period unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution.

a. Exception. Offenders assigned to job duties at the governor's mansion will not be limited to 80 hours bi-weekly.

5. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after the effective date of this regulation shall not be eligible to earn incentive wages, if the offender is eligible to earn good time at any rate.

a. Grandfather Clause. Offenders currently earning good time at a rate of three days for every 17 days served in accordance with Act 1099 of the 1995 Regular Session who are also earning incentive pay shall be allowed to continue to earn incentive pay at authorized rates.

6. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the "introductory pay level" of two cents per hour for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.

7.a. A series of pay ranges and a standardized list of job titles shall be established by the director of prison enterprises and approved by the secretary or designee. The institutions shall be assigned limits on the total amount of incentive wages paid in certain pay ranges. These limits shall be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises shall issue reports detailing each institution's status with regard to their limits on a quarterly basis. Offender banking shall monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate regional warden, the director of prison enterprises and the warden of the institution.

b. The regional wardens shall work closely with the director of prison enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

c. Exception. Offenders who work in prison enterprises job titles will not affect an institution's pay range percentage limits.

8. Incentive wages shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

9. All offenders classified in limited duty status and who are eligible to earn incentive wages shall earn at a rate of no more than \$0.04 per hour. This excludes offenders classified as regular duty with restrictions or those with a temporary limited duty status.

10. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive wages shall earn at the rate of \$0.02 per hour.

11. All offenders assigned to educational or vocational programs who are eligible to earn incentive wages shall be paid at the rate of \$0.04 per hour.

a. Exception. Due to the importance of the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program shall earn incentive wages at the following rates:

- i. freshmen: \$0.14 per hour;
- ii. sophomores: \$0.16 per hour;
- iii. juniors: \$0.18 per hour;
- iv. seniors: \$0.20 per hour.

b. Upon completion of any educational or vocational program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

12. Offenders assigned to prison enterprises industrial, agricultural, service or other prison enterprises jobs may be compensated at a rate up to \$0.40 per hour. The pay range for these jobs shall be established by the director of prison enterprises and approved by the secretary or designee.

13. Offender tutors who achieve certification from the Corrections Education Association (CEA) or an NCCER or other industry based certification may be paid, on a graduating scale, up to \$1.00 per hour while working as a tutor in the area of certification. Certified tutors may earn \$0.75 per hour during the first twelve months after certification and may receive an annual raise of ten cents per hour, up to a maximum of \$1.00 per hour.

14. Offenders who are eligible to earn incentive wages shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

15. For the purpose of this regulation, income earned from a private sector/prison industry enhancement (PS/PIE) program or a work release program is not "incentive pay." Therefore, offenders employed in any of these programs may receive good time in accordance with the law. The director of prison enterprises shall establish record-keeping procedures relating to wages earned by offenders employed in a PS/PIE program that include all mandatory deductions from offender wages, other deductions such as child support

or garnishment and the distribution of net offender wages to offender banking.

E. Sources of Funding

1. The Division of Prison Enterprises shall pay all incentive wages.

2. Offenders who are employed in a certified PS/PIE program shall be paid by the private business that employs them or by prison enterprises depending upon the type of PS/PIE program that is in operation, in accordance with the terms stated in the employment agreement.

3. Offenders who are participating in a work release program shall be paid by the private business that employs them, in accordance with the terms outlined in the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1927 (September 2008), amended LR 36:

Family Impact Statement

Amendment to the current Rule has no know 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 January 8, 2010.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Offender Incentive Pay and
Other Wage Compensation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Prison Enterprises currently pays approximately \$1.3 million per year in incentive pay to offenders for work performed while incarcerated. Based on implementation of the amendments to this rule and the associated hourly rate changes, an estimated increase of 2 percent will be incurred in year 1 or \$25,978, 6.4 percent in year 2 or \$83,386, and 1.7 percent in year 3 or \$22,773 for a cumulative 3 year increase of \$132,137.

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)

The costs of each directly affected person or non-governmental group due to changes in the hourly rates offenders are eligible to earn cannot be determined. The additional costs in aggregate are reflected in Section I above.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Thomas C. Bickham, III
Undersecretary
0912#045

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Restoration of Good Time (LAC 22:I.319)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of LAC 22:I.319, "Restoration of Good Time."

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§319. Restoration of Good Time

A. Purpose. To establish the secretary's policy regarding the restoration of previously forfeited good time for disciplinary violations for offenders who have demonstrated satisfactory progress in faithfully observing the Disciplinary Rules and Procedures for Adult Offenders.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Regional Wardens, Wardens, the Sheriff or Administrator of local jail facilities and the Director of the Office of Information Services. 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 strengthen the department's commitment to an offender's successful reentry efforts by implementing positive rewards for offenders who have demonstrated improved institutional behavior.

D. Definition

1. *Regional Facility*—a state correctional facility located within one of nine regions of the state, as designated by the secretary. Each warden of a regional facility shall be responsible for certain requirements pursuant to the provisions of this regulation for offenders housed in their state correctional facility, as well as DPS&C offenders housed in local jail facilities within their respective region.

E. General Procedures

1. As of the effective date of this regulation, offenders who have previously forfeited good time as a result of disciplinary action and have remained disciplinary report free for a consecutive 24-month period may be eligible for restoration of the previously forfeited good time. Restoration of previously forfeited good time shall not exceed 540 days during an offender's instant term of incarceration.

2. Forfeiture of good time resulting from any Schedule A or Schedule B rule violation may be restored in accordance with the provisions of this regulation, with the exception of Rule #8, Escape or Attempt to Escape, or any rule violation that was a result of battery of an employee, visitor, guest or their families. All Rule #21 offenses shall be carefully reviewed for consideration of restoration of good time.

3. For offenders released on parole or good time parole supervision and returned to custody as a parole violator, the availability of forfeited good time is limited to the amount earned during the instant term of incarceration.

Time spent in custody prior to release on parole or good time parole supervision shall not apply toward the 24 consecutive month period required for review.

4. Even though an offender may receive approval for restoration of goodtime, the department shall retain authority to void or adjust the amount of the restoration at any time during the offender's incarceration if a review of the record reveals the restoration calculation was erroneous.

5. Under no circumstances shall an offender's restoration of previously forfeited good time under the provisions of this regulation cause him to be considered overdue for release at the time of approval.

F. Review and Outcome Process

1. Offenders housed in state correctional facilities who have not been found guilty of a disciplinary violation for a consecutive 24 month period, except as noted in Paragraph E.2., shall complete an Application For Restoration of Good Time (Form B-04-006-A) and submit the application to the institution's records office.

2. The appropriate regional facility shall provide an Application for Restoration of Good Time (Form B-04-006-A) to the sheriff or administrator of each local jail facility within their region. Offenders housed in local jail facilities who meet the eligibility requirements stated in Paragraph F.1 shall complete the application and submit it to the sheriff or administrator, who shall forward all completed applications to the records office of the appropriate regional facility within which the local jail facility is located.

3. The records supervisor/manager or designee shall review the application and disciplinary record to verify the offender's eligibility for restoration of forfeited good time. If the offender is eligible for restoration of forfeited good time, the records supervisor/manager shall indicate the number of days eligible for restoration on the Application for Restoration of Good Time (Form B-04-06-A.)

4. The warden shall develop a screening and review process for consideration of restoration of forfeited good time. This process shall include a recommendation for the number of days to be restored. The number of days to be restored shall include consideration of participation or failure to participate in rehabilitative programs. Upon completion, the reviewer shall forward the offender's application to the warden of the state facility or the warden of the appropriate regional facility for review and consideration.

5. If the offender is ineligible for restoration of forfeited good time, the records supervisor/manager shall indicate the reason for ineligibility on the application form and return a copy to the offender. The original application shall be filed in the offender's master prison record.

6. The warden of the state facility or the warden of the regional facility shall review the offender's application and verification of eligibility and shall approve or disapprove the recommendation.

7. If approved, the records supervisor/manager or designee shall restore the amount of good time approved by the warden. Only that amount which was actually forfeited can be restored. A copy of the approved application, as well as the revised master prison record shall be sent to the offender. For offenders housed in local jail facilities, a copy of the approved application and the revised master prison record shall be returned to the sheriff or administrator of the

local jail facility who shall notify the offender. The originals shall be filed in the offender's master prison record.

8. If denied, the warden of the state facility shall provide a written reason on the Application for Restoration of Good Time (Form B-04-006-A) and provide a copy to the offender. For offenders housed in local jail facilities, a copy of the application (including the justification for denial) shall be returned to the sheriff or administrator of the local jail facility who shall notify the offender. The original application shall be filed in the offender's master prison record.

9. If an offender's request for restoration of good time is denied or good time is partially restored, the offender may reapply for reconsideration in six months from the date of the original application.

10. The warden's decision regarding restoration of good time is final and shall not be appealed through the administrative remedy procedure.

11. In addition to the current CAJUN procedures in place regarding the maintenance of the amount of good time forfeited per offender, the Office of Information Services shall implement a program to also track the restoration of good time pursuant to this regulation and Act No. 17 of the 2009 Regular Session. The amount of good time restored shall be displayed on the CAJUN master prison record screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 36:

Family Impact Statement

Promulgation of this 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 January 8, 2010.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Restoration of Good Time

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Of the 19,300 offenders that have been in the department's custody for 24 months or more, 4,973 offenders lost good time, or 3,547 in state institutions with an average of 211 days lost per offender, and 1,426 in local facilities with an average of 131 days lost per offender. The potential cost savings associated with restoration of good time is indeterminable as it is not possible to know which offenders will meet the criteria of being report free for 24 consecutive months. Assuming 10 percent of offenders may meet the criteria, there could be a cost savings of \$5,222,867 at the state institution level (355 offenders times 270 days (half of maximum 540 days due to 50 percent offset for good time) times \$54.49 state institution average cost per offender per day) and \$941,698 at the local level (143 offenders times 270 days including offset for good time times \$24.39 local cost per offender per day). The

potential cost savings may be offset with the back filling of vacated beds. The turnover of beds will increase, thereby providing additional bed space to meet demand.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be an effect on state revenue collections for parole fees, however, the impact is indeterminable as it is not possible to know which offenders will meet the criteria of being report free for 24 consecutive months and thus being released on parole by the parole board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There would be costs to affected persons for parole fees and no costs to non-governmental groups; however, there would be economic benefits to directly affected persons provided they become an employed taxpayer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be an effect on competition and employment when affected persons apply for jobs and are employed.

Thomas C. Bickham, III
Undersecretary
0912#044

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Sex Offender Assessment Panels (LAC 22:I.109)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of LAC 22:I.109, "Louisiana Sex Offender Assessment Panels."

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§109. Louisiana Sex Offender Assessment Panels

A. Purpose. To facilitate the identification and management of those offenders who may be sexually violent predators and/or child sexual predators and to develop written policy and procedures for the Sex Offender Assessment Panels consistent with statutory requirements, public safety and administrative efficiency. The provisions of this regulation shall apply to all sex offenders and child predators in accordance with Act No. 205 of the 2009 Regular Session who are released by any means from the department's custody on or after August 15, 2006.

B. Applicability. Deputy secretary, undersecretary, chief of operations, assistant secretary, regional wardens, wardens, Director of Probation and Parole, Chairman of the Board of Pardons, Chairman of the Board of Parole and the sheriff or administrator of local jail facilities. 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 identify those offenders who meet the statutory requirements of a sexually violent predator and/or child sexual predator through the Sex

Offender Assessment Panel review process. The panels shall evaluate all sex offenders and child predators in accordance with the provisions of this regulation prior to their release from incarceration.

D. Definitions

Child Predator—a person who has been convicted of a criminal offense against a victim who is a minor as defined in R.S. 15:541(25) (see Attachment A).

Child Sexual Predator—a judicial determination, as provided for in La. R.S. 15:560 et seq., for an offender who has been convicted of an offense as defined in R.S. 15:541(24) and/or (25) (see Attachments A and B) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

Court—the judicial district court where the offender was sentenced.

Judicial Determination—a decision by the court that an offender is or continues to be a child sexual predator or a sexually violent predator.

Mental Abnormality—a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in La. R.S. 14:10 or 14 in reference to criminal intent or insanity.

Regional Facility—a state correctional facility located within one of nine regions of the state, as designated by the secretary. Each regional facility shall be responsible for certain requirements pursuant to the provisions of this regulation for offenders housed in their state correctional facility, as well as DPSC offenders housed in local jails within their respective region.

Sex Offender—a person who has been convicted of a criminal offense as defined in R.S. 15:541(24) (see Attachment B).

Sexually Violent Predator—a judicial determination, as provided for in R.S. 15:560 et seq., for an offender who has been convicted of an offense as defined in R.S. 15:541(24) and/or (25) (see Attachments A and B) and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses.

E. Panel Composition and Guidelines

1. A total of three Sex Offender Assessment Panels are hereby created in the north, central and south regions of the state. An executive management officer of the secretary's office shall serve as the administrator for all panels. Three executive staff officers, employees of the department (one for each region: north, central, and south), shall serve as coordinator for an assigned panel. Each panel shall consist of three members as follows.

a. One member shall be the secretary or designee who shall be chairman.

b. One member shall be a psychologist licensed by the Louisiana State Board of Examiners of Psychologists who has been engaged in the practice of clinical or

counseling psychology for not less than three consecutive years who is employed by the Department of Public Safety and Corrections or the Department of Health and Hospitals or a physician in the employ of the Department of Public Safety and Corrections or the Department of Health and Hospitals or under contract to the Department of Public Safety and Corrections whose credentials and experience are compatible with the evaluation of the potential threat to public safety that may be posed by a child sexual predator or a sexually violent predator.

Note: If the psychologist or physician is an employee of the Department of Health and Hospitals, the secretary of both departments shall consult and jointly select the member.

c. The warden (or deputy) at the state facility where the offender is housed or the warden (or deputy) of the regional facility for offenders housed in local jail facilities.

Note: A probation and parole officer with a minimum of ten years experience or a retired law enforcement officer with at least five years of experience in investigating sex offenses may also serve as the third panel member at the discretion of the secretary.

2. All official actions of a panel shall require an affirmative vote of a majority of the members of the panel.

3. Each panel shall meet at least once quarterly and upon the call of the chairman or upon the request of any two members.

4. Notwithstanding the provisions of R.S. 15:574.12, each panel shall review presentence reports, prison records, medical and psychological records, information and data gathered by the staffs of the Board of Pardons, the Board of Parole, the Division of Probation and Parole, the district attorney from the judicial district which prosecuted the case and information provided by or obtained from the victim(s) and the offender (which may include a personal interview), and any other information obtained by the boards or the department.

5. Panels shall have the duty to evaluate every offender who has been convicted of a sex offense as defined in R.S. 15:541(24) (see Attachment B) and child predator as defined in R.S. 15:541(25) (see Attachment A) and who is to be released from the custody of the department or a local jail facility, by any means, to determine if the offender may be a child sexual predator and/or a sexually violent predator in accordance with the provisions of R.S. 15:560 et seq.

F. Procedures

1. Each panel shall evaluate every sex offender and child predator as defined by this regulation at least six months prior to the release date of the offender.

2. A panel's evaluation shall primarily be conducted by file review of all relevant information available to the department, including the information specified in Paragraph E.4. Information and/or recommendations received from individuals other than those employed by the department or the local jail facility where the offender is housed shall be made in writing. Interview, telephone or video conferencing may be conducted at the discretion of the panel.

3. Panel decisions shall be recorded by individual vote. Official results shall be maintained by the respective panel coordinator. Each panel coordinator is responsible for maintaining a separate file on each offender reviewed by the panel.

4. If a panel affirmatively votes that an offender is a sexually violent predator and/or a child sexual predator, the panel shall forward the recommendation to the sentencing

court. The recommendation shall include the factual basis upon which the recommendation was based and shall include a copy of all information that was available to the panel during the evaluation process.

5. Upon receiving a recommendation from a panel, the sentencing court will review the recommendation that an offender is a sexually violent predator and/or a child predator.

6. If, after a contradictory hearing the sentencing court finds by clear and convincing evidence and renders a judicial determination that the offender is a sexually violent predator or a child sexual predator, the offender shall be ordered to comply with the following:

a. Supervision by the Division of Probation and Parole, upon release from incarceration, for the duration of his natural life;

b. Registration as a sex offender in accordance with the provisions of R.S. 15:542 et seq. for the duration of his natural life;

c. Provide community notification in accordance with the provisions of R.S. 15:542 et seq. for the duration of his natural life;

d. Submit to electronic monitoring pursuant to the provisions of R.S. 15:560.4 for the duration of his natural life; and

e. Abide by the supervised release conditions enumerated in R.S. 15:560.3.A(4) through (14), which may include treatment for persons convicted of sex offenses when deemed appropriate or ordered to do so by the offender's probation and parole officer as stated in R.S. 15:560.3.A(10).

7. If a judicial determination is rendered that an offender is a sexually violent predator or a child sexual predator, the panel administrator shall notify the warden of the state facility where the offender is housed or the warden of the regional facility for offenders housed in local jail facilities.

8. Upon receipt of notification from the panel administrator, the warden of the state facility where the offender is housed or the warden of the regional facility for offenders housed in local jail facilities shall ensure that the sex offender pre-registration process is initiated.

G. Electronic Monitoring of Child Sexual Predators or Sexually Violent Predators

1. Each offender determined by the court to be a child sexual predator and/or a sexually violent predator pursuant to the provisions of this regulation shall be required to be electronically monitored by the Division of Probation and Parole in a fashion that provides for electronic location tracking.

2. Unless it is determined that an offender is unable to pay all or any portion of the costs for electronic monitoring, each offender to be electronically monitored shall pay the cost of such monitoring.

3. The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

4. Only in the case that an offender determined to be a child sexual predator and/or a sexual violent predator is unable to pay his own electronic monitoring costs, and there

are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

H. Notification of Release. The department shall notify the Office of State Police when a child sexual predator and/or sexually violent predator has been released from imprisonment. The Office of State Police shall then send out an alert by means of a predator alert system to local law enforcement officials to inform them of such releases.

I. Appeal of Decision

1. An offender determined to be a sexually violent predator and/or a child sexual predator may petition the court for a review of this determination not more than once every three years, provided that the sex offender is currently receiving treatment from a court or treatment provider approved by the department, and good cause for such reconsideration is shown by the offender.

2. If the court grants the petition for review, the court shall refer the case to the sex offender assessment panel for review in accordance with the provisions of Subsection E., and a recommendation to the court for a judicial determination as to whether or not the offender continues to be a sexually violent predator and/or a child sexual predator. After receiving the recommendation of the panel, the court shall schedule a hearing and provide notice of the hearing in accordance with the provisions of Paragraph F.4.

J. Rights of Action. Any employee who participates in the Louisiana Sex Offender Assessment Panels review process pursuant to this regulation shall be immune from civil or criminal liability when the actions taken are in good faith in a reasonable manner in accordance with generally accepted medical or other professional practices.

K. Attachments A and B

Attachment A List of Child Predator Offenses La. R.S. 15:541 (25) (Criminal offense against a victim who is a minor under the age of 18 when the defendant is not the parent of the victim)	
14:43.2	Second Degree Sexual Battery
14:43.3	Oral Sexual Battery
14:43.5	Intentional Exposure of Aids Virus
14:78	Incest
14:78.1	Aggravated Incest
14:80	Felony Carnal Knowledge of a Juvenile
14:81	Indecent Behavior with Juveniles
14:81.1	Pornography Involving Juveniles
14:81.2	Molestation of a Juvenile
14:81.3	Computer Aided Solicitation of a Juvenile
14:81.4	Prohibited Sexual Conduct Between an Educator and Student
14:89	Crime Against Nature
14:89.1	Aggravated Crime Against Nature
14:92(A)(7)	Contributing to the Delinquency of Juveniles (Perform any sexually immoral act)
14:93.5	Sexual Battery of the Infirm
14:106(A)(5)	Obscenity by Solicitation (of a person under the age of 17)
14:283	Video Voyeurism
14:283.1	Voyeurism, Second or Subsequent Offense
Note: A conviction for the perpetration, attempted perpetration or conspiracy to commit the offenses stated above shall be considered a sex offense.	

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1631 (August 2008), amended LR 36:

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 January 8, 2010.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sex Offender Assessment Panels**

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. This is merely a technical adjustment to an existing regulation.

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 government units as a result of this technical amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to directly affected persons or non-governmental groups.

Attachment A List of Child Predator Offenses La. R.S. 15:541 (25) (Criminal offense against a victim who is a minor under the age of 18 when the defendant is not the parent of the victim)	
14:44	Aggravated Kidnapping
14:44.1	Second Degree Kidnapping
14:44.2	Aggravated Kidnapping of a Child
14:45	Simple Kidnapping
14:45.1	Interference with the Custody of a Child
14:46	False Imprisonment
14:46.1	False Imprisonment; Offender Armed With A Dangerous Weapon
14:46.2	Human Trafficking
14:82.1	Prostitution; Persons Under Seventeen
14:84(1)(3)(5)(6)	Pandering
14:86	Enticing Persons into Prostitution
23:251(A)(4)	Minors under 16, prohibits employment for exhibition use
Note: A conviction for the perpetration, attempted perpetration or conspiracy to commit the offenses stated above shall be considered a child predator.	
Attachment B List of Sex Offenses La. R.S. 15:541 (24)	
14:41	Rape
14:42	Aggravated Rape
14:42.1	Forcible Rape
14:43	Simple Rape
14:43.1	Sexual Battery

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated effect on competition and employment associated with this rule.

Thomas C. Bickham, III
Undersecretary
0912#043

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

**Motorcycle Safety Training Program
(LAC 55:I.Chapter 31)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:402.3D, gives notice of its intent to promulgate new rules providing for the Motorcycle Safety, Awareness, and Operator Training Program which program was transferred from the Department of Education to the Department of Public Safety and Corrections.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 31. Motorcycle Safety Training Program

§3101. Purpose

A. The purpose of this manual is to provide for the promulgation of regulations and procedures for the department's Motorcycle Safety, Awareness and Operator Training Program. This manual is designed for use by program motorcycle safety instructors to facilitate the implementation of department motorcycle operator training courses or other program activities. It shall be incumbent upon all program personnel to be knowledgeable of and to abide by all of the current program regulations and procedures. The regulations and procedures contained herein supersede those in effect prior to the printing of the 2009 edition.

B. This manual is subject to revision; it is the responsibility of all program personnel to be abreast of the latest revisions through required attendance at all department scheduled motorcycle safety instructor update workshops and through the complete reading of the current manual.

C. The purpose of the program shall be to:

1. educate motorcycle operators in the safe operation of motorcycles;
2. provide for the certification of motorcycle operator education and training instructors and the training of law enforcement personnel in the proper operation of motorcycles;
3. develop campaigns to promote participation in the program, motorcycle safety, and motorcycle awareness.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3103. Background

A. Efforts to promote motorized two-wheel vehicle safety in Louisiana began in the mid 1950's with the development and statewide implementation of a Motor

Scooter Operator Training Course. In 1974, the Department of Education established and implemented a motorcycle safety and rider education program to address the high incidence of in-state motorcycle related traffic accidents. In 1987 through legislative action, the program title was changed to Motorcycle Safety, Awareness and Operator Training Program. Today the program is administered and implemented through the Department of Public Safety and Corrections, Office of State Police Transportation and Environmental Safety Section.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3105. Legal Authority

A. Act 138 of the 2009 Regular Legislative Session authorized the transfer of the Motorcycle Safety, Awareness and Operator Training Program to the Department of Public Safety and Corrections, effective September 1, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3107. Definition of Program Terms

Advanced Motorcycle Operator Training Course—a course designed for the enhanced motorcycle operation training of individuals who are licensed to operate such vehicles.

Aide—a volunteer, no less than the age of 16 who has been given written permission by the program coordinator to perform certain tasks associated with the conduct of a course.

Basic Motorcycle Operator Training Course—an entry-level course designed for the training of individuals in motorcycle operation.

Course—a DPSC approved motorcycle operator training course.

Certification—motorcycle safety instructor certification.

Course Site—location where the course classroom sessions begin.

Curriculum Guide—a DPSC approved Motorcycle Operator Training Course Instructor Guide.

Department—Louisiana Department of Public Safety and Corrections (DPS and C).

Department Motorcycle—a motorcycle owned by the department.

Fiscal Year—the 12-month period of July 1 to June 30.

Fund—Motorcycle Safety, Awareness and Operator Training Program Fund.

Instructor—motorcycle safety instructor.

Loan-Trainer Motorcycle—a motorcycle officially on loan through a written agreement to the department for the purpose of motorcycle operator training.

Manual—Motorcycle Safety, Awareness and Operator Training Program Regulations and Procedures Manual.

Mobile Training Unit—a department trailer or vehicle designed and used either for transporting program equipment owned or on loan to the department.

Motorcycle—every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motorcycle Operator Training Course—any department approved course of instruction in motorcycle operation that meets the appropriate minimum standards established under these regulations.

Motorcycle Safety Assistant Instructor—a motorcycle safety instructor who serves as an assistant to a motorcycle safety lead instructor in the implementation of a particular motorcycle operator training course.

Motorcycle Safety Instructor—an individual meeting the prerequisites herein and employed by the department to provide instructional services in motorcycle operator training courses.

Motorcycle Safety Instructor Candidate—an individual who is in the department-approved process of fulfilling requirements as per LAC 55:1.3109.A to achieve the status of motorcycle safety instructor.

Motorcycle Safety Instructor Preparation Course—a department recognized course that meets the related standards herein and that is designed for the certification of an individual in motorcycle operator training and education

Motorcycle Safety Lead Instructor—a motorcycle safety instructor that has applied to the program coordinator for approval to conduct certain motorcycle operator training course(s) as per these rules and regulations and who upon receipt of such approval serves as the top level instructor and/or administrator for those courses.

Motorcycle Safety Master Instructor—an individual that meets the related prerequisites established under these regulations and who may assume certain administrative and teaching duties in lieu of the program coordinator only at activities specified in writing by same.

Operator Student—an individual enrolled in a course and who has been approved by the instructor to operate a trainer motorcycle during the conduct of that course.

Participation Fee—a fee of \$25 that shall be assessed to a motorcycle operator training course enrollee with the exception of a commissioned law enforcement officer employed as such within the state.

Passenger—an individual enrolled and participating in an advanced course as the non-operator of a motorcycle during any of the course range exercises; this person shall ride upon a trainer motorcycle during the course driving range exercises as a passenger only.

Practical Instruction—hands-on motorcycle operation instruction administered only in an off-road driving range environment.

Program—Louisiana Department of Public Safety and Corrections Motorcycle Safety, Awareness and Operator Training Program.

Program Coordinator—the department employee appointed to develop, administer, implement, and supervise the Motorcycle Safety, Awareness and Operator Training Program.

Range—motorcycle operator training course driving range.

State—Louisiana.

Student—any participant, excluding instructor(s), or aide(s) in a motorcycle operator training course that has paid or is exempt by law.

Supplemental Hours—approved additional hours allowed for services performed for program equipment maintenance,

course preparation and student enrollment and related activities.

Training Site—any department approved location where course classroom and/or driving range sessions are conducted for the purpose of motorcycle operator training.

Trainer Motorcycle—any motorcycle used in a motorcycle operator-training course.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3109. Motorcycle Safety Instructor Status

A. Motorcycle Safety Instructor Status Prerequisites. The prospective instructor shall:

1. be at least 21 years of age;
2. have earned a high school certificate of graduation or department recognized equivalent;
3. have a valid vehicle Louisiana driver's license with a cycle endorsement thereon;
4. have not been convicted of a felony, nor have pleaded "no contest" to the same in the immediate three-year period prior to application for instructor status;
5. have a satisfactory driving record for three consecutive years immediately prior to application for instructor status. Such record requires that the candidate to not have been convicted of more than three moving violations or not having had his or her vehicle operator's license suspended or revoked during this period;
6. be in good physical condition and have the ability to perform all of the required duties of a motorcycle safety instructor;
7. have satisfactorily completed a Motorcycle Safety Instructor Preparation Course approved by the program coordinator;
8. be the owner and/or frequent operator of a motorcycle currently licensed, insured, and state safety-inspected;
9. have passed all required program examinations.

B. Motorcycle safety master instructor status prerequisites:

1. be at least 21 years of age;
2. have six or more consecutive years of experience as a Motorcycle Safety Instructor and have satisfactorily taught, as a lead instructor, more than 36 department Basic Motorcycle Operator Training Courses during a period of at least six years immediately prior to application for such status;
3. have met all prerequisites contained in this Chapter;
4. have satisfactorily completed any additional training required by the program coordinator for the attainment of such status.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3111. Application for Department Motorcycle Safety Instructor Status

A. Application Procedure

1. No applicant for motorcycle safety instructor status shall be considered for such by the department until all of the requirements established in this Chapter are met by the applicant.

2. In addition to all other requirements established in this Chapter, an applicant must:

a. instruct at least four hours of classroom sessions and four hours of range sessions of a specific basic motorcycle operator training course under the direct supervision of a motorcycle safety master instructor and at a teaching proficiency level acceptable to the master instructor and program coordinator, prior to the application for employment as a motorcycle safety instructor. The date and time shall be assigned by the program coordinator. The potential motorcycle safety instructor must apply via correspondence to the program coordinator for approval to perform these instructional duties. Such duties shall be performed only after the applicant has received written approval from the program coordinator;

b. submit evidence of satisfactory completion of an approved motorcycle safety instructor preparation course;

c. complete and submit all required pre-employment forms;

d. pass all department required motorcycle safety instructor applicant examinations and interviews.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3113. Recognition and Maintenance of Motorcycle Safety Instructor Status

A. Recognition. If an applicant has met all of the requirements established by this Chapter, the department may employ the applicant as a motorcycle safety instructor.

B. Maintenance. To retain such status, a motorcycle safety instructor shall:

1. maintain a satisfactory driving record;

2. successfully complete all required workshops and meetings related to the program;

3. maintain a teaching proficiency acceptable by the program coordinator;

4. complete and submit all program surveys and other forms as required;

5. comply with all of the appropriate rules, regulations, procedures, and guidelines prescribed by the department for the program; and

6. maintain certificates as required.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3115. Revocation of Motorcycle Safety Instructor Status

A. Reasons for Revocation. The status of an instructor may be revoked for any one of the following:

1. suspension or revocation of Louisiana driver's license;

2. failure to comply with all program regulations, procedures, and guidelines;

3. acting in a manner that in the program coordinator's view is detrimental to the program, the safety of the instructor or the safety of any student participating in program activities;

4. falsification of any department/program applications, forms, records, instructional hours, vouchers, and surveys;

5. conviction of a felony or DUI;

6. theft, attempted theft or misuse of program funds, equipment, materials or supplies;

7. failure to successfully complete training activities as required by the department;

8. failure to report and submit (within five working days) to the program coordinator any funds obtained through the sale of program materials, supplies, equipment, or promotional items.

B. Revocation Procedure. An instructor not in compliance with program regulations and procedures as stated herein may be notified by the program coordinator or the department's personnel office via correspondence that his/her contract will be terminated for such deficiencies.

C. Consequences of Revocation

1. An individual whose motorcycle safety instructor status has been revoked by the department shall not be:

a. eligible to participate in the conduct of department motorcycle operator training courses;

b. associated with the operation of a department motorcycle operator training course or course site;

c. granted motorcycle safety instructor status for a minimum of two years from the date of revocation; he or she shall be required to complete again all of the requirements prescribed by the department for motorcycle safety instructor status;

d. allowed to retain any program funds, supplies, materials or equipment. Such funds or items in the instructor's possession shall be returned to the program coordinator within two weeks of status revocation. Failure to return such funds, supplies, materials or equipment as prescribed may result in legal action and/or prosecution by the appropriate state and/or local authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3117. Motorcycle Operator Training Course Standards

A. Motorcycle Safety Instructor Preparation Course Standards

1. The motorcycle safety instructor preparation course shall contain a minimum of 50 hours of department-recognized instruction of which a minimum of 20 hours shall be practical motorcycle operation and teaching experiences.

2. The motorcycle safety instructor preparation course shall be conducted by a motorcycle safety master instructor or other department approved instructor.

B. Supervision and Inspection

1. All program personnel, activities and training sites are subject to supervision or inspection by the program manager, program coordinator or a designated master motorcycle safety instructor. Previously approved personnel, activities or training sites found to be in non-compliance with department regulations upon inspection or supervision may be removed, canceled or shut down at the time of inspection. As needed, a canceled activity may be completed by the inspector or designated program personnel.

C. Basic Motorcycle Operator Training Course

1. The basic course shall contain a minimum of 5 hours of classroom instruction and 10 hours of practical instruction per student. The state rules of the road and the state laws relating to motorcycles and their operation shall be included in the course curriculum.

2. The basic course shall include department approved written and practical student examinations, the grades of which shall not be revealed to students until after all course instruction has been administered.

3. Only a student with difficulty in reading may be given an oral examination in lieu of the requisite written examination. The oral examination shall be administered by a course instructor and read verbatim by that instructor to the student. The student shall supply the answers without assistance from the instructor.

D. Advanced Motorcycle Operator Training Course Standards

1. The advanced course shall contain a minimum 5 hours of discussion and practical instruction per student. The advanced course shall include department practical student examinations. Individuals may enroll in this particular type course with a passenger.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3119. Approval to Establish and Conduct a Department Motorcycle Operator Training Course

A. Application for Course Approval

1. A motorcycle safety instructor shall apply for written approval to establish and conduct any proposed program motorcycle operator training course or activity. It shall be the responsibility of the motorcycle safety instructor to initiate and fulfill the provisions of instructional services as required by this Chapter. Motorcycle safety instructors shall complete and submit to the program coordinator an Application for Approval to Conduct Motorcycle Operator Training Course(s) (MS1) on a copy of the original form provided herein no less than 20 working days prior to the earliest proposed course listed on the completed application. The individual submitting the application shall be named the lead motorcycle safety instructor for all courses listed and approved.

2. No motorcycle safety instructor shall either solicit nor collect fees for or conduct any proposed program motorcycle operator training course or activity until written approval to do so is received by that instructor from the program coordinator. Such written approval, if granted, shall be provided to the instructor on a copy of the completed MS1 Form submitted by the instructor. Fees collected for unapproved courses shall be returned immediately to the individual(s) submitting them.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3121. Motorcycle Operator Training Course Enrollment and Participation Policies

A. Minimum Age and Physical Requirements

1. Participation in the program shall be open to any person who meets the qualifications of the Department of Public Safety and Corrections to apply for a motorcycle operator endorsement.

2. An individual no less than 16 years of age may enroll and participate in a course if this person provides the course instructor with documentation of having completed a Department of Education or Department of Public Safety

and Corrections approved driver education course. Such documentation shall be in the form of the individual's school transcript or a Department of Education Driver Education Course Application and School Instruction Permit (DE 1821) or a commercial school instruction permit.

3. Individuals unable to provide such documentation shall be a minimum of 17 years of age to enroll or participate in any department motorcycle operator-training course.

B. Parental Consent to Enroll

1. No individual under 18 years of age shall be permitted to participate in any program motorcycle operator-training course without having previously had a parent or legal guardian read and sign the Student Registration and Release Form (MS3) in the presence of the course instructor. If the prospective course participant is under 18 years of age and his/her parent or guardian cannot read and sign the form (MS3) in the presence of the course instructor, the form (MS3) must be signed by the parent or guardian, notarized and given to the instructor before that prospective student can participate in any program motorcycle operator training course. The course instructor must also sign this form to verify that the form has been completed correctly.

C. License Requirements

1. Any individual not properly licensed to operate a motorcycle shall not be granted permission to enroll or participate in an Advanced Motorcycle Operator Training Course. Such licensure is not required for participation in a basic course unless the student is providing a motorcycle for use in the course.

D. Use of Participant Owned Motorcycle

1. A student providing a motorcycle for use in any course must use a personally owned motorcycle or a motorcycle borrowed from an immediate family member. The student and/or the motorcycle used must meet the following criteria:

- a. licensed according to state law;
- b. insured according to state law;
- c. in compliance with all appropriate state rules and regulations concerning motorcycles and their operation;
- d. have an engine displacement not to exceed 550cc if used in a basic motorcycle operator training course.

2. Course participants shall provide to the course instructor all appropriate and necessary documents to verify the aforementioned requirements. The course instructor shall request, inspect, and verify such documentation.

E. Mandatory Student Registration and Release Form Completion

1. No individual may participate either as a student or as an aide in any department motorcycle operator-training course without first having a program Student Registration and Release Form (MS3) completed and signed by that individual or his or her guardian as per manual instructions.

F. Public Enrollment and Participation

1. All program courses shall be open for enrollment and participation by any member of the public that qualifies under the rules and regulations of this manual.

G. Course Participation Fee

1. A participation fee of \$25 shall be charged to a course operator student. An individual enrolling and participating as a passenger in an advanced course shall also pay a participation fee of \$25. An individual employed full

time by a state or an in-state local law enforcement agency shall be exempt from paying the participation fee.

2. All course related fees must be made in the form of a money order or bank certified check only.

H. Course Material and Motorcycle Reservation Fee

1. A motorcycle reservation fee of \$75 shall be charged to any basic course student who does not wish to supply a trainer motorcycle, meeting the requirements as set forth in this Chapter. A course material fee of one-hundred and \$25 dollars shall be charged to individuals enrolled in a motorcycle safety instructor preparation course.

I. Collection and Management of Program Course Fees

1. Student money orders and/or bank certified checks shall be made payable to the Department of Public Safety and Corrections.

2. Cash and personal checks are not to be collected as program fees.

3. No course participation fee or motorcycle reservation fee shall be collected for a course not approved in writing by the program coordinator.

4. Student participation fees shall only be collected at the beginning of a particular course in which a student has preregistered and such fees shall be kept in a safe and secure location by the instructor.

J. Attendance Requirements

1. No student shall be allowed to successfully complete a motorcycle operator training course without having attended all of the classroom and practical session as prescribed by the approved curriculum.

2. No student shall be allowed to operate a training motorcycle in the practical sessions without having first completed the requisite classroom session(s) as prescribed by the approved curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3123. Wage Policy

A. Qualifications for Payment of Assistant Instructor

1. Assistant instructors shall be paid for range instruction when there are 9 to 12 operator students participating in exercises on the same range where that assistant instructor has been assigned. An assistant instructor utilized in an advanced course where more than three passenger participants successfully complete that particular course may claim up to one additional hour of instructional service.

2. Assistant instructors may also be paid for classroom instruction if so assigned by the lead instructor within the total course instructional hours allowed.

B. Motorcycle Safety Instructor Candidate Services

1. A motorcycle safety instructor candidate shall not qualify to be paid wages for any services performed while qualifying for or attempting to obtain motorcycle safety instructor status.

C. Maximum Instructional Hours Allowed Per Course

1. Motorcycle safety instructor wages shall be calculated on an hourly basis. Wages shall be paid only for instruction and supplemental hours provided for courses or activities pre-approved in writing by the program coordinator. Additional hours may be claimed due to

justifiable extenuating circumstances as reported to and approved by the program coordinator due to student emergency or extreme weather delays during the conduct of the course.

2. Instructor wages are paid for services rendered in the implementation of the following three types of motorcycle operator training courses:

- a. basic motorcycle operator training course;
- b. advanced motorcycle operator training course;
- c. instructor preparation course.

i. Table 1 lists the maximum number of hours that may be claimed by the instructor(s) respective to the number of operator students participating in a particular basic motorcycle operator training course. In addition to the instructional hours allowed per course, the course lead motorcycle safety instructor may claim three to four supplemental hours per basic course for services performed for training site preparation and student registration supplies as per the following table.

Table 1. Basic Motorcycle Operator Training Course

Students on Range	Classroom: Total Hours	Range: Instructor Hours	Supplemental Hours	Assistant Instructor Hours
6-8	5.5	10	3	N/A
9-12 (w/AI)	5.5	10	3	10
12-16 (w/o AI)	5.5	20	4	N/A
17-24 (w/AI)	5.5	20	4	20

ii. Table 2 lists the maximum number of hours that may be claimed by the instructor(s) respective to the number operator students participating in a particular advanced motorcycle operator training course. A lead instructor and assistant instructor may each claim one additional hour of instruction service for an advanced course in which more than three passenger participants successfully complete that particular course. In addition to the instructional hours allowed per course, the course lead motorcycle safety instructor may claim 2.5 to 3 supplemental hours per basic course for services performed for training site preparation and student registration supplies as per the following table.

Table 2. Advanced Motorcycle Operator Training Course

Students on Range	Classroom: Total Hours	Range: Instructor Hours	Supplemental Hours	Assistant Instructor Hours
6-8	NA	5	2.5	N/A
9-12 (w/AI)	NA	5	2.5	5
12-16 (w/o AI)	NA	10	3	N/A
18-24 (w/AI)	NA	10	3	10

D. Minimum Students Needed to Claim Wages. Unless the course lead instructor is given a written exemption by the program coordinator, there shall be a minimum of six students participating during the first 90 minutes of

classroom sessions in order for a lead instructor to claim wages for instructional and supplemental hours rendered in any particular course.

E. Submission of Completed Course Forms

1. Instructional personnel shall submit the following completed forms related to a particular course in original versions no more than four working days after the completion of the course:

- a. Student Information and Performance List (Form MS2);
- b. Student Registration and Release (Form MS3);
- c. Instructor Performance Report (Form MS4);
- d. Unsatisfactory Performance and Evaluation Report (Form MS5) (if applicable);
- e. Accident/Injury Report(s) (MS6) (if applicable).

2. Completed program reports and forms should be delivered or submitted via certified mail to the following address: Department of Public Safety and Corrections, Transportation and Environmental Safety Section, 7919 Independence Blvd., Box 832, Baton Rouge, LA, 70806, Telephone (225) 925-6113.

F. Submission of Course Fees

1. Only lead motorcycle safety instructors shall collect course fees. All collected course fees shall be submitted to the program coordinator with any applicable course forms subsequent to the completion of the course or other approved departmental activity.

G. Payroll Member: A Requirement to Instruct

1. An individual not on the department payroll shall not instruct or assist in the conduct of any program course or activity unless written authorization is provided to the lead instructor for the proposed course or activity by the program coordinator for the non-employee to perform such services.

H. Restriction: Range Sections Per Course

1. No motorcycle operator training course may contain more than two range sections to accommodate participating students when more than one instructor is utilized to conduct all or any part of that course.

J. Reporting of Instructional Hours

1. A motorcycle safety instructor claiming wages shall orally report or electronically mail (email) to the appointed time and attendance staff member within the number of hours performed per date by that instructor during a particular department motorcycle operator training course or other approved activity. Such information shall be reported before 9:30 a.m. the Monday following such instruction. If the department is closed on a Monday, the required information shall be reported by 9:30 a.m. the next working day.

2. Failure to comply with all appropriate manual regulations and procedures or to submit or report the information as required in this Chapter may result in dismissal as a department employee and/or delayed payment for approved services. No instructor shall receive wages for services that are not pre-approved in writing by the program coordinator and in accordance with established program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3125. Motorcycle Operator Training

A. Training Facilities and Sites

1. Training facilities include an adequate classroom, driving range, and storage area that at a minimum, meet the standards listed in the curriculum guide approved by the program coordinator.

2. All proposed program training facilities and sites shall be subject to inspection by the program coordinator prior to initial use. Established sites are subject to inspection by same during course implementation.

3. The lead instructor shall be responsible for all administrative duties, equipment procurement, and training facility management associated with student registration, on site preparation, and implementation of a particular course.

4. Approval by the program coordinator shall not be granted for any instructor to lease or rent any proposed equipment, training facility, or training site for use through the program. Instructors making such agreements or expenditures shall not be reimbursed for expenses related to such actions.

B. Training Apparel

1. All course instructors, students and range aides shall wear at a minimum the following training apparel and equipment while sitting upon, maneuvering, operating or riding a motorcycle on the course range:

- a. helmet (DOT approved);
- b. eye protection (i.e., face shield, safety glasses, prescription eye glasses, goggles). Windshields shall not be substituted for any of these eye protection devices;
- c. long pants (must cover knees and calves);
- d. long sleeved full bodied jacket or shirt (must cover elbows and forearms);
- e. gloves (must completely cover palms and all fingers);
- f. boots (must cover ankles). High top tennis shoes are acceptable, but should be discouraged. Footwear with heels over two inches tall shall not be worn by course participants during range sessions.

2. Students shall provide all of the apparel and equipment listed in this Chapter for use in any program motorcycle operator training course.

3. Instructor Training Equipment Apparel and Dress Code

a. Program motorcycle safety instructors shall be required to wear the safety apparel referenced in this Chapter while sitting upon, maneuvering, operating, or riding a motorcycle during their course driving range sessions and related activities. Instructors should wear safety apparel meeting these minimum standards while operating or riding a motorcycle on public roads and highways.

b. Instructors are required to maintain a professional appearance when conducting a course as prescribed by the department.

c. Shirts with sleeves (short sleeves acceptable), long pants, and appropriate footwear shall be worn during all course instruction when the other aforementioned safety apparel is not necessary or required.

d. Instructors shall not wear shorts, tank tops or sandals while providing approved motorcycle operator training courses.

C. Trainer Motorcycles

1. Loan-trainer motorcycles shall be obtained from franchised motorcycle dealers and only upon written approval by the program coordinator. Department owned or loan-trainer motorcycles shall not be utilized in advanced motorcycle operator training courses.

2. The program coordinator shall complete and process any program loan agreement form(s) designed for the purpose of obtaining loan-trainer motorcycles for use in program activities.

3. Instructors shall not take delivery of loan-trainer motorcycles from motorcycle dealers until the program coordinator has acquired adequate insurance for the motorcycles. It shall be the responsibility of the instructor taking delivery of the motorcycles to verify such coverage.

4. Instructors shall maintain and operate the loan-trainer motorcycles assigned to them, as per the terms of the approved Motorcycle Loan Agreement Form (MLAF). This agreement form is not included in these regulations. The form is available from the program coordinator.

5. There shall be a minimum of one trainer motorcycle available for use by each operator student participating in a basic course driving range exercise.

6. Loan-trainer motorcycles shall be operated only during course range exercises; they shall not be operated or ridden off the course site driving range.

7. No trainer motorcycle shall be operated at a speed exceeding 20 miles per hour during any basic course range exercise and 25 miles per hour during any advanced course range exercise.

8. There shall not be more than eight trainer motorcycles on the range or in operation during any course driving range exercise if there is only one instructor teaching on that same driving range. There shall be not be more than 12 motorcycles on the range or in operation on a course driving range exercise if there are two or more instructors teaching on the same driving range. At no time shall there be more than 12 motorcycles in operation on the driving range of any course during range exercise execution.

9. It shall be the responsibility of the lead motorcycle safety instructor to whom certain loan-trainer motorcycles are assigned for a given course to secure, garage, maintain and protect those loan trainer motorcycles from theft and environmental damage and degradation. Any department owned or loan-trainer motorcycles placed in storage must have all keys removed and secured. The steering forks should be locked whenever possible.

10. It shall be the responsibility of the motorcycle safety instructor to whom certain loan-trainer motorcycles are assigned to return these motorcycles to the appropriate motorcycle dealer as per the terms set forth on the MLAF. In addition, the program coordinator shall be notified immediately by the above-mentioned instructor that the motorcycles have been returned.

11. No trainer motorcycle shall be occupied, operated, or manipulated on the range training site during course preparation or implementation by any individual not officially instructing or enrolled in that course. Loan-trainer motorcycles shall be operated in compliance with the terms of this manual and the approved MLAF. It shall be the

responsibility of all program instructional staff utilizing loan-trainer motorcycles to read the MLAF and adhere to all of the criteria expressed thereon.

12. Instructors shall not direct any student to operate, push, or manipulate a trainer motorcycle on any public street or highway.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3127. Program Insurance and Reporting Accidents

A. Program Insurance

1. Proposed motorcycle operator training courses or other proposed program activities to be conducted on or with properties and/or equipment owned or not owned by the state shall be reported to the program coordinator in order that the Office of Risk Management can provide appropriate insurance coverage for loan-trainer motorcycles and/or the conduct of the course or activity offered and provide certificates of insurance, as proof of coverage, if needed. Appropriate insurance for the program will be obtained through the Office of Risk Management as per R.S. 39:1527 et seq., for the purpose of acquiring general liability coverage, etc. No proposed program course or activity may be conducted without first obtaining written approval from the program coordinator as per this Chapter.

B. Reporting of Accidents and Damages

1. If an injury to an individual occurs as a result of the conduct of a program activity or course and/or if the individual requires treatment by a physician or medical technicians and/or hospitalization, the injury shall be orally reported to the program coordinator or designee by the course lead instructor as soon as possible but no later than four working days after the accident. In addition, an Accident/Injury Report(s) (MS6) shall be submitted to the program coordinator within four working days of the accident. (An accident as it relates to the program shall be defined as an incident in which a course student or instructor drops the motorcycle causing any part of the motorcycle, other than the tires, to touch the ground, or an incident in which the motorcycle comes into contact with any other moving object or fixed object (other than marker cones), or an incident in which any individual has discomfort, pain, or injury inflicted by a training motorcycle or the course training process.

2. Completed Accident and Injury Report (MS6) must be submitted to the Department of Public Safety and Corrections, Transportation and Environmental Safety Section, 7919 Independence Blvd., Box 832, Baton Rouge, LA 70806. Telephone (225) 925-6113. Instructors should copy Form MS6 as needed.

3. Copies of notices, summons or other legal documents, pertaining to a claim or suit against the department or its personnel should be forwarded immediately by the motorcycles safety instructor receiving same to the program coordinator for review by appropriate authorities

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3129. First Aid

A. First Aid Supplies and Treatment

1. Every lead instructor conducting a department motorcycle operator training course shall have a fully charged fire extinguisher and a first aid kit available on the training site at all times during a course.

2. The first aid kit shall contain supplies necessary to treat minor injuries, to help prevent loss of blood, and to provide some comfort. At a minimum, it should contain the following supplies:

- a. sufficient gauze wrappings to make up a compression bandage;
- b. several dressings;
- c. several different sized band-aids;
- d. roll of medical tape;
- e. information on the treatment of minor wounds and injuries.

3. Instructors may supplement the above with aspirin, burn ointment, medical gloves, etc. Instructors shall not administer prescription medication to any student for whom it was not prescribed by a physician.

4. In the event of an injury resulting from the conduct of a motorcycle operator training course, the course instructor(s) shall act with prudence and dispatch in dealing with the immediate medical needs of the injured party. Such action may include, but is not limited to, the administering of first aid to the best of the instructor's ability and the requesting of emergency medical service (EMS).

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3131. Program Materials and Equipment

A. Course Banner

1. The course lead instructor shall display any department banner provided by the program coordinator for such purpose at the course driving range site during all practical exercises. The banner shall be located in plain view of the general public and shall be taken down at the end of the practical exercises each day of the course.

B. Report of Student Enrollment

1. Any instructor utilizing program material and/or receiving department/program wages shall report on the Student Information and Performance List (Form MS2) the names of any and all individuals participating in any activity connected with the use of that material or issuance of such wages.

C. Material and Equipment Procurement

1. No instructor shall be granted reimbursement for the purchase of program supplies other than fluids utilized by the training motorcycles.

2. To claim reimbursement for such fluids the instructor shall complete the requisite department travel expense form and submit the original related receipts.

3. The purchase of all other appropriate program materials and supplies shall only be made by the program coordinator.

4. Reimbursement expense claims not in proportion and deemed inappropriate for the conduct of a particular course/ activity will be subject to audit, revision and appropriate payment by the program coordinator and/ or department appropriation control staff.

5. No instructor shall charge or attempt to charge merchandise for use in the program to the Department of Public Safety and Corrections or to any other state agency.

D. Reporting Stolen Equipment

1. The instructor shall have the appropriate law enforcement report completed for any department equipment on loan to an instructor that is reported stolen and for damage(s) to a program mobile training unit involved a traffic accident or vandalism.

E. Equipment and Materials Returned

1. All program material and equipment loaned to an instructor shall be returned to the department by the instructor as per any arrangements made prior to such loan or upon request by the program coordinator.

F. Mobile Training Units: Use and Maintenance

1. Mobile training units shall be used solely for the purpose of transporting materials, equipment, and vehicles directly related to the implementation of impending program motorcycle operator training courses or activities.

2. Mobile training units shall be operated, towed, or moved by program staff only.

3. Mobile training units shall be operated, towed, or moved in accordance with all appropriate state laws and regulations.

4. No trainer motorcycle shall be transported via a mobile training unit without first having been properly secured with tie down straps in a fashion as directed by the program coordinator or delegated program staff. Instructors shall supply such straps.

5. Mobile training units or any parts thereof shall not be altered in any fashion by instructors or others. Such unit parts include hitch, wiring, storage box, lights, tires, wheels, safety chains, etc.

6. Mobile training units shall be utilized to transport only those motorcycles owned or officially on loan to the department through a written agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3133. Student Completion Certificates

A. Motorcycle Operator Training Course Certificates

1. All students successfully completing a basic course conducted in accordance with the regulations and procedures herein shall receive a department certificate indicating such.

2. All students successfully completing an advanced course conducted in accordance with the regulations and procedures herein shall receive a department certificate indicating such.

B. Exemption from taking State Driver's License Motorcycle Operator Skill Test

1. A student applying for a motorcycle endorsement on his/her driver's license shall not be required to take the Department of Public Safety and Correction, Office of Motor Vehicles, motorcycle operator skill test if the student has successfully completed a Department of Public Safety and Correction Basic Motorcycle Operator Training Course (R.S.32:402.3) and presents the basic course completion certificate to the license examiner upon endorsement application.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3135. Program Form Duplication and Availability Policy

A. Copies of the program forms located in the appendices may be made when needed. The originals should be retained in the manual for future use in making copies.

B. Forms shall not be modified or altered in any manner. Instructors unable to make copies may obtain packets of the forms from the program coordinator upon a request received by same at least 10 working days before needed delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

§3137. Public Information Policy

A. The Department of Public Safety and Corrections shall be orally acknowledged to participants at the beginning of any motorcycle operator-training course or program activity by the lead motorcycle safety instructor as the state agency conducting and sponsoring the course or activity.

B. Those working "in cooperation" with the department to implement a course should also be acknowledged as such. Such entities are usually recognized for providing:

1. loan motorcycles;
2. course facilities;
3. support services (i.e. volunteers, refreshments, materials, etc.).

C. The instructor shall provide the name/title, mailing address and telephone number, etc., of the contact person allowing him to use the property on which he will store motorcycles and conduct any sessions of the course(s) listed.

D. The instructor shall provide the balance of the information requested and sign the application. The application is not valid without the signature of the instructor completing the form.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:402.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 36:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules should not have any effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These rules should not have any effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules should not have any effect on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as

Contained in the Proposed Rules. These rules should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

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 January 15, 2010.

Jill P. Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Motorcycle Safety Training Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Currently the state maintains 50 motorcycles for training of the Motorcycle Safety, Awareness, and Operator Training Program. The purchase, maintenance, and repairs of the motorcycles will result in expenses of approximately \$78,000 annually to the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These rules will result in the establishment of a self generated fund of \$78,000. Without this fund the program will be unable to provide motorcycles for the course.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana residents who use their personally owned motorcycle will not be affected by the proposed rule. There will only be a \$75 fee imposed to applicants wishing to rent state-owned motorcycles

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will have no impact on competition and employment.

Jill P. Boudreaux
Undersecretary
0912#084

Robert E. Hosse
Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Preparedness and Response Act
(LAC 33:V.10105, 10117, 10121)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., gives notice of its intent to amend its rules regulating hazardous materials to redefine the term "hospitalization," to define the phrase "reasonably be expected to affect the public safety beyond the boundaries of the facility," to restate the provisions of R.S. 30:2373(D), which were amended by Act 235 of the 2009 Regular Session, and to remove the sunset provision for Tier Two fees which was legislatively removed in the 2008 Regular Session.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Wastes and Hazardous Materials
Subpart 2. Department of Public Safety and
Corrections—Hazardous Materials
Chapter 101. Hazardous Material Information
Development, Preparedness and Response
Act

§10105. Definitions

A. The following terms as used in this Chapter shall have the following meanings.

* * *

Hospitalization—the admission into a hospital as a patient for an overnight stay or emergency treatment at a hospital to the extent that the owner or operator requested such treatment or becomes aware of such treatment within twenty-four hours of the initiation of the relevant release.

* * *

Reasonably be Expected to Affect the Public Safety beyond the Boundaries of the Facility—fire, explosion, incident, accident, or cleanup within a facility that may reasonably impact public safety beyond the facility, including but not limited to an impact of such nature as to require shelter-in-place orders, evacuations, immediate response by emergency responders, or off-site road closures. The term shall not include facility drills, internal facility announcements, internal facility alarms and sirens, or internal facility response activities such as rolling facility fire trucks or ambulances, and movement of facility personnel in personal protective equipment.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:759 (December 1987), LR 14:801 (November 1988), LR 16:974 (November 1990), LR 27:858 (June 2001), LR 36:

§10117. Failure to Report: Penalties

A. - C. ...

D. Careless Handling of a Hazardous Material

1. R.S. 30:2373(D)(1) Any person who handles, stores, or otherwise maintains a hazardous material regulated by this Chapter in a negligent or unreasonable manner without regard for the hazards of the material and causes a significant impact to public health and safety as a result of a reportable release of a hazardous material shall be in violation of this Subsection.

2. R.S. 30:2373(D)(2) provides that for any person, owner, operator, or facility that violates R.S. 30:2373(D) the department may levy a civil penalty not to exceed \$10,000 per violation.

E. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 13:762 (December 1987), amended LR 14:804 (November 1988), LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:2259 (December 2001), LR 36:

§10121. Fees

A. ...

B.1. The fees for facilities not meeting the definition of *small business* in R.S. 30:2363 shall be assessed as follows.

* * *

B.2. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:329 (May 1986), amended LR 13:186 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 27:865 (June 2001), LR 27:2259 (December 2001), LR 31:694 (March 2005), amended LR 36:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not have any affect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not have any affect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These rules should not have any affect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules should not have any affect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not have any affect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules should not have any affect on the ability of the family or local government to perform the function as contained in the proposed rules.

Public Comments

Interested persons may submit written comments to: Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through January 15, 2010.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Preparedness and Response Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes include changing the definition of hospitalization, adding a definition of the phrase "reasonably be expected to affect the public safety beyond the boundaries of the facility," restating the provisions of R.S. 30:2373(D) and removing the sunset provision for Tier Two fees. These changes mirror statutory changes and will not result in any costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules 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 have no effect on the costs and/or 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 as a result of the proposed rule changes.

Jill P. Boudreaux
Undersecretary
0912#085

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Towing, Recovery and Storage (LAC 55:I.1947)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1711 et seq., gives notice of its intent to promulgate a new Rule providing minimum requirements for a towing rotation list, which requirements are currently in effect for Louisiana State Police rotation lists and are being promulgated to serve as a template for local law enforcement agencies to use at their discretion.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing, Recovery, and Storage

Subchapter F. Rotation List

§1947. Law Enforcement Tow Truck Rotation List

A. - A.4. ...

B. The following paragraphs of this Section outline the minimum requirements for a towing rotation list and are to serve as a template for local law enforcement agencies to use at their discretion.

1. Every person, firm, corporation or other entity who participates in a law enforcement Tow Rotation Program, and is engaged in, or associated with the towing, removal or storage of any wrecked, abandoned, disabled or other designated vehicle, shall comply with the Department's Procedural Order's Tow Rotation Guidelines and Operational Requirements, and all applicable state laws, and administrative regulations governing the towing and storage of vehicles including, but not limited to, R.S. 32:1711, et seq., and LAC 55:I.1901 et seq.

C. Approved towing or storage companies shall:

1. have been in business as such in the zone for which they are applying, for a continuous period of 12 months, prior to filing an application to participate. Transfers or the inheritance of an established tow company may be exempt from this requirement if the new owner has the necessary experience and meets the minimum licensing requirements;

2. maintain a valid storage inspection license and not owe any outstanding fees/fines to the department;

3. provide 24-hour service on a 365 day per year basis;

4. provide for a maximum 45 minute response time from the time of notification, unless extenuating circumstances exist;

5. not be owned, operated by, or knowingly employ any person who has been convicted of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle, possession of stolen vehicles or vehicle parts;

6. not contract for towing or storage services with any party not in compliance with this Part.

D. Application for Participation in the Tow Rotation Program

1. Application shall be made on the requisite department-approved forms.

2. Upon submission, the application shall be forwarded to the appropriate department representative, who shall review and determine compliance.

3. Authorization shall be withheld from any company not meeting the operational requirements of this order applicable state laws or administrative regulations. Upon a finding of compliance with the aforementioned requirements, the applicant shall be added to the towing rotation list. The original application and affirmation shall be maintained at the department.

4. A contract, approved and provided by the department, must be signed by the towing company annually, once suitability has been verified. Authorization shall continue unless terminated by the department head.

E. Operational Requirements of Tow Trucks

1. Debris from a crash, with the exception of medical waste, shall be removed by the tow truck driver, other towing company employees, or the towing company assignee. The officer should make every effort to ensure that the crash scene is safe and protected throughout the recovery process.

2. Authorized towing companies shall honor all hold orders of the department.

a. The release of a vehicle or contents shall be authorized by the department storing the vehicle.

3. An officer who is responsible for storing a vehicle shall complete a vehicle storage, wrecker request and inventory record form.

a. The towing company shall be furnished a copy of the report by the officer at the scene.

F. Tow Trucks, Operators, Business Facility, and Storage Requirements

1. Each tow truck and operator shall meet all operational requirements listed in the "Tow Rotation Guidelines & Operational Requirements Manual," as well as those mandated for tow trucks in R.S. 23, 32, and 47 as well as LAC 55. All tow trucks in a business's fleet shall also be equipped with the following:

a. a heavy duty shop type broom;

b. at least one shovel;

c. at least one fully charged fire extinguisher that meets or exceeds requirements set forth in FMCSA 393.95;

d. at least two vehicle wheel chocks with anchor chains or hydraulic levelers (not required on car carriers);

e. search lights or adequate working lights;

f. hand held flashlight (charged);

g. a steering wheel tie down;

h. a minimum of 5 gallons of environmentally safe absorbent material;

i. emergency stopped vehicle warning devices;

j. at least one amber rotating or flashing beacon visible at night for 360 degrees at a distance of 1000 feet, under normal atmospheric conditions;

k. a current towing and recovery license plate and Louisiana MVI certificate;

l. have all dunnage and loose items on the bed secured.

2. All tow truck operators shall:

a. be an employee of the tow company whose services are being utilized;

b. possess a valid Louisiana driver's license of the appropriate class for the tow truck being driven;

c. be proficient with and have the necessary experience/training in vehicle recovery and towing;

d. be able to communicate in English;

e. wear a uniform shirt displaying the name of the towing company and driver;

f. wear appropriate footwear (no sandals or open-toe footwear);

g. wear an approved ANSI Class III reflective vest that is in good condition and fits the operator when working on or near the roadway during crash or vehicle recovery.

3. The business facility shall be equipped with communications equipment capable of providing direct contact between the department's dispatch and the company representative. The company representative must be able to maintain communications with the tow truck operator responding to a call. Citizen band radios and pagers are not sufficient equipment for this purpose.

4. Unless prior arrangements have been made with the department head, a business facility (or representative) must answer all phone calls for towing services at all times. Failure to answer any telephone call may constitute grounds for an immediate "one call" suspension from the rotation list.

5. The business facility shall be staffed and open Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays. A representative from the company shall be on call for emergencies and an individual shall not be charged a gate fee or storage fees for being unable to retrieve their vehicle as a result of an action or omission from which the tow company would benefit.

6. The storage facility shall be of sufficient area to accommodate a minimum of 20 vehicles.

7. The storage facility shall be enclosed by a 6-foot fence or other physical barrier, either of which shall be sufficient to deter trespass.

8. The shared use of any facility for the storage of motor vehicles by more than one tow company is expressly prohibited.

G. Prohibition of Tow Trucks

1. No tow truck owner, agent, employee, or operator shall stop at the scene of a crash, disabled, or unattended vehicle for the purpose of soliciting business, either directly or indirectly; unless the owner or operator of said vehicle has specifically summoned the tow company or its employees or agents to such scene for towing or recovery purposes. Cruising highways for direct or indirect compensation is prohibited.

2. No operator shall, without the express authorization of the responsible investigating agency, move any vehicle from a public highway or street or from any public property when such vehicle is abandoned, stolen or damaged as a result of a crash.

EXCEPTION: Notwithstanding the conditions imposed in these rules, operators may, in emergency cases, move a vehicle involved in a crash, if the movement is necessary to extricate a person from the wreckage or to remove an immediate hazard to life and/or property. In no event shall the movement be more than is reasonable and necessary.

3. Operators shall respond to the scenes of police investigations only when called by the police or by the owner/operator of a disabled vehicle.

a. If tow truck operators are unable to respond when summoned by special request or upon request by the department, they must immediately notify the department and shall not summon a substitute. Repeated instances of tow company failing to respond may subject the tow company to removal from the rotation list.

b. If a tow truck arrives at the scene and is unable to provide the necessary services, the tow company must immediately notify the department. The tow company shall not summon a substitute unless the other tow truck is from the same company. The tow company may request the assistance of another authorized rotation tow company if needed. This request should be made and approved through the department's shift supervisor.

4. When called, the tow truck company (or representative) shall provide the availability of their services, in a relatively timely period, and without screening. Once availability is determined, more details should then be provided to the tow truck company (or representative).

5. If a tow truck company (or representative) refuses any request for a tow, without reasonable justification, that may constitute grounds for an immediate one call suspension from the rotation list for that class/type of wrecker. Numerous documented refusals may constitute grounds for longer suspension periods, including the possibility of permanent removal from the rotation list.

a. If, for any justifiable reason, tow truck operators are unable to respond when summoned, they must immediately notify the department and have themselves "inactivated" on the tow rotation and shall not summon a substitute. Repeated instances of a tow company failing to respond may subject the tow company to removal from the rotation list.

6. Interference with commissioned officers at the scene or failure to comply with the officer's instructions is prohibited.

7. No tow truck operator shall require the vehicle's owner/operator to have his vehicle repaired by the towing company as a condition of the towing agreement.

8. No operator shall charge for service not performed or make duplicate charges.

9. No operator shall charge for services which are not itemized and documented on the invoice.

10. No operator shall make repairs or alterations to wrecked or disabled vehicles without prior authorization of the owner except for that which is necessary in an emergency to permit vehicle towing.

11. Operators must notify the department's dispatch before proceeding to any call from a motorist when the call may involve a crash or an impaired driver.

12. Operators shall comply with the provisions set forth in R.S. 32:1711 et seq. and LAC 55:I.1901 et seq., relative to the storage and release of motor vehicles.

13. No operator shall use any information obtained over a police monitoring device for the purposes of soliciting towing services.

H. Classification of Tow Trucks

1. Operational capacities of each tow truck must have a manufacturer's rating. The minimum standards of each tow truck shall be determined by the manufacturer's specifications for the capabilities and capacities of the tow truck and all towing equipment. Tow trucks shall not be permitted to haul any vehicle/cargo combination in excess of its rated gross vehicle weight (GVW) or class.

2. The following classifications are taken from the TRAA Vehicle Identification Guide: (The TRAA Vehicle Identification Guide refers to the slide back and tilt bed car carriers, as car carriers in the light and medium duty tow truck classes.)

a. Light Duty Tow Trucks (10,000 lbs. or less GVW—4 tires)

Class 1 vehicle	(6,000 lbs. or less GVW—4 tires)
Class 2 vehicle	(6,001–10,000 lbs. GVW—4 tires)

i. The towing company shall own and maintain for service at least one light or medium duty tow truck or slide back car carrier.

ii. Operators of light duty tow trucks shall maintain equipment adequate to winch and transport vehicles weighing up to 10,000 pounds. The 10,000 pound maximum limit includes the towed vehicle's weight plus any cargo on board.

iii. Tow truck minimum qualifications:

(a). GVW rating of not less than 10,000 pounds as rated by the manufacturer;

(b). minimum of 60 inches from rear of cab to center of rear axle;

(c). a four speed manual or automatic transmission;

(d). adequate service brake system for normal and adverse towing conditions;

(e). parking brake system separate from the service brakes maintained in proper working order;

(f). dual mounted rear wheels and tires.

iv. Boom and winch minimum specifications (bare drum):

(a). boom rating not less than 8,000 pounds;

(b). power winch rated for not less than 8,000 pounds, single line;

(c). at least 100 feet of wire rope, except that a slide back and tilt bed carrier may have only 50 feet of wire rope, with a minimum diameter of 3/8 inch, rated at a minimum of 12,000 pounds breaking strength.

v. Required accessories:

(a). dollies or supplementary wheels;

(b). minimum of 20 feet of chain complete with attached 5/16 inch diameter hooks of either high test or alloy quality;

(c). a minimum of 2 snatch blocks;

(d). towing sling or towing hitch rated to the capacity of towing vehicle.

vi. Car carrier qualifications:

(a). manufacturer's rated capacity of not less than 10,000 pounds GVW with a minimum of 102 inches to center of rear axle from back of the cab;

(b). one power winch of not less than 8,000 pounds capacity;

(c). at least 50 feet of 3/8 inch cable, rated at a minimum of 12,000 pounds breaking strength;

(d). a 16 foot or longer hydraulically-operated sliding bed;

(e). a minimum of one snatch block.

b. Medium Duty Tow Trucks (10,001–26,000 lbs. GVW—6 tires or more)

Class 3 vehicle	(10,001–14,000 lbs. GVW—6 tires or more)
Class 4 vehicle	(14,001–16,000 lbs. GVW—6 tires or more)
Class 5 vehicle	(16,001–19,500 lbs. GVW—6 tires or more)
Class 6 vehicle	(19,501–26,000 lbs. GVW—6 tires or more)

i. The towing company shall own and maintain for service at least one light or medium duty tow truck or slide back carrier.

ii. Operators of medium duty tow trucks shall maintain equipment adequate to winch and transport vehicles weighing up to 26,000 pounds. The 26,000 pound maximum limit includes the towed vehicle's weight plus any cargo on board.

iii. Tow trucks minimum qualifications:

(a). GVW rating not less than 26,000 pounds as rated by manufacturer and a towing and recovery license plate;

(b). minimum of 72 inches from rear of cab to the center of the rear axle;

(c). four-speed manual or automatic transmission

(d). adequate service brake system for normal and adverse towing conditions. Tow trucks with air brakes, air-assisted mechanical or hydraulic, or completely hydraulic brakes must have a transfer system capable of supplying air to the brake system of the tow truck;

(e). a separate parking brake system maintained in good working order;

(f). dual mounted wheels and tires, single or tandem rear axle.

iv. Boom and winch minimum specifications (bare drum):

(a). boom rating not less than 20,000 pounds;

(b). power winch rated not less than 20,000 pounds, dual winches must have a minimum of 150 feet wire rope per winch with a breaking strength of 21,000 pounds and 2 inches in diameter.

v. Required accessories:

(a). dollies or supplementary wheels;

(b). at least 25 feet of 3/8 inch chain with 3/8 inch hooks attached, may be in 10 foot lengths and of either high test or alloy quality;

(c). at least 2 snatch block;

(d). towing sling or hitch rated to wrecker capacity.

vi. Car carrier qualifications:

(a). rated capacity of not less than 15,000 pounds with 102 inches minimum from rear of cab to rear axle;

- (b). one power winch rated for at least 8,000 pounds;
- (c). at least 50 feet of 3/8 inch cable;
- (d). an 18 foot or longer hydraulically-operated slide back and tilt bed;
- (e). one snatch block, 8,000 pounds capacity.
- c. Heavy Duty Tow Trucks (26,001 lbs. and over GVW—6 tires or more)

Class 7 vehicle	(26,001–33,000 lbs. GVW—6 tires or more)
Class 8 vehicle	(33,001 and over GVW—10 tires or more)

- i. The towing company shall own and maintain for service at least one heavy duty tow truck and at least one light or medium duty tow truck.
- ii. Operators of a heavy duty tow truck shall maintain equipment adequate to winch and transport vehicles and vehicle combinations that weigh 26,001 pounds or more.
- iii. Tow trucks minimum qualifications:
 - (a). GVW rating of not less than 26,001 pounds as rated by manufacturer;
 - (b). minimum of 102 inches from rear of passenger cab to the center of the rear axle or bogie on tandem trucks;
 - (c). dual mounted wheels and tires on single or tandem axles;
 - (d). adequate service brake system, compressed air only, capable of controlling movement of vehicles under normal and adverse towing conditions and an air transfer system capable of supplying sufficient pressure to the brakes of the towed vehicle;
 - (e). a separate parking brake system, maintained in proper order.
- iv. Boom and winch minimum specifications (bare drum):
 - (a). minimum boom rating of 50,000 pounds;
 - (b). power winch system with total, symmetrical capacity of 50,000 pounds;
 - (c). minimum of 200 feet of wire rope per winch of at least 9/16 inch diameter and rated at breaking strength of 27,000 pounds.
- v. Required accessories:
 - (a). at least 20 feet of 3/8 inch chains with hooks attached of either high test or alloy quality;
 - (b). at least 75 feet of auxiliary lines properly maintained and outfitted with the necessary transfer fittings;
 - (c). heavy duty truck towing hitch;
 - (d). at least 4 snatch blocks.
- d. Hazardous Material Recovery and Movers
 - i. Must meet minimum requirements of the class of tow truck that is required for the recovery, as mentioned in this order.
 - ii. Must comply with LRS 32:1504 et seq.
 - iii. Must have nylon recovery straps.
 - iv. Must have the necessary equipment to perform the services required in a safe and efficient manner.
 - v. All operators must obtain the minimum certification and training as required by OSHA and NFPA as well as any required annual re-certification. Proof of operator's certification may be checked by law enforcement officials at the scene of any hazardous materials incident.

I. Penalties for Towing Violations

1. The department's head or his/her designee shall investigate complaints alleging violation of state law, department policy and procedure (including Towing Guidelines and Operational Requirements)

2. A violation of the aforementioned may result in civil penalties being levied against the tow company as well as suspension or removal from the rotation list

3. All complaints made against authorized operators shall be made directly to the department head or designee. Appropriate action may be taken by the department head.

a. Any tow truck owner may submit a written appeal to the department head requesting a review of the investigation and/or any suspension from the rotation list

b. Review hearings will be held within 10 business days after a request is made.

4. Violations of these Rules may result in penalties as follows.

a. A "one call" suspension for refusals or communication violations (non appealable).

b. First violation—a maximum of 15 days suspension from the rotation list.

c. Second violation in 12 months—a maximum of 30 days suspension from the rotation list.

d. Third violation in 12 months—a maximum of 60 days suspension from the rotation list

e. Fourth violation in 12 months—permanent suspension from the rotation list.

f. Any violation of state law or parish municipal ordinance may be grounds for immediate suspension from the rotation list, and upon conviction, permanent exclusion.

J. Towing-Administrative Hearing

1. State law requires that the owner of any vehicle towed by a public agency shall have the right to an administrative hearing to determine if the towing of the vehicle was proper. The owner of the vehicle must make request for a hearing within 10 days of the date the owner was notified as per R.S. 32:1720. The purpose of the hearing is to determine the validity of the tow.

2. The designated department representative shall avail themselves to any person requesting such a hearing. These hearings may be as informal as a review of the circumstances surrounding the tow and a response to the inquiring party as to the department's determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:863 (May 2006), amended LR 36:

Family Impact Statement

1. The effect of these Rules on the stability of the family. These Rules should not have any affect on the stability of the family.

2. The effect of these Rules on the authority and rights of parents regarding the education and supervision of their children. These Rules should not have any affect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these Rules on the functioning of the family. These Rules should not have any affect on the functioning of the family.

4. The effect of these Rules on family earnings and family budget. These Rules should not have any affect on family earnings and family budget.

5. The effect of these Rules on the behavior and personal responsibility of children. These Rules should not have any affect on the behavior and personal responsibility of children.

6. The effect of these Rules on the ability of the family or local government to perform the function as contained in the proposed Rules. These Rules should not have any affect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Public Comments

Interested persons may submit written comments to: Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through January 15, 2010.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Towing, Recovery and Storage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule which provides minimum requirements for a towing rotation list should cause no implementation costs or savings to Louisiana State Police or other state or local governmental entities as these requirements are currently in effect for the Louisiana State Police and are being promulgated to serve as a template for local jurisdictions to utilize at their discretion.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no impact on state or local governmental revenues as a result of this proposed new rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will not result in any costs or benefits to the towing and storage industry as the rule merely provides basic requirements for a towing rotation list which a local jurisdiction may or may not adopt.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change should not affect competition or employment.

Jill P. Boudreaux
Undersecretary
0912#090

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Corporation Income and Franchise Tax Filing Extensions (LAC 61:III.2503)

Under the authority of R.S. 47:1511, 1514, 287.614(D), 612, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2503, to require taxpayers who are unable to file the state corporation income and franchise tax return by the due date to request an extension to file.

The Secretary of the Department of Revenue is authorized, but not required, to accept an extension of time

to file a federal corporation income tax return as an extension of time to file a Louisiana corporation income and franchise tax return. It has been the Louisiana Department of Revenue's (LDR) practice in past years to use this authorization to accept federal extensions, with copies of the federal extensions submitted with the Louisiana return. However, the IRS grants automatic federal extensions for which no confirmation is issued to the taxpayer. Therefore, the lack of such confirmation has made it impossible for taxpayers to attach an approved copy of the federal extension to their state returns. Beginning with returns due on or after January 1, 2010, corporate taxpayers who need additional time to file their Louisiana corporation income and franchise tax returns will need to either request a specific state filing extension or submit a copy of the taxpayer's federal Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns on or before the return due date.

This proposed adoption of LAC 61:III.2503 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous Chapter 25. Returns

§2503. Corporation Income and Franchise Tax Filing Extensions

A. The secretary may grant a reasonable extension of time to file a state corporation income and franchise tax return, not to exceed seven months, from the date the return is due.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.

2. A taxpayer may request a state filing extension by submitting:

a. a Louisiana Application for Extension to File Corporation Income and Franchise Tax, Form CIFT-620Ext; or

b. an application for an automatic extension of time to file a federal return; or

c. an electronic application.

B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated income taxes due should be paid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 1514, and 287.614(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:

Family Impact Statement

The following Family Impact Statement is being prepared in accordance with R.S. 49:972(D).

1. The effect on the stability of the family. Implementation of this proposed rule will have 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. Implementation of this proposed rule will have no effect on

the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a Regulatory Flexibility Analysis and found that the proposed adoption of this Rule will have negligible impact on small businesses.

Public Comments

Interested persons may submit data, views, or arguments, in writing to Leonore Heavey, Assistant Director, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, January 27, 2010.

Public Hearing

A public hearing will be held on Thursday, January 28, 2010, at 1:30 p.m. in the River Room Conference Room on the 7th Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Leonore Heavey
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Corporation Income and Franchise Tax Filing Extensions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this proposed rule will have no impact on state and local government expenditures. This rule allows for the filing of corporation income and franchise tax extensions through paper and electronic applications.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule provides for venues through which taxpayers may file requests for extensions, including paper and electronic applications. Requiring these taxpayers to obtain a state extension of time to file their return for corporation income and franchise taxes could mitigate the potential expense of rebutting the refute of assessments incurred upon late filing. These assessments should be less common with clarity that will be provided upon promulgation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule identifies the means by which extensions may be filed and may improve the taxpayer's ability to avoid assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
0912#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Limited Local Sales Tax Exemption for Cancer and Related Chemotherapy Prescription Drugs (LAC 61:I.4401)

Under the authority of R.S. 47:305(D)(4)(b) and (c), R.S. 47:337.2, R.S. 47:337.9(C)(17), and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4401 to provide with respect R.S. 47:305(D)(4)(b). This statute provides that the administration of prescription drugs used exclusively by the patient in the medical treatment of various diseases or injuries when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more, shall be a professional service.

These proposed amendments are related to a "common sales tax law", as contemplated by R.S. 47:337.2(C)(1)(b). Input into the drafting of this Notice of Intent has been sought and received from the Board of Directors of the Louisiana Association of Tax Administrators (LATA), as required by R.S. 47:337.2(4).

Although R.S. 47:305(D)(4)(b) applies to both state sales and use taxes and to the sales and use taxes of political subdivisions of the state, this statute providing with respect to the taxation of chemotherapy drugs will primarily affect local sales and use taxation. R.S. 47:305(D)(1)(j) provides an exemption on the sale, use, distribution, or the storage for use or consumption of drugs prescribed by a physician or dentist. The exemption under R.S. 47:305(D)(1)(j) applies solely for purposes of state sales and use tax, and under R.S. 47:305(D)(4)(a) does not apply to sales and use taxes imposed by any school board, municipality or other local taxing authority.

Chemotherapy drugs are already fully exempt from state sales and use taxes when prescribed by physicians, regardless of whether administered in a physician's office or elsewhere. These proposed amendments discuss the limited conditions in which local sales and use the taxes will not apply to sales to patients of chemotherapy drugs.

Title 61

REVENUE AND TAXATION

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

Chapter 44. Sales and Use Tax Exemptions §4401. Various Exemptions From the Tax

A. - G.1. ...

2.a. All of the exemptions provided by R.S. 47:305(D), except for the exemptions on food and drugs, orthotic and prosthetic devices, and patient aids prescribed by physicians or licensed chiropractors for personal consumption or use apply to state and local sales or use tax. The exemptions for food and drugs, orthotic and prosthetic devices, and patient aids prescribed by physicians or licensed chiropractors apply only to state sales or use tax.

b.i. R.S. 47:305D(4)(b) provides a limited exemption from local sales and/or use taxes on the procurement of prescription chemotherapy drugs administered to the patient for treatment of cancer and also includes prescription drugs related to chemotherapy treatment administered in connection with the treatment of cancer patients.

ii. In order for these prescription drugs to be eligible for exemption, they must be procured by a physician who specializes in the diagnosis and treatment of cancers and administered by the physician, nurse, or other health care professional in the physician's office where patients are not kept as bed patients for twenty-four hours or more. It is the intent of this limited exemption to apply only to medications that have been prescribed by and administered in the physician's office at the time medical services are delivered. The issuance of a prescription for personal use of similar drugs away from the physician's office will be fully taxable at the local level. This exemption shall not apply to medical supplies or equipment used to administer any treatment to patients.

iii. Chemotherapy drugs are those drugs that kill or inhibit the growth of cancerous cells or tumors and have been approved by the Food and Drug Administration for use in the treatment of cancers. Chemotherapy drugs may be used individually or in combination to achieve optimum results. Language dealing with "related chemotherapy prescription drugs" (emphasis added) may present difficulties in interpretation and therefore, this regulation is being adopted to establish certain guidelines to govern this limited exemption. The treatment of diagnosed cancer with prescribed drugs and chemotherapy relates to professional medical services delivered to the patient in a physician's office where patients are not regularly kept as bed patients for periods beyond 24 hours. These prescribed drugs must be administered by the physician, his/her nurse, or other health care professional orally or intravenously during the treatment. These exempt prescribed drugs would include medications prescribed to treat the side effects of chemotherapy, such as nausea and blood-related side effects. Such prescription drugs must be medically necessary, prescribed as part of an established protocol and appropriate in light of clinical standards of medical practice. Procurement of these and similar drugs by hospitals, hospital clinics, and other facilities that do not qualify as the physician's office shall not be exempt from local taxation under this exemption. Purchases of these and similar drugs that are prescribed for treatment in medical conditions other than cancer would also not be exempt under this statute from local taxation. Local taxing authorities have developed a specific Local Exemption Certificate which is to be acquired and employed by those persons who are found to be eligible for this exemption. Each local tax administrator or collector

is authorized to issue a local exemption certificate that has been approved by the Board of Directors of the Louisiana Association of Tax Administrators (LATA) upon application found suitable by said collector.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 29:1520 (August 2003), LR 30:2864 (December 2004), LR 36:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have 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. Implementation of these proposed amendments will have 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. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a Regulatory Flexibility Analysis and found that the proposed adoption of this Rule will have negligible impact on small businesses.

Public Comments

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, January 26, 2010.

Public Hearing

A public hearing will be held on Wednesday, January 27, 2010, at 2 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Limited Local Sales Tax Exemption for
Cancer and Related Chemotherapy Prescription Drugs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Act 42 of the 2002 Regular Legislative Session amended R.S. 47:305(D)(4)(b) to provide that sales taxes authorized and imposed by any school board, municipality or other local taxing authority shall not apply to the procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient in the patient's medical treatment when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more. This proposed rule was drafted by the Louisiana Association of Tax Administrators in order to provide for local tax authorities' administration of this exemption in a uniform manner consistent with the underlying statute.

This proposed rule is related to a "common sales tax law", as contemplated by R.S. 47:337.2(C)(1)(b), so the rule ostensibly affects both state and local sales and use taxes. Although the amended R.S. 47:305(D)(4)(b) applies also to state sales and use taxes, that statute and this proposed rule will have no effect on the payment of sales and use taxes to the State of Louisiana. Another statute that has been in effect since the 1970's, R.S. 47:305(D)(1)(j), provides a broad exemption on the sale, use, distribution, or the storage for use or consumption of drugs prescribed by a physician or dentist. This existing statute is so broad as to already include an exemption from state sales and use taxes on cancer and chemotherapy prescription drugs used in medical treatment when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office.

The broad exemption for prescription drugs under R.S. 47:305(D)(1)(j) applies solely for purposes of state sales and use tax, and under R.S. 47:305(D)(4)(a) does not apply to sales and use taxes imposed by any school board, municipality or other local taxing authority. Act 42 was intended to mandate a local sales and use tax exemption on only this limited category of prescription drugs.

The implementation of this proposed rule will have only minimal impact on the Department of Revenue's costs. Costs will be incurred to publish the Notice of Intent and the final rule in the Louisiana Register, to conduct the public hearing required under the Administrative Procedures Act, and to publish the Notice of intent and the final rule on the department's web site. These costs can be absorbed with the department's existing budget.

The department believes that local governments will also incur only minimal costs in implementing this rule that can likewise be absorbed within their existing budgets.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Fiscal Note on Act 42 of the 2002 Regular Session estimated local revenue losses from the passage of the Act of \$30,000 of local revenue on a statewide basis. These revenue reductions by now have been absorbed into the tax collection budgets of affected local governments. Local sales tax revenues will be neither increased nor decreased by the adoption of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Medical professionals who administer chemotherapy drugs and their patients will financially benefit from the rule and

associated Act in the amounts indicated in the preceding paragraph.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed rule should provide a minimal but positive effect on competition and employment in industries that manufacture, sell, and administer chemotherapy drugs.

Cynthia Bridges
Secretary
0912#020

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Tax Commission**

Ad Valorem Taxation

(LAC 61:V.101, 303, 304, 703, 901, 907, 1103, 1305, 1307,
1503, 2503, 3101, 3103, 3105, 3106, and 3107)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2010 (2011 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of these proposed Rules will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of these proposed Rules will have 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. Implementation of these proposed Rules will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed Rules will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed Rules will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of these proposed Rules will have no effect on the ability of the family or local government to perform this function.

Public Comments

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 11, 2010, at the following address: Charles Abels, Tax Commission

James D. "Pete" Peters
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated state costs or savings associated with the proposed rules. The LTC Rules and Regulations Manual is available on the agency's website at no charge. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Local Governmental Units

These revisions will generally increase certain 2010 real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2009. Composite multiplier tables for assessment of most personal property will increase by an estimated 3%. Specific valuation tables for assessment of pipelines will generally increase by an estimated 5.5%, oil & gas wells will generally increase by an estimated 17% and drilling rigs will generally decrease by an estimated 9%. The net effect of these revisions is estimated to increase assessments by 5.4% and tax collections by \$38,426,400 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

State Governmental Units

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$405,823 from public service companies and \$113,914 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 2010 than in 2009. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$520,000 to be paid by public service property owners, financial institutions and insurance companies for 2009/2010.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for our updates, the impact is thought to be minimal.

James D. "Pete" Peters
Chairman
0912#052

Robert Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

CCAP Military Child Care Providers
(LAC 67:III Chapter 51)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code (LAC) Title 67 Part III, Subpart 12, Chapter 51, Sections 5107, 5109, and 5113 (Child Care Assistance Program).

The department finds this amendment necessary because the men and women serving in the armed forces of the United States and facing deployment to war zones or combat-support duties are frequently denied access to Child Care Assistance benefits for their minor children when their children are cared for by centers licensed by the Department of Defense (DOD).

It is essential to our national security that the effectiveness of our military troops not be impaired by an inability to afford quality child care for their minor children on the military base while on active duty. This amendment extends participation to child care facilities on United States Military Bases licensed by and through the U.S. Department of Defense (DOD) and meeting the highest DOD standards. This amendment is intended to remove the disparity in quality of child care by assisting low-income members of the armed forces in paying for care for their children at high-quality child care facilities located on military bases.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A centers, and licensed Class A Head Start centers which provide before-and-after school care and/or summer programs, and child care centers licensed by the Department of Defense), a registered family child day care home (FCDCH) provider, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before and after school care programs.

B. A licensed Class A center, licensed Class A Head Start center, or center licensed by the Department of Defense must be active in the Child Care Assistance Program (CCAP) Provider Directory, complete and sign a Class A or Department of Defense provider agreement, as appropriate, and provide complete and accurate documentation and information required for direct deposit before payments can be made to that facility.

C. - G1.c. ...

d. a Class A or Department of Defense center's license is revoked or not renewed.

e. - g. ...

h. a Class A, Department of Defense, or school child care provider fails to submit complete and accurate documentation and information required for direct deposit.

G.2. - I.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444(December 1999), LR 26:2827

(December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189(February 2003), LR 30:496 (March 2004), LR 30:1484 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:

§5109. Payment

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

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

B.3. - E. ...

F. Electronic disbursement of child care payments shall be mandatory for all types of CCAP providers. Electronic disbursement of child care payments includes direct deposit to the CCAP provider's bank account (checking or savings) or payments to a stored value card account for the CCAP provider. It is mandatory for Class A, Class M, and school child care providers to utilize direct deposit to receive their CCAP payments. The fees associated with the use of a stored value card are subject to the conditions of that financial institution.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:

§5113. Disqualification Periods for CCAP Providers

A. A child care provider shall be disqualified from receiving CCAP payments if the agency determines that certain acts or violations have been committed by that provider. CCAP disqualifications shall apply as follows.

1. A criminal background check (CBC) shows that a provider has been convicted of or pled no contest to any defense in another jurisdiction whose elements would constitute an enumerated offense under in R.S.15:587.1(C) if committed within Louisiana, shall result in permanent disqualification. If a CBC shows that a person living in or working in an FCDCH or a person working in a Class A, Class M, or Class E center shows the person has been convicted of or pled no contest to any offense enumerated in R.S.15:587.1(C), or has been convicted of or pled no contest to any offense in another jurisdiction whose elements would constitute an enumerated offense under R.S.15:587.1(C) if committed within Louisiana, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class M, or Class E center. For purposes of this section a conviction under La C.Cr.P. Arnts. 893 or 894, or equivalent provisions of another jurisdiction, shall constitute a conviction.

2. A Category 1 validated complaint of child abuse or neglect on the provider shall result in permanent disqualification. If the Category 1 validated complaint is for a person living in or working in an FCDCH or for a person working in a Class A, or Class M, or Class E center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class M, or Class E center. The following types of validated complaints of child abuse or neglect are considered to be Category 1 complaints: bone fracture, factitious disorder by proxy/Munchausen by proxy syndrome, poisoning or noxious substance ingestion, suffocation, whiplash/shaken infant syndrome, HIV/AIDS and hepatitis, prostitution, sexual intercourse (vaginal or anal), failure to thrive (non-organic), central nervous system damage/brain damage/skull fracture, internal injury, subdural hematoma, torture, wounds, oral sex, sexual exploitation/pornography, sexually transmitted disease, malnutrition/starvation, death/abuse, death/neglect, perpetrators who have an adjudication of a child in need of care, perpetrators with a voluntary or involuntary termination of parental rights (TPR) judgment, sexual enticement, simulated intercourse, abandonment, burns, eye injury, minor head/facial injuries, tying or confinement, passive abuse, exploitation, sexual manipulation or fondling, emotional maltreatment, bruises/cuts/welts/scratches, dislocations or sprains, human bites, mouth/dental trauma, medical neglect, drug/alcohol abuse, dependency, and lack of supervision as described in §5113.A.4. These types of validated complaints of child abuse or neglect are defined by the Office of Community Services.

3. A Category 2 validated complaint of child abuse or neglect on the provider shall result in the corrective action or disqualification periods described below. If the Category 2 validated complaint is for a person living in or working in an FCDCH or working in a Class A, Class M, or Class E center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class M, or Class E center, or until the corrective action described below is met or the disqualification period described below ends, whichever is sooner. The following types of validated complaints of child abuse or neglect are considered to be Category 2 complaints: inadequate clothing, inadequate food, inadequate shelter, and lack of supervision as described in §5113A.4. These types of validated complaints of child abuse or neglect are defined by the Office of Community Services. The corrective action or disqualification periods for Category 2 validated complaints are as follows:

3.a. – 6.c. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:2208 (October 2008), amended LR 36:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? It is anticipated that this Rule will have no impact on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? It is anticipated that this Rule will have no impact

on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? It is anticipated that this Rule will have no impact on the functioning of the family.

4. What effect will this have on family earnings and family budget? It is anticipated that this Rule will have no impact on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? It is anticipated that this Rule will not affect the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Small Business Statement

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

Public Comments

All interested persons may submit written comments through, January 25, 2010, to Deidria W. Bolden, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

Public Hearing

A public hearing on the proposed rule will be held on January 26, 2010, at the Department of Social Services, Iberville Building, 627 N. 4th Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. 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 Area Code 225-342-4120 (Voice and TDD).

Kristy Nichols
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: CCAP Military Child Care Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code, Title 67:III, Subpart 12, Chapter 51, Sections 5107, 5109, and 5113, Child Care Assistance Program to extend participation to child care facilities on United States military bases licensed by and through the U.S. Department of Defense.

Currently, federal Child Care Development Funds (CCDF) are used to assist qualified low income families or Strategies to Empower People (STEP) program participants in paying for the care of their children when they select an eligible licensed Class A or Head Start center, registered Family Child Day Care Home, or certified school child care program or In-Home child care provider. This rule adds child care centers located on

military bases to the list of providers who can receive CCDF as payment. The only cost associated with this rule is \$1,000 (\$500 State; \$500 Federal) for publishing rulemaking and printing in FY 10. This is a one-time cost that is routinely included in the agency's budget. There are no other state or local governmental costs because this rule only gives military participants who are already eligible for child care assistance the option of selecting a licensed child care facility located on a military base.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule 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)

There is no cost or additional economic benefit to directly affected persons as a result of this rule because these military individuals already qualify for child care assistance. This rule only gives them the option to select a child care center located on a military base as their provider.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Deidria W. Bolden
Assistant Secretary
0912#091

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Child Daycare Services
Child Care Quality Rating System
(LAC 67:III 5121, 7302, 7303,
7305, 7355, 7357, 7359, 7361)

Editor's Note: This Notice of Intent is being repromulgated to correct the hearing date. The original Notice of Intent may be viewed on pages 2647-2652 of the November 20, 2009 edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services, Office of Family Support, intends to amend rules in the Louisiana Administrative Code, Title 67, Part III Subpart 12, Child Care Assistance Program, and Title 67, Part III Subchapter 21, Child Care Licensing, to comply with Acts 194, 351 and 343 of the 2009 Regular Session of the Louisiana Legislature.

Act 194 of the 2009 Regular Session transferred sole authority over rulemaking and decisions to deny or revoke a child care facility license from external committees to the Department of Social Services, makes uniform the requirements of licensure for all types of facilities, and shortens the time during which a center may remain open following revocation. It also requires creation of an Advisory Council on Child Care to advise the department on rulemaking for child day care facilities. Act 343 requires the department to provide current information on influenza, including known risks of the various strains of the disease and the risks and benefits of immunization, to parents of children in child care facilities, including child residential care facilities. Act 351 requires child day care facilities to

make available to parents information on violations of the child care minimum standards at those facilities.

In this Notice of Intent LAC 67: III Chapter 51, Subchapters A, B and D will remain intact without amendment; Subchapter C will be amended and re-enacted to clarify that a quality star rating will be revoked if the facility's license is revoked. LAC 67: Chapter 73 will be amended and reenacted to create the Advisory Council on Child Care and Early Education to comply with Act 194 and to remove references to the former Class A and Class B Committees abolished by that Act. It will also be amended to include notification to parents' requirements regarding licensing surveys and influenza outbreaks mandated by Acts 351 and 343 of the 2009 Regular Session.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter C. Quality Start Child Care Quality Rating System

§5121. Participation

A. - C. ...

D. Centers that have achieved a Star Rating will have their rating revoked if the child care license is revoked.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007), amended LR 34:2412 (November 2008), amended LR 36:

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

Subchapter A. Licensing Class "A" Regulations for Child Care Centers

§7302. Authority

A. Legislative Provisions. The State of Louisiana, Department of Social Services, is charged with the responsibility for developing and publishing standards for the licensing of child care centers. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., making mandatory the licensing of all child care facilities and child placing agencies, including child care centers. Under R.S. 46:1403, a child *day care center* is defined as a place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week. Additionally, related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

B. - C.3. ...

D. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education is hereby created in accordance with R.S. 46:1414, as amended by Acts 2009, No. 194, to provide input and guidance to the Department of Social Services on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

2. The council shall be composed of 12 voting members, appointed by the Secretary of the Department of Social Services and 9 non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana;

d. one representative from each of the following advocacy organizations: the Louisiana Head Start Association, the Louisiana Partnership for Children and Families, the Louisiana Association for the Education of Young Children, the Child Care Association of Louisiana, and the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies: the Department of Education Pre-Kindergarten Program, the Department of Education Child and Adult Care Food Program, the Louisiana Office of State Fire Marshal, the Department of Health and Hospitals Office of Sanitarian Services, the Louisiana Workforce Commission, the Louisiana State Police Bureau of Criminal Identification, and three representatives from the Department of Social Services.

3. Members will be appointed to serve an initial two-year term on the Council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this Section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment over a solemn public duty; or, if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than twenty-four hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any Council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chair, vice-chair and secretary.

8. All meetings shall be conducted in accordance with the state's Open Meetings Law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order.

9. Members shall serve without compensation or reimbursement.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:

§7303. Procedures

A. - C.2. ...

3. If the survey reveals that the provider is not meeting minimum requirements, a decision may be made by the department for adverse action.

D. - E.1. ...

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the notice within fifteen days of receipt of the notice of revocation or non-renewal. In the case of a denial of an initial application for a license, a provider may appeal the denial by submitting a written request to appeal the decision within 30 days of receipt of the notice of denial of application. A request for appeal should include the specific reasons the decision is believed to be erroneous and/or the specific reasons the decision is believed to be incorrect, and mailed to: Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821-9118.

E.3. - F.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:

§7305. General Requirements

A. - K. ...

L. Licensing Surveys; Notice Requirements. In accordance with Act 351 of the 2009 Regular Legislative Session, providers shall prominently post information advising parents or guardians that findings from licensing surveys are available online which includes the current web address, and that findings from licensing surveys are also available upon written request to the Department of Social Services.

M. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), amended LR 36:

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

Subchapter B. Licensing Class “B” Regulations for Child Care Centers

§7355. Authority

A. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education is hereby created in accordance with R.S. 46:1414, as amended by Acts 2009, No. 194, to provide input and guidance to the Department of Social Services on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

2. The council shall be composed of 12 voting members appointed by the Secretary of the Department of Social Services and 9 non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith-based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana.

d. one representative from each of the following advocacy organizations:

i. the Louisiana Head Start Association, the Louisiana Partnership for Children and Families;

ii. the Louisiana Association for the Education of Young Children;

iii. the Child Care Association of Louisiana; and

iv. the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies:

i. the Department of Education Pre-Kindergarten Program;

ii. the Department of Education Child and Adult Care Food Program;

iii. Louisiana Office of State Fire Marshal;

iv. the Department of Health and Hospitals, Office of Sanitarian Services;

v. the Louisiana Workforce Commission; the Louisiana State Police Bureau of Criminal Identification; and

vi. three representatives from the Department of Social Services.

3. Members will be appointed to serve an initial two-year term on the Council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this Section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment over a solemn public duty; or, if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than 24 hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any Council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chair, vice-chair and secretary.

8. All meetings shall be conducted in accordance with the state’s Open Meetings law. Procedural matters shall be conducted in accordance with the latest edition of Robert’s Rules of Order.

9. Members shall serve without compensation or reimbursement.

B. Penalties. The penalty for the operation of a center without a valid license is a fine of not less than \$75 and not more than \$250 for each day of operation without a license.

C. Injunctions. If any child care facility operates without a valid license issued by the department, the department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons, or any other group operating the child care facility from continuing the violation.

D. Inspections. It shall be the duty of the Department of Social Services, through its duly authorized agents, to inspect at regular intervals not to exceed one year or as deemed necessary by the department and without previous notice all child care facilities and child-placing agencies subject to the provisions of R.S. 46:1401 et seq. The facility shall be open to inspection at all times during working hours or when children are in care by the parents or legal guardians of children in care and by all authorized inspection personnel.

E. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived only if the health and well being of the staff and/or the children are not placed in danger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:

§7357. Definitions

A. The following are definitions of terms used in these minimum standards.

Bureau—Bureau of Licensing of the Louisiana Department of Social Services.

Child Day Care Center—is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous 7-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Child Care Staff—an individual directly involved in the care and supervision of the children in the center.

Committee on Private Child Care—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:

§7359. Procedures

A. - F.10. ...

G. Appeal Procedure

1. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the notice within 15 days of receipt of the notice of revocation or non-renewal. A prospective provider may appeal the denial of an initial application by submitting a written request to appeal the decision within 30 days of receipt of the notice of denial of application. A request for appeal shall include the specific reasons the provider believes the decision to be erroneous and/or the specific reasons the decision is believed to be incorrect, and mailed to: Department of Social Services, Bureau of Appeals, P. O. Box 2944, Baton Rouge, LA 70821-9118.

G.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended, LR 36:

§7361. General Requirements

A. - J. ...

K. Licensing Surveys; Notice Requirements. In accordance with Act 351 of the 2009 Regular Legislative Session, providers shall prominently post information advising parents or guardians that findings from licensing surveys are available online which includes the current web address and that findings from licensing surveys are also

available upon written request to the Department of Social Services.

L. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), amended, LR 36:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will improve the stability of the family by providing additional enforcement measures that increase the safety and welfare of children who are in out-of-home care on a regular or consistent basis.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Small Business Statement

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

Public Comments

All interested persons may submit written comments through, January 26, 2010, to Deidria W. Bolden, Assistant Secretary, Office of Family Support, 627 N. Fourth Street, Baton Rouge, LA., 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on January 26, 2010, at the Department of Social Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-129, Baton Rouge, LA., beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. 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 Area Code 225-342-4120 (Voice and TDD).

Kristy H. Nichols
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Child Daycare Services Child Care Quality Rating System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 21, Child Care Licensing; Title 67, Part III, and Subpart 12, Child Care Quality Rating System. These amendments pertaining to child day care facilities are required to implement provisions of Acts 194, 343, and 351 of the 2009 Regular Legislative Session.

Act 194 abolishes the Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies and the Louisiana Committee on Private Child care and creates the Advisory Council on Child Care and Early Education to provide input and guidance to the Department of Social Services (DSS) on matters pertaining to rules, regulations, and licensing standards for Class A and Class B day care centers; changes the time period allowed for a provider to appeal the revocation or non-renewal of a license from 30 days to 15 days; and requires the licensing of tax-exempt religious organizations operating a child day care center 12.5 hours or more in a continuous seven day week. There is no cost to state or local government as a result of these changes. Members of the Advisory Council will serve voluntarily without compensation or reimbursement and will receive meeting materials via email.

Act 343 requires the Department of Health and Hospitals (DHH) to develop and provide information on influenza to the Department of Social Services (DSS) and requires DSS to provide this information to licensed child day care facilities. DHH provided one copy of a five-page document to DSS on influenza at some negligible cost. DSS contracted with the Office of State Printing to print and mail this document along with other influenza materials to 1,906 day care centers at an estimated cost of \$2,478 (1,906 X 1.30). This one-time cost was paid for with H1N1 federal grant funds received as

Interagency Transfers from the Department of Health and Hospitals, Office of Public Health.

Act 351 requires child day care facilities to make available to parents information on how to view or obtain copies of child care licensing surveys from the department and requires DSS to develop this information on a form suitable for display. DSS developed and distributed a three-page document to 1,906 day care centers at an estimated cost of \$1,485 (\$742 SGF; \$743 FED), which includes printing (\$515), supplies (\$131), and postage (\$839). This one-time cost was absorbed within the Office of Family Support (OFS) FY 2009-10 budget appropriation.

The only additional cost associated with this rule is the cost for publishing rulemaking and printing policy, which is estimated to be approximately \$1,260 (\$630 State; \$630 Federal). This is a one-time cost that is routinely included in the agency's budget.

The total cost to implement these rule changes for FY 10 is \$5,223 (\$1,372 SGF; \$2,478 IAT; \$1,373 Federal). The only potential cost in subsequent fiscal years is the cost for DSS to provide updated information on influenza to providers. To alleviate this cost, the information will be provided on the department's website and DSS will notify providers via email when this information is available.

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 governments as a result of this rule change

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 194 requires tax-exempt religious organizations operating 12.5 hours or more to become licensed by DSS. At this time DSS cannot determine the number of these facilities in operation. If the organization chooses to become licensed as a Class A facility an annual licensure fee of \$25 to \$250 based on the licensed capacity of the facility is required by law. Religious organizations choosing to be licensed as a Class B facility are required by law to pay a one-time \$25 licensure fee at initial application. Act 343 may result in some negligible cost to child care providers to print updated information on influenza from DSS website. Both Acts 343 and 351 only require providers to post the information in a common and conspicuous location within the day care facility; therefore, no other costs are anticipated.

Parents or guardians of children attending these day care centers may benefit economically from this rule change because the information provided on influenza could help to alleviate doctor or emergency room visits if they follow the precautions that were outlined in the information.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change will have no impact on competition and employment.

Deidria Bolden
Assistant Secretary
0912#086

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

**Office of the Governor
Division of Administration
Office of Information Technology**

IT Bulletins Published

Pursuant to LAC 4:XV.501 et seq., the Office of Information Technology (OIT) published the following Bulletin in the period 11/01/2009 to 11/30/2009.

Bulletin Number	Topic	Date
ITB 09-03	IT POL 0-02, New Policy, Enterprise Shared Services	11/30/2009
	IT POL 0-04, New Policy, Enterprise Governance	
	IT POL 5-02, Replaces Policy IT-POL-002, Enterprise Data Centers	

Note: OIT is redesigning the OIT web site and the numbering scheme associated with Policies and Standards.

OIT Bulletins, Standards, Guidelines and Policies are posted on the OIT web site at <http://oit.louisiana.gov>.

To receive e-mail notifications when an OIT Bulletin is published, register at <http://oit.louisiana.gov>.

Ed Driesse
Chief Information Officer

0912#034

POTPOURRI

**Office of the Governor
Office of Financial Institutions**

Judicial Interest Rate Determination for 2010

Pursuant to authority granted by R.S. 13:4202(B)(1), as amended, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2010 will be 3.75 percent per annum.

John P. Ducrest, C.P.A.
Commissioner

0912#037

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Spring/Summer Examination Dates;
2010 Board Meeting Dates; Board Nominations

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure

to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline To Apply
April 12 through April 24, 2010	Monday, January 3, 2010

The Board will also accept applications for the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians which will be administered through the American Association of Veterinary State Boards (AAVSB), as follows:

Test Window Date	Deadline To Apply
July 15 through August 15, 2010	Wednesday, June 1, 2010
November 15 through December 15, 2010	Friday, October 1, 2010

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Board Meeting Dates

The Members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2010:

Thursday, February 4, 2010
Thursday, April 1, 2010
Thursday, June 3, 2010 (Annual Meeting)
Thursday, August 5, 2010
Thursday, October 7, 2010
Thursday, December 2, 2010

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or email at admin@lsbvm.org to verify actual meeting dates.

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held January 2010. Interested persons should submit the names of nominees directly to the LVMA as per La. R.S. 37:1515. It is

not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Executive Director

0912#028

POTPOURRI
Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
RIC Petroleum	Monroe	M	L Smith L	001	150435
Lee and Ladner	Tepetate, North	L	W B Vincent	001	87334
Bateman Drilling Company	Wildcat-So La New Orleans Dis	L	State Lease 2705	001	71084

James H. Welsh
Commissioner

0912#008

POTPOURRI
Department of Natural Resources
Office of Conservation

Rayne SWD, LLC Second Hearing Notice
Docket No. ENV 2009-03

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Thursday, February 11, 2010, at the Vermilion Parish Library located at 405 St. Victor Street, Abbeville, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Rayne SWD, LLC, 201-B Travis Street, Lafayette, LA 70503. 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&P Waste) fluids located in Township 10 South, Range 2 East, Section 33 in Vermilion 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 3rd Street, Baton Rouge, Louisiana. Copies of the application will be available for review at the Vermilion Parish Police Jury or the Public Library in Abbeville, Louisiana. 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., Thursday, February 18, 2010, 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 2009-03
Commercial Facility Well Application
Vermilion Parish

By Order of:

James H. Welsh
Commissioner

0912#096

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 7 claims in the amount of \$25,553.75 were received for payment during the period November 1, 2009 - November 30, 2009.

There were 7 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2904.188	9031.300	Terrebonne
2905.000	9046.480	Terrebonne
2913.768	8932.694	Plaquemines
2916.007	8956.971	Jefferson
2940.863	8936.695	St. Bernard
2948.457	9156.338	Iberia
2949.774	8940.627	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

0912#089

POTPOURRI
Department of Revenue
Office of the Secretary

January Meeting of Act 442 Collaborative Working Group

The next meeting of the Collaborative Working Group will be conducted on Wednesday, January 27, 2010, at 9 a.m.

in the Griffon Room on the first floor of the LaSalle Building, 617 N. Third Street, Baton Rouge, Louisiana. The Collaborative Working Group will not hold a meeting during December 2009.

Section 4 of Act 442 of the 2009 Regular Session of the Louisiana Legislature established a collaborative working group of state and local tax administrators and industry representatives for the purpose of assisting in developing policy regarding the determination of which items should be considered as moveable or immovable property for the purposes of state and local sales and use tax.

The group's mission is to study and develop specific proposals on the definition of tangible personal property under Chapters 2, 2-A, 2-B and 2-D of Title 47 of the Louisiana Revised Statutes of 1950. The group shall report its policy recommendations to the chairmen of the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs no later than January 31, 2011.

The group shall cease to exist on June 30, 2011.

Further information concerning this meeting may be obtained from Ted James, Office of the Secretary, P.O. Box 66258, Baton Rouge, LA 70896, phone (225) 219-2707.

Cynthia Bridges
Secretary

0912#021

POTPOURRI

Department of Social Services Office of Community Services

Public Hearing—Substantive Changes to Proposed Rule Residential Licensing (LAC 67:V.69)

The Department of Social Services, Office of Community Services published a Notice of Intent to promulgate Residential Licensing Regulations in the September 20, 2009 edition of the *Louisiana Register* (LR 35:2041-2090), in the LAC 67:V. Chapters 61-71. The Notice of Intent, as it was published, erroneously repealed Chapter 69 in its entirety. Only §6901 through § 6935 of Chapter 69 should have been repealed; thereby, leaving §6951 through §6969 to remain in the LAC. Therefore, this public notice is to advise that Chapter 69, §6951 through §6969 will not be repealed and will remain intact.

A public hearing will be held on January 26, 2010 at 10:30 a.m. at the Department of Social Services, Iberville Building 627 N. Fourth Street, Baton Rouge, in Room 1-129, to receive comments on the proposed Residential Licensing Regulations as pertains to Chapter 69, §6951 through §6969. Written comments should be sent to Kaaren Hebert, Assistant Secretary, Office of Community Services, and P. O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Friday, February 5, 2010.

Kristy H. Nichols
Secretary

0912#099

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